

**AFN/INAC JOINT INITIATIVE FOR POLICY DEVELOPMENT
LANDS AND TRUST SERVICES**

**LANDS AND RESOURCES THINK TANK
MEETING REPORT**

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1999
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**Renaissance Hotel
Vancouver, British Columbia
May 5-6, 1999**

Prepared For:

**The Assembly of First Nations
AFN/INAC Joint Initiative for Policy Development (LTS)**

By:



**HUNTER-COURCHENE
Consulting Group Inc.**

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MEETING REPORT**

Introduction

This report is based on the discussion that took place during the Lands and Resources Think Tank on May 5-6, 1999 in Vancouver, British Columbia as part of the AFN-INAC Joint Initiative for Policy Development. The meeting notes are attached to this report as Appendix A for your information.

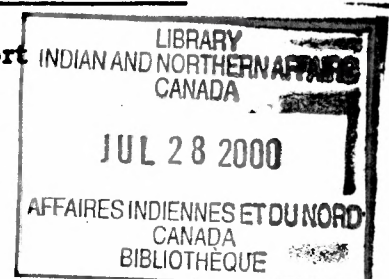
Opening

An opening prayer was given by Elder Paul Skanks in order to open the meeting in a manner respectful of First Nations culture.

Think Tank participants were given the opportunity to introduce themselves to the group. Head Facilitator, Harold Tarbell, introduced himself as well as the co-facilitators, Ron Maurice and Mathieu Courchene. Mr. Tarbell then explained to participants that had not attended previous focus groups/think tanks, that Joint Initiative information packages are available for their use. He stated that the Lands and Resources Think Tank is one topic area that is being examined as part of the overall Joint Initiative process. Mr. Tarbell then briefly outlined the format of the think tank, which involved small group discussions on specific topic areas.

Opening Remarks

Welcoming remarks were provided by Vice-Chief Tom Bressette. Vice-Chief Bressette expressed appreciation for the British Columbia First Nations for welcoming the group into their territory. He briefly described the Joint Initiative the progress to date and that the initiative is now into its' eighteenth month. He acknowledged the AFN and INAC Joint Initiative personnel and the hard work that they have put into the initiative to date. Vice-Chief Bressette stated that as First Nations leaders, there is a responsibility to represent the best interests of the First Nations people, both now and in the future. He emphasized that the land and its' preservation are key to the future of First Nations



people. The Vice-Chief stated that it is a challenge for the government and First Nations to discuss together what will be done to preserve and protect the land and environment in the future. He mentioned the importance of learning from past mistakes and to keep these close in mind when developing new policy relating to lands and resources. Vice-Chief Bressette further stated that First Nations want a fair share of the benefits that are acquired off the land in this country, benefits that the rest of society has enjoyed all along. He mentioned that First Nations still live under treaties, which they feel have not been fulfilled and that there remain basic humanitarian needs that the government has not addressed. Vice-Chief Bressette closed by stating that it is hoped that the government and First Nations can proceed "in the spirit of partnership" and continue the momentum that has been building as they work toward developing policy recommendations on various topics, such as the lands and resources issue.

Welcoming remarks were also provided by the Assistant Deputy Minister of Lands and Trusts Services – INAC, Mr. Bob Watts. He gave a brief history of the origin of the Joint Initiative. The department approached the Assembly of First Nations with the idea of working together in a process, which eventually became the Joint Initiative for Policy Development. This process examines policy issues jointly which impact directly on the day-to-day lives of First Nations people. Mr. Watts outlined the central characteristics of the Joint Initiative, these include:

- That it is First Nations-driven;
- It will not impact on the fiduciary relationship; and
- That it will not impact on other on-going processes (i.e. self-government negotiations).

He emphasized that this process is intended to be complementary, not intrusive to other processes currently taking place. Prior to closing, Mr. Watts acknowledged and expressed appreciation to both the INAC and AFN Joint Initiative staff for their diligent work, as well as the leadership provided by Vice-Chief Tom Bressette.

Expectations and Meeting Norms

The facilitator asked the participants what their expectations were, and what they hoped to accomplish during the two-day think tank. The following were identified as expectations by the participants:

- To establish policy priorities;
- Immediate implemented relief;
- First Nations address jurisdiction;
- Explore off-reserve land and resource issues;
- Forestry arrangements and impact on First Nations rights;
- Inadequate land and resource programs;
- First Nations role in decisions;
- Obligation of the federal government re: environmental issues and the fiduciary;
- Inclusion of northern First Nations in discussions;
- Inclusion of the provincial government in the process (include all levels of government);
- Displaced people should be considered;
- Incorporation of clan system in governance;
- Develop policy priorities;
- Commitment to follow-up;
- Examine community ownership concepts;
- Expand land base to meet needs;
- Understanding that we are talking about "all lands";
- Sharing of resources;
- Define equitable funding (i.e. environment, management, etc.) – to establish a First Nations economy;
- Benefits from non-reserve lands for economic development;
- Control/flexibility of accesses capital;
- First Nations want a fair share of the revenues generated off the traditional territories;
- Coordinating initiatives at the local, regional and national levels;
- Reconcile on and off reserve issues;

Mr. Tarbell then outlined the meeting norms, which included:

- Take care of yourself;
- Be present;
- Engage in active respect;
- Discuss issues;
- Participate; and
- Come to "one mind".

Presentations

A presentation was made by INAC representatives, Robert Eyapaise and Dan Murphy. This presentation involved a general overview of what the Lands and Resources Sector of INAC does and what it is responsible for (this presentation is attached as Appendix B).

Dave Nahwegahbow presented his research paper entitled "Lands, the Part I – Background Paper and the Part II draft (both documents are attached to this report as Appendix C and D). He mentioned that these documents provide a summary of the current situation and issues relevant to the lands and resources topic. Mr. Nahwegahbow stated that he looks forward to receiving feedback and ideas which may be useful in completing the required research.

Following the presentation by Dave Nahwegahbow, Mr. Don Worme presented his paper entitled "Governance of First Nations' Natural Resources" (attached as Appendix E).

Carolann Brewer, of the AFN Joint Initiative Unit gave a presentation on the AFN's objectives for the Think Tank on Lands and Resources, as well as an overview of the Joint Initiative and the AFN's role in it (this presentation is attached as Appendix F).

Plenary Discussion

A meeting participant requested clarification on the Joint Initiative timelines. This participant was from the Siksika Nation and explained that they are part of Bill C-49, the "First Nations Land Management Act". The Siksika Nation would be interested to know how, if at all, the Joint Initiative would impinge upon the process that they are in.

Assistant Deputy Minister Watts replied that the First Nations Land Management Act is independent of the Joint Initiative process. He stated that Bill C-49 process may be an opportunity to identify best practices.

A representative from the Indian Resources Council, which represents over one hundred First Nation oil-producing tribes, mentioned the importance of capacity-building. Specifically, that it is necessary for First Nations to have more control and decision-making power regarding

land and resource management. He further mentioned that there is a need to coordinate a national effort in regards to receiving benefits/returns from off-reserve resources. The suggestion for AFN to establish a unit specifically to deal with natural resource issues, such as who owns the natural resources?, as well as the fiduciary obligation and how it relates to lands and resources, was put forward.

Vice-Chief Bressette responded by stating that First Nations believe that they own the natural resources. He further mentioned that this Joint Initiative is in place to examine policies within the existing structure. As for the suggestion of the AFN establishing a unit to address natural resource issues, the Vice-Chief stated that the AFN would be interested. However, at the present time, the Joint Initiative is not prepared to make a statement regarding the ownership of natural resources and that such a statement would have to come from the First Nations that the AFN represents. Vice-Chief Bressette acknowledged that there is a need for a coordinated effort on natural resource issues.

Vice-Chief Bernie Meneen mentioned that efforts have been made to establish a consortium (network) specifically to examine natural resource issues. He stated that he agrees with the point that there is a problem with a lack of coordination regarding efforts related to natural resource issues. He felt that there are many different groups working apart on similar issues.

Roland Pangowish, of the AFN Claims Unit, mentioned that a greater effort is being made within the AFN in regards to improved coordination on lands and resource issues. This coordination effort is being made in order to decrease the duplication of work that is being conducted.

A participant mentioned the five year review of the Canadian Environmental Assessment Act (CEAA). It was felt that the definition of First Nations interests in lands needs to be expanded and is a crucial point that should be addressed.

Vice-Chief Dennis Whitebird (treaty implementation process portfolio) mentioned that he supports the Joint Initiative and feels that First Nations have the capacity to take over more control and play a larger role in determining their future. Vice-Chief Whitebird stated that it is time to reclaim First Nations ownership of resources, as they were never given or sold. He emphasized the importance of keeping the momentum and continuing to involve community people in seeking direction.

Following the presentations made during the morning of the first day, the remaining one and a half days were spent mainly in small group discussions and reporting the discussion findings back to plenary.

Themes

During the working group discussions over the two days, the participants were asked to consider the following questions:

- **What do we want to accomplish in the next twenty years in relation to lands and natural resources?**
- **In order to get there, what can/should be happening at the national, regional and local level now?**
- **What changes need to occur within the First Nations and the federal government organizations to facilitate this vision?**

The following summary outlines the main themes derived from the discussions which took place during the two days.

First Nation Control of Lands and Resources

The issue of First Nations exerting increased control over traditional territories was mentioned by think tank participants as important. Increased control and access to resources both on and off reserve was also targeted as crucial to future economic development growth and opportunity for First Nations.

Link Land and Resource Management to Self-Government

The efforts to obtain and exercise self-government is directly related to the land and resources issue. A clear link between land and resources to self-government should be defined.

Mechanism/System to ensure Sustainable Development

The importance of promoting activities which not only facilitate growth but that sustain development as well need to be examined and undertaken.

Reclaim Cultural Heritage as an Expression of Pride and Nation-Building

Re-invigorating traditions and reclaiming the First Nations cultural heritage were identified as crucial to rebuilding our Nations. Healing our communities and re-establishing a sense of pride in First Nations youth is necessary.

The Recognition of First Nations "Title" and the Inherent Right

The acknowledgment of First Nations title as being inalienable is viewed as a symbol of respect for First Nations historical governing capabilities and as a right that has been ignored by government for too long. The inherent right of First Nations is integral to obtaining self-government and increased decision-making powers over a variety of areas, including the management of lands and resources.

Access to Lands and Resources Beyond Reserve Boundaries (to include traditional territories)

Access to lands and resources outside of the reserve boundaries to extend into traditional territories of First Nations was mentioned several times by think tank participants. Increased access is seen as integral to First Nations economic growth and development in the future. First Nations are severely limited by the lack of access to the benefits and revenues which are derived from First Nations traditional territories. Many felt that this access should not be controlled by the government but that First Nations should be exercising total control over their traditional territories.

Public Education/Awareness

Increasing public awareness in regards to First Nations issues and rights was mentioned on several occasions during the working group sessions. The Canadian public's views towards First Nations and their issues is generally negative and this needs to be addressed in attempts to improve the situation. It is apparent that racism still exists in our society and that often times it lies below the surface until a dispute or problem arises. More can be done to address this issue. Suggestions were put forward as possible ways to decrease misconceptions and raise awareness.

Educating our own people, specifically our First Nations youth was also identified as crucial to developing future leaders and ensuring the First Nations people are aware of the many issues which have a direct effect on their lives.

Capacity-Building

The need for increasing capacity within First Nations was mentioned as a priority and recognized as a common need across the board. Increasing skills by providing additional training and development opportunities will increase the human resource capacity available within First Nations.

Expansion of Land Base

The need to expand current First Nations land base was recognized by the think tank meeting participants. The current situation is inadequate and significantly limits First Nations economic development opportunities.

Compensation for First Nations for Loss of Benefits/Use

Meeting participants recognized the need for the government to resolve outstanding claims providing for equitable compensation.

Tax Revenues Derived from First Nations Lands

It was felt that tax revenues derived from First Nations lands and resources be re-directed to First Nations to support and maintain an economy. A document entitled "Sharing of Taxation Revenue Initiated Within First Nation Lands" was submitted to the facilitators by Siksika Nation representatives which outlines the basis of the argument for First Nations rights to the sharing of taxation revenues (this document is attached as Appendix G).

Co-management of Lands and Resources

Co-management agreements were identified as a possible option to increase First Nations control in the management of resources beyond reserve boundaries.

The Relationship between the Federal Government (DIAND) and First Nations

The following comments were made in regards to the relationship between the federal government and First Nations:

- The need for a federal policy which recognizes First Nations on a nation-to-nation basis;
- DIAND involvement should be limited to advocacy and capacity development;
- The federal government has to be a "real partner" i.e. advocating with the provinces;
- DIAND needs to modify policy and legislation;
- DIAND should fast track opportunities;
- DIAND to accommodate community diversity;
- DIAND to respond to community initiatives;
- DIAND to demonstrate visionary leadership to incorporate existing successes (courts, processes, etc.) on First Nations rights and development into its policy and operational approach and guidelines;
- The department needs to be involved in the "change" dialogue;
- To support and enable First Nation community-based natural resource initiatives;
- A visible federal commitment to public education and awareness as well as communications/advocacy of First Nations positions;
- Federal government to fulfill their responsibilities in protecting the interests of First Nations when dealing with the provinces;
- DIAND be proactive in continuing talks and establishing a connection;
- DIAND to keep an open mind;
- The federal government can assist in getting the provinces "on-side", as part of their fiduciary obligation;
- Educate other government departments which have related mandates with First Nations – i.e. Department of Justice; Fisheries and Oceans, Environment;
- DIAND has to be committed to policy change based on a First Nations perspective and everyone must put words into action;
- Create and increase government understanding of community needs;
- Both the government and First Nations must recognize the importance of the continuity of leadership in terms of providing stability and lasting change;

- Government must release control; and
- Government systems need to be re-profiled to reflect the new partnership (not just DIAND).

Natural Resources Transfer Agreements (NRTA)

It was a common theme throughout the think tank that the Natural Resources Transfer Agreements need to be re-visited to introduce revenue-sharing.

Curriculum Development

Participants mentioned on several occasions the importance of developing curriculum to be implemented into the school system which provides an accurate picture of First Nations history and the current situation of First Nations people in Canada. It was recognized that there is a lack of history textbooks and courses which accurately portray the First Nations people. The role of First Nations in the settlement of this country is also ignored and this recognition is long overdue and should be addressed.

Participation of all Levels of Government

First Nations participants also expressed the need to involve the provincial governments in developing new policies in relation to lands and resources. The participants felt that the federal government is obligated, as part of their fiduciary duty, to advocate on behalf of the First Nations in securing the participation of the provincial government. The provincial government was identified as a key player that is not involved often times when they should be.

Resolution of Outstanding Claims

The need for the resolution of outstanding claims was identified as something that should happen immediately. The lack of resolution is inhibiting First Nations from progressing and accessing opportunities for development and growth.

Indian Act

The Indian Act was a topic which was discussed consistently throughout the think tank. Participants were in agreement that the Indian Act is an obstacle to First Nations sovereignty and self-sufficiency. Many felt that the Indian Act restricts First Nations from growing and developing as the First Nations continue to have to seek permission from the federal government when attempting to exercise their independence and decision-making capabilities. Participants discussed how the Indian Act problem should be addressed. Should the Indian Act be abolished gradually over time or all at once?; and should alternative legislation be enacted to replace the Indian Act?.

Balance between the Traditional and the Modern

Think Tank participants felt that it is of critical importance to find the balance between the traditional values and customs and those of modern day. Many felt that it is necessary to obtain a formal education and learn how to deal with the federal government. However, it was also agreed that this should be balanced with the traditional ways and that they should not be lost in the whole process.

Retention of Language and Culture

The importance of retaining language and culture was perceived by think tank participants as a fundamental component of First Nations progress. First Nations languages are in danger of becoming extinct and increasing efforts need to be made in order to preserve them. Language distinguishes a culture from all others and is the crucial identifying factor for the members of a particular ethnic group.

Evolution not Devolution

One participant stated that this process and others like it have to evolve rather than be devolved. This Joint Initiative has to proceed gradually and carefully. There is the need for a continued dialogue and joint effort between the First Nations and government in proceeding ahead with the Joint Initiative.

The Fiduciary Relationship

The government's fiduciary obligation must not be impacted upon by the AFN-INAC Joint Initiative. Participants mentioned that the fiduciary relationship continues to exist and that government must continue to fulfill their duties in regards to First Nations. Specifically, participants felt that the federal government has a duty to act on their behalf in advocating and liaising with the provincial government's. Participants also felt that it is important to recognize what the possible consequences are for First Nations that take on more control and responsibility. How these consequences could likely alter the federal government's fiduciary obligation must be communicated to First Nations.

Ensure Increased Community Involvement

Many participants acknowledged the importance of involving their communities in decision-making and ensuring their awareness of current issues which impact directly on them.

Treaties

Treaties are recognized as the basis of the relationship between the First Nations and governments. First Nations participants expressed that they still live under the treaties and expect the government to fulfill their treaty obligations.

Coordination and Information-Sharing

The need for improved coordination on the lands and natural resources issue was identified as a common element that must be addressed. This involves coordination between the First Nations themselves and between First Nations and governments. A major concern was that several similar initiatives are being undertaken by various groups and that it would be more beneficial if there was not as much duplication. Also, a more effective and efficient coordination effort would be an asset for First Nations across the country in providing assistance, advice and used as a learning tool. Enhanced coordination would result in improved information-sharing practices and more efficient and effective governance. At the present time, coordination and information-sharing is inadequate.

Communications

The think tank participants discussed the issue of communications and how this can be improved and explored. The need for a national body to respond to media and political situations as well to develop communications strategies on behalf of First Nations was identified. This body would be responsible for responding to inaccurate media reports and be proactive in distributing material with a First Nations perspective. At the present time, there is no such body in existence with this role as their primary mandate. This was seen as a possible way of improving the image of First Nations as well as to provide accurate information to the general public with a First Nations perspective.

Develop a Shared Vision

Much discussion centered around the need for First Nations to develop a shared vision. This shared vision was seen as crucial to First Nations unity. Many felt that First Nations working together is a key to the future of First Nations prosperity and that disunity does not promote the good of all First Nations. Division only serves to weaken the entire group.

Economic Development

Increased First Nations control and decision-making over lands and natural resources is the key component to increased economic development opportunities and growth within the First Nations. Think tank participants felt that at this time, economic development opportunities within First Nations is severely limited. This due mainly to the fact that government's continue to have the final word on lands and natural resources issues. Economic development is a crucial component to the future growth and sustainability of First Nations communities.

First Nations Leadership

Think tank participants discussed the role of First Nations leadership. It was felt that First Nations leaders are responsible for ensuring that their members are aware of the Joint Initiative and others like it. They are also responsible for participating in processes which are in the best interests of their members. Decisions should not be made in isolation, rather direction should be obtained from community members. The need for increased accountability from First Nation's leadership to their

members was also identified as a need.

Delgamuukw

Participants discussed the impact that the Delgamuukw decision should have over lands and natural resources issues. The suggestion was made to look at the practical application of Delgamuukw principles in regards to land management and natural resources, with a First Nations perspective, which can be done in the short-term. The need to develop a statement or paper on Delgamuukw to educate both within DIAND and externally was identified as a need.

Focus on Youth

The need to focus on First Nations youth was mentioned on several occasions. Efforts must be made to re-establish a sense of pride within First Nations youth today. This can be done through educating youth about the uniqueness of First Nations culture and revitalizing traditional practices. There is also a need for First Nations leadership today to learn from the mistakes of the past in the best interests of First Nations youth. Many participants were concerned about the loss of language and traditional values within First Nations youth and how this can be addressed through proactive programs and initiatives.

Managing the Transition

First Nations and government are going through a transition process. This period of transition includes a "power shift" which is taking place, more specifically, First Nations are seeking and receiving increased control and decision-making power. Many are opposed to the prospective changes and it is imperative that things continue to move forward and the momentum be sustained. Managing change properly is often seen as being as important as the change itself and there is a need to be aware of this.

Establish Policy Priorities

Many participants felt that there is an immediate need to establish policy priorities to provide much needed direction.

Accountability

Increased accountability was identified as a theme across the spectrum. This included increased accountability of First Nations leadership to their constituents as well as increased government accountability to First Nations. Government must be accountable to settling outstanding claims in an equitable manner. The government is also accountable to fulfill its fiduciary obligation.

Unity Accord

During discussions the suggestion was made to develop a unity accord to facilitate change, establish processes and create mandates.

Partnership

The partnership issue was a focal point of discussion during the think tank. The need to continue dialogue and build on the momentum already established was unanimously viewed as necessary and favorable. Joint efforts between First Nations and government must continue in order for the necessary changes to be made, changes that will be of significance to First Nations and government relations.

What Works?

Participants agreed that the emphasis on working on the Joint Initiative and other similar initiatives is to focus on what works, rather than on what does not work. It was felt that to progress, it is important to identify what is working and to build upon those things.

Closing

Prior to closing the meeting, the floor was opened for comments from participants.

It was mentioned that there is concern that radical change will infringe upon other processes that are going on. However, there have been reassurances made that this initiative will not interfere in other such processes.

Many participants expressed appreciation for the opportunity to meet and discuss lands and natural resource issues. It was also mentioned

that the think tank proved useful in terms of accessing information on lands and resources.

Ray Hatfield, Director-General – LTS/INAC offered closing comments. He thanked each participant as well as Vice-Chiefs' Bressette, Meneen and Whitebird for their efforts and input over the last two days. Mr. Hatfield stated that he appreciates the fact that each focus group/think tank has involved open and respectful discussion which will lead to the generation of ideas and recommendations for future direction.

Carolann Brewer of the AFN Joint Initiative Unit explained that the Joint Initiative is meant to be a sharing process, rather than a negotiation process. She felt that this think tank particularly was successful in meeting that goal. Ms. Brewer shared with the group a story that her grandmother used to tell. About fishing in the Okanagan with her parents and how this was eventually lost. Ms. Brewer expressed the belief that this Joint Initiative process is about sharing and hearing the stories of our people. She briefly outlined the next steps in the process and closed by thanking all participants for attending and for their efforts.

Fraser

A prayer was given by Elders' Martin Assinewe and Paul Skanks to close the meeting.



APPENDIX A

**AFN-INAC JOINT INITIATIVE FOR POLICY DEVELOPMENT
LANDS AND RESOURCES THINK TANK
VANCOUVER, B.C.
DAY ONE**

Norms

- Take care of self;
- be present;
- engage in active respect;
- discuss issues;
- participate;
- come to “one mind”;
- everyone a chance to participate.

Expectations

Establish policy priorities;
Immediate implemented relief;
First Nations address jurisdiction;
Explore off-reserve land and resource issues;
Forestry arrangements and impact on First Nations rights;
Inadequate land and resource programs and resources;
First Nation role in decisions;
Obligation of federal government re: environmental issues (fiduciary);
Inclusion of northern First Nations in discussions;
Inclusion of provincial government in process (all levels of government);
Displaced people should be considered as well;
Incorporation of clan system in governance;
Develop policy priorities;
Commitment to follow-up;
Examine community ownership concepts;
Expand land base to meet needs;
Understanding we are talking about “all lands”;
First Nations role in decision-making;
Sharing of resources;
Define equitable funding (e.g. environment, management, etc.) – to establish First Nation economy;
Benefits from non-reserve lands for economic development;
Control/flexibility to access capital.
First Nations want a fair share of the revenues generated off the traditional territory;
Coordinating initiatives at local and national levels;
Reconcile on and off reserve issues.

Questions/Issues

- DIAND/LTS – time frames and expectations?
- The LTS initiative will not interfere with other initiatives or ongoing process (e.g. First Nations Land Management Act);
- Need to coordinate a national effort regarding the benefits/returns from off-reserve lands and resources;
- How does capacity-building and fiduciary obligations complement this initiative?;
- Moving from policy development to the creation of mechanisms/institutions to address land and resource issues;
- Role of the AFN in supporting First Nation/Regional and National initiatives;
- Need to develop a national focus;
- Information sharing and dialogue;
- Coordination;
- Is there a need to establish a unit to deal with natural resource issues within the AFN;
- Need to clarify who owns the natural resources;
- Management vs. fiduciary;
- It was mentioned that this joint initiative looks at policies within an existing structure;
- A secretariat/unit to examine natural resources issues would interest the AFN – however, any discussion of who owns what resources will result in a battle;
- The AFN represents the views of First Nations and therefore must take direction from First Nations – it is up to the First Nations to decide on a statement of the ownership of natural resources;
- Emphasis on the need to coordinate efforts and activities;
- Attempts have been made to establish a consortium (network) of people and organizations working in this area to focus the work presently being done;
- The five year review of the Canadian Environmental Assessment Act (CEAA) and the need to expand the definition of First Nations' interest in lands;
- Treaty implementation – treaties have been ignored and there is a need to catch-up; resources were transferred subject to rights for First Nations people – there is a need to organize, facilitate and coordinate;
- Natural resources – key in Gathering Strength and the Agenda for Action.

Working Group Discussions

“What do we want to accomplish in the next twenty years (2020) in relation to land and natural resources?”

Facilitator – Harold Tarbell (blue)

Report Summary:

43 Discussion Points

- Current efforts – results;

- Capacity exists;
- First Nation control – traditional territory;
- Variety of options and agreements;
- Cultural and human element;
- Sustainable development and economic self-sufficiency;
- Lands and resources to meet community and future needs.

Order by 5 year increments:

What could or needs to come first? (0 – 5) year 2005:

Capacity; title; public education and federal policy changes;

Meaning of title and domestic sovereignty – from First Nation language and culture

Discussion Points:

- Achieve existing goals in current processes;
- Access to resources;
- Capacity – adequate staff at community level;
- First Nation control of lands and resources instead of the Indian Act;
- 20 years is a good range;
- clearly defined link of land and resource management to self-government;
- partnership agreements (workable);
- other legislative arrangements;
- mechanism – system in place to ensure sustainable development;
- language, culture, customs and traditions – secure and flourishing;
- First Nation fully resourced for both developing and managing land and resources;
- First Nation title is recognized as “inalienable” and not a burden (e.g. public trust);
- Creative compensation arrangements are in place to settle claims/rights disputes;
- Culmination of a joint AFN-INAC development process;
- A process to insert results (i.e. treaties) into lands and resources;
- A two-way consultation emphasis;
- A First Nation defined perspective on land rights, spirit and intent - cultural inclusion;
- First Nation “domestic” sovereignty with relationships defined;
- “claims” settled;
- lands, resources and rights are guaranteed;
- issues resolved e.g. jurisdiction;
- economic self-reliance;
- “future” based planning;
- plans exist;
- title is recognized;
- sit together as equals;
- processes to make decisions;
- joint “nation-to-nation” management processes;

- clearly defined First Nation policies and objectives on what the resources contribute;
- land and resources access goes beyond reserve boundaries;
- general public is educated about First Nation contributions, taxation, etc ;
- section 91 (24) is used for First Nation governments to move out of protectorate to 3rd level crown;
- title recognized and a system for inter-governmental cooperation “within their own spheres” on land and resources within their own broad traditional lands;
- healthy, secure First Nation people trained and exercising these management responsibilities;
- total First Nation control over their lands not bound/subject to federal/provincial laws or regulations;
- negotiations premised on complete sovereignty with agreements within a continuum;
- dependency mentality has been eradicated;
- adequate land and resources to meet needs;
- nations rebuilt;
- traditional values and principles are a part of economic development/resource management equation in mainstream;
- “reserves” expanded (boundaries) with rights protected;
- compensation has been provided (equalization) for First Nation loss of use – federal and provincial benefits from land taken (traditional territories);
- federal policy which recognizes First Nations on a nation-to-nation basis with flexibility, over its own agreements – design has been in place for over a decade;
- tax revenues derived from First Nations lands and resources is re-directed to First Nations governments/territories to support and maintain the economy.

Title:

- differs from notion of ownership;
- it is a relationship with land;
- recognition of a First Nation collective – belonging;
- “dominion” (covenant) – First Nations have the right to determine how others will use the land;
- traditional languages:
 - “netukilimk” – relationship harvesters have to protect resources – part of, not separate of the earth;
 - “ohontsa” – mohawk word for “land/earth”

Domestic Sovereignty

the title rests with whom? – need for rebuilding First Nations;

- recognition of the fact of pre-existing organized indigenous societies – leads to concepts/practices of customary law.

Facilitator: Ron Maurice (Yellow)

- revenue generation through mechanisms within traditional territories – tax base;
- co-management of resources beyond and into traditional territories;
- DIAND involvement limited to advocacy and capacity development;
- look back at the past 20 years – indicators of health problems within First Nations - the environment;
- First Nations to have a larger say “all around”;
- add sustainability of communities; community-based solutions;
- more involvement from off-reserve members;
- recognition and acceptance of the “inherent right”;
- traditions re-invigorated;
- Natural Resource Transfer Agreements – revisit to introduce revenue-sharing;
- there should not be need for justification (or as much) to be able to apply under the Additions to Reserve policy - need broader authority;
- Finally get rid of the Indian Act – issue of sovereignty dealt with;
- membership more involved, aware of issues active in processes of land management;
- place in social fabric, respect for First Nations culture and inform the public of First Nations culture;
- a just society, community poverty be remedied, recognizing lands and resources essential;
- appropriate curriculum to reflect what First Nations have contributed;
- policy changes;
- young people with hope and opportunity – no more welfare;
- “walking the talk”;
- Federal government has to be real partner, eg. Advocating with the provinces;
- relationship with other levels of government (establish and improve);
- curriculum that has relevance – developed by community leaders;
- traditional aspects retained and strengthened with capacity of people and institutions;
- we can enjoy and participate (the upstream as well as the down stream) in the benefits – involved in all aspects – the value – added. We need to share in benefits – sustainable;
- Canadians need a better understanding of Aboriginal people – the bad aspects always publicized. Our perspectives recognized;
- value added and the need for skills training eg. Health;
- healing, restoration, reconciliation deal with land in this context;
- overlap issue;
- Federal government, provinces, and First Nations, third level participation/joint;
- re-establish what changes made on our behalf;
- Aboriginal people united – learn from mistakes for our younger generations;
- we want to be in decision making position;
- resolution of outstanding claims;
- economically sustainable communities;
- fair access to off-reserve opportunities;
- entrepreneurship know how in communities;
- appropriate legislation to replace Indian Act;

- lands on reserve – settle all incomplete land transactions;
- how do we get rid of the Indian Act? All at once, or gradually?;
- we need to have appropriate organizations/structures/institutions;
- specialize in professions where we need human resource development. lands and resources;
- in controlling our resources maintain our value system;
- maintain balance between traditions and modern day jobs;
- efforts to focus on youth (losing our traditional values).

Five Years from Now:

- Lands bill a great achievement (historic) - a model;
- Processes to deal with issues without tight timeframes – ensure communication;
- First Nations take on LTS but not necessarily how federal government does it;
- Evolution not devolution;
- No quick fix;
- Understanding of consequences - fiduciary change?;
- Retainspiritual.....beliefs...extended family etc....and with that move ahead...chances enhanced;
- Treaty relationship.

Facilitator: Mathieu Courchene (Green)

- Self-sufficiency – control of resources;
- First Nations process with all levels of government;
- Self-government without pre-defined limit;
- First Nations to define self-government ;
- Get back to traditional lands;
- Define what we want i.e. traditional lands;
- Redefine spirit and intent of the treaties;
- Process for revenue-sharing and getting what is due;
- Access and process to acquire land (not compensation);
- Claims policy is wrong - change the existing policy;
- Government is in a conflict;
- Need a spokesperson to speak on our behalf;
- Education – public and the need for cultural awareness;
- Assertion of First Nation jurisdiction;
- Restoration of traditional land management – define it and incorporate it in a new management structure;
- Link management to survival;
- Change the system;
- Restoration of First Nation governance structures (values);
- First Nations participation in the global economy;
- First Nations to have meaningful participation in international negotiations;
- Develop a First Nations vision re: resources;
- Need to work together;

- Native languages part of Canadian and official languages;
- People, lands – control of resources;
- The department needs to be accountable and resolve land issues with the appropriate funds;
- Equitable compensation;
- Land Leases;
- Incorporation of global economic reality in any new management structure;
- Language law;
- 100% control on traditional lands;
- replace transfer payment with internal revenues;
- separation of politics and business;
- share successes between First Nations;
- set benchmarks – goals and aspirations;

PLENARY SESSION

Similarities:

- retention of language and culture;
- off-reserve opportunities;
- increase public education;
- sustainable development;
- access to resources;
- capacity development;
- title;
- get rid of the Indian Act;
- control of resources;
- value-added;
- adequate land base;
- resolving land claims;
- communication with community members;
- de-colonization;
- recognition of the inherent right.

Strong Differences:

- sovereignty vs. dependency on the government;
- involvement in international arena – not mentioned much;
- economic development emphasized by one group and another group focussed on the retention of language and culture;
- RESPECT OUR DIFFERENCES.

LANDS AND RESOURCES THINK TANK
VANCOUVER, B.C.
DAY TWO

Opening

Opening prayer provided by Elders, Martin Assinewe and Paul Skanks.

Working Group Discussion

“In order to get there, what can/should be happening at the national, regional, local level now?”

Facilitator: Harold Tarbell

Goals

- Creating governing document - Constitutions;
- information-sharing;
- rejuvenate culture;
- export cultural attributes;
- recommendations of LTS process - joint review of provincial laws to identify areas where federal advocacy required or needed;
- short-term objective - process of community-based action to identify and regain control of relationship(s) to resources. Community-First Nations linkages;
- healing at the local level;
- working in harmony at the regional level;
- create common elements - focus for national/regional and local initiatives, structures, organizations...;
- provide for regional and local flexibility of “national”;
- local initiatives with program delivery;
- priority/focus has to start at the local level with community supports, along with supportive national and regional;
- regional processes provide for inclusive participation for all in developing capacity over relationships to lands and resources;
- continuity of local leadership contributes (processes) to stability, certainty and goal achievement (i.e. healing);
- First Nation geographic rep. in program design;
- curriculum goal - keep youth up-to-date on current First Nation developments;
- Short-term - INAC:
 - modify policy and legislation;
 - fast-track opps.;
 - accommodate community diversity;
 - respond to community initiatives;
- process to combine elected and traditional systems of government at the national,

- regional and local levels;
- find ways to come together, such as forming new types of community designed government and program delivery;
- communities need to respond to, and capitalize on the challenges and opportunities available;
- clearly articulate First Nations governance system - community, intergovernmental, and international forum;
- build linkages to global community of nations and other indigenous nations;
- INAC to demonstrate visionary leadership to incorporate existing successes (courts, processes, etc.) on First Nations rights and development into its policy and operational approach and guidelines;
- finding the balance or match between tradition and contemporary practices is a difficult and involved process that has to take place at a community level;
- the department needs to be involved in the “change” dialogue.

National Goal:

To support and enable First Nation community based on natural resource initiatives.

Short-term Objective:

A visible federal commitment to public education and awareness as well as communication/advocacy of First Nation positions.

Objective:

Create an AFN-INAC process, with regional components, to review the current situation, identify opportunities and implement new approaches.

Regional Goal:

To establish and support mechanisms for the regional application, flexibility and usage of land and resource initiatives and the inclusive linkage(s) to other processes (i.e. treaty, NRTA, etc.).

Local Goal:

Involve the community in developing, supporting and pursuing new approaches.

Changes:

- Rebuild Nations;
- Clarify roles and responsibilities;
- Cooperation - Develop protocols.

Facilitator: Mathieu Courchene

Goals:

Re: Lands

- Federal government to fulfill their responsibilities in protecting the interests of First Nations when dealing with the provinces;
- sharing legal opinions (i.e. Delgamuukw);
- First Nations are developing position papers - AFS;
- continue existing dialogue - between AFN and DIAND;
- DIAND be proactive in continuing talks and establishing a connection;
- establish a joint working group - AFN and DIAND (a working group does exist, however, there is the need to continue as each group leaves the table with differing points of view);
- Delgamuukw to be taken into consideration - how it relates to natural resources and lands;
- DIAND to keep an open mind;
- where opportunities exist, look at the practical application of Delgamuukw principles in regards to natural resources and lands management - based on First Nation interpretations;- something that can be done now (short-term);
- need to get the provinces "on-side" - if they are not, nothing will happen;
- the federal government can assist in getting the provinces on-side, as part of their fiduciary obligation;
- getting the provinces on-side and the fiduciary are short, medium and long-term objectives;
- do the provinces have a fiduciary responsibility? If so, can this be used to get them on-side?;

Re: Public Education

- re-design curriculum from a First Nations perspective (provincial involvement);
- educate adults that have not had the opportunity to learn First Nations history;
- teach the legal basis of First Nations rights in Canada;
- local service clubs - i.e. Rotary, Chamber of Commerce - have First Nations guest speakers;
- educate the public on important current events, i.e. Claims;
- Forums to educate third party interests;
- "advance" information to the public, rather than receiving it after the fact;
- educate other federal departments, as well as within DIAND, on First Nations issues - especially those involved with First Nations i.e. Justice, Fisheries and Oceans, Environment, etc.;
- educate both private and crown corporations;
- a process to eliminate racism within the broader Canadian society through education;
- the notion of "equality" has to be addressed - the interpretations of First Nations and government are different;

- First Nations need a “propaganda machine”- to respond to editorials with a First Nations perspective;
- Create a national communications body, where;
 - ☐ communication would be coordinated;
 - ☐ a consistent message would be developed with DIAND and FNs;
 - ☐ where specialists would be engaged to create communication packages;
- Education has to be flowing both ways between DIAND to FNs and FNs to DIAND;
- Maintain the momentum created;
- DIAND has to be committed to policy change based on a FNs perspective/interest; and
- Everyone must put words into action.

Facilitator: Ron Maurice

Action Plan:

National Goal:

- strong, national voice to deal with natural resource issues
- recognition of rights (title) respecting regional differences in implementation and definition;
- instruments designed to maintain integrity of title - change policy/legislation;
- processes (treaty/title) reflecting First Nation regional differences - impacts on regional/local approaches - is there a political will?;
- international processes to force national issues;
- focus on school system/curriculum;
- Aboriginal candidate for Prime Minister;
- self-worth, recognition of the unique approaches;
- “we accomplish nothing if we just replace DIAND.”;

Regional Goal:

- a process for dialogue;
- northern issues;
- reflect First Nation holistic view, nation collectivity;

Local Goal:

- broad involvement with youth through schools, elders - regional/national;
- capacity-building;
- other way to bring communities together;
- close gaps (demographics) to enforce traditions;
- encourage and support others in community - be a family again as a means to strengthen (remove dissension);
- understanding rights/issues;
- at the household level, modern tools/statistical at local - capacity for adapting to

- transition taking place;
- balancing interests/beliefs/cultures at community;

International:

- globalization;
- worldviews;
- First Nation role in presenting an alternative to dominant world view;
- environmental perspective through allies - strategic alliances.

Objectives:

- Establish dialogue with First Nations and governments;

Short-term:

- manage transition;
- establish priorities, process for addressing lands and resource issues;
- training and capacity-building;
- address social problems/healing.

Medium-term:

- create forums to hear everyone's views;
- establish appropriate mechanisms/policies, particularly at the regional level;
- align negotiation/reconciliation process with community aspirations and values.

Long-term:

- equitable share of lands and resources.

To begin the afternoon session, Harold Tarbell introduced the topic of the final working group discussion. The preceding working group discussion was focused on the question:

What changes need to occur within the First Nations and federal government organizations to facilitate this vision?

To assist in discussions the following points were outlined for the participants to consider during the small group sessions:

Change(s):

- Vision;
- Goals - N/R/L;
- Objectives - short/medium/long;

Examine Change(s):

- implementation;
- organizational roles;
- individual;
- resistance;
- processes/structures/mechanisms.

Facilitator: Harold Tarbell

Summary of Discussion:

- address skepticism by demonstrating a commitment to implement the results of this process (DIAND and First Nations);
- the need for information-sharing (community-leaders-DIAND);
- priority community consultation processes;
- involvement of other departments (i.e. Dept. of Justice);
- community feeling that the department understands needs;
- government-government; continuity of leaders - VISION;
- educate citizens about the process;
- do not be shy about reclaiming cultural heritage;
- increase community participation at every level of First Nation government;
- develop unity accord to facilitate change;
- formalize accountability to First Nation community members.

Points made:

- address skepticism by demonstrating commitment to implement results of this process - take action;
- correct the information deficit for First Nations;
- create electronic information-sharing to get quick question and answer, as well as large volume of information out (help with information overload) and help people know where to and how to find information - DIAND to provide resources;
- representative organizations seen more as a resource to government and broader communities;
- be careful about electronic information overload;
- avoid "pigeon-holing" community needs into program guidelines;
- consultation process - give more priority/emphasis to get it done properly;
- strategize and involve other departments that have related mandates - especially Dept. of Justice;
- understand and get commitment from the various "levels" within government;
- get community commitment by utilizing different ways to include people;
- more community level consultations to support involvement of political leaders and other types of leadership;
- skills development - solutions to barriers;
- create understanding by DIAND of First Nations needs (and community sense that this

- learning - understanding is occurring);
- educate about changes already underway;
- improve communication and working relationships;
- in negotiating First Nations aspirations, there must be a government-to-government discussion with equally mandated authorities and decision-making capabilities - includes the necessity to broaden mandates beyond program and/or departmental lines;
- continuity of negotiations;
- harmonize First Nations initiatives;
- change government attitude;
- trying to build community means one day we have to ask the hard questions and realize that we need one another;
- educate your citizens on the political issues, processes and requirements;
- we always blame the middle-man;
- to be shy to be spiritual;
- implementation is always the hardest part (at the community level), even if the idea is an older one - new council approach; limit level of council time/committee commitments; institute an elder's senate with defined roles (i.e. incorporate culture into transition);
- formalize Indian Act council focus of accountability directly to community members;
- increase community participation at every level of your government;
- institute a First Nations-DIAND technical team (task force) to draft agreements with First Nations input;
- develop a unity accord to facilitate change, establish processes and give mandates;
- reclaim our cultural heritage as an expression of pride and nation-building;
- revisit our traditional/spiritual sites.

Facilitator: Mathieu Courchene

- share the vision;
- prepare a piece that would educate internally (joint) - i.e. Delgamuukw;
- "off-loading" should be put into proper context - job loss fear; "buy-in" has to happen;
- long-term process;
- amend mission statement to reflect desired changes;
- change has to be managed and sustained;
- implement change through the promotion of success stories (highlight the positive);
- share capacity and knowledge;
- coordination and communication between the national, regional and local level;
- MOU's and protocols - to establish common visions/goals to move forward;
- the need for benchmarks or indicators;
- develop our own vision - no dependence on the department;
- keep focus on traditional ways - new ways have to be consistent with traditional values (example of managing change);
- recognizing, understanding and embracing First Nations culture and values/practices in day-to-day lives, work;
- get entire department "on-side" (include other departments) and continue working to build on existing momentum;

- ensure that local and regional input is captured in order to address needs;
- calm the fears of our own people and surrounding communities;
- re-establish relationship based on trust - no more lying - both sides;
- a "power-shift" is occurring - this relates to the fear factor - how this message is posed to the public is very important in alleviating fears;
- pooling of resources - joint activities and doing things better;
- political tools are not available to DIAND bureaucrats - need a replacement;
- focus on what can be done as opposed to what can't be done;
- prepare for "naysayers"(dinosaurs) and continue with changes regardless;
- staff exchange - opportunities to learn and understand other's realities;
- transitional vehicle to help with the required changes - professional expertise, academic institutions, elders;
- First Nations or joint advisory body - if desired to assist with implementing changes.

Facilitator: Ron Maurice

- "Attitudes have to change";
- governments must release control;
- bureaucrats must make true partnerships;
- need a comprehensive education campaign with governments, First Nations, and citizens;
- need to network with each other;
- AFN needs to go back to its' roots of creation;
 - need to be a facilitator between First Nations;
- AFN shouldn't lead but should facilitate leadership;
- Look at options i.e. consortium;
- Create team-building between nations;
- First Nations need access to natural resource revenues and royalties;
- Need to broaden our focus, to other Canadians, business, industry, and citizens;
- Need to re-examine our position at negotiations - don't want to only sanction government existing powers;
- Acceptance of our constitutional rights;
- Must create an environment for First Nations citizens to become more informed and involved with the advance of new partnership;
- Must ensure that local community needs are not lost;
- Participants here must make certain that follow up is carried out back home;
- Communities need to assess the outcome and recommendations from here;
- Develop programs and processes to facilitate change;
- Need AFN-INAC to keep a presence in our communities;
- Grassroots approach when setting direction and objectives of initiatives;
- All First Nations organizations, institutions and governments must re-examine how traditional they are;
- Individual leadership and stewardship to effect global change;
- Government systems need to be reprofiled to reflect the new partnership (not just DIAND)
- Communication mediums need to be used and explored;

- Need an open and participatory system of decision-making;
- Our First Nation youth need proactive programs and initiatives to foster the repatriation of our ways;
- New First Nation government rules must respect and promote culture, traditions, beliefs and values while ensuring the day-to-day needs of communities are met in a contemporary world;
- Need a multi-year workplan that survives the continuous changes in government;
- Natural resources such as oil and gas benefits are not lost in the development of a big process such as the new partnership;
- First Nations need to be able to take advantage of opportunities that exist now and not just in the future;
- Non-First Nation government representatives should and must become advocates of First Nations objectives;
- First Nations need access to significant capital to gain a greater presence in markets;
- Examine other avenues to effect change not just legislative changes (operational changes);
- First Nations communities need to take charge of their own destiny;
- Maximize opportunities in existing authority;
- Need to find innovative ways to inform people;
- Need to look at what is working today and in the past.

APPENDIX B



Think Tank Lands and Resources

Lands and Resources

- What does LTS do?
- What do other INAC sectors do?
- What do other federal departments do?

Lands and Resources

What does LTS do?

- Administer Indian Act and its regulations
- Deal with legislative and regulatory changes
- Provide funding

Lands and Resources

LTS - Administer the Indian Act and its Regulations

- Land Management Functions
 - Manage surrenders/designations/revocations
 - Manage additions to and creation of reserves
 - Issue/monitor/enforce land instruments
 - Certificates of possession
 - Leases and Permits
 - Delegate authority to manage instruments, manage delegations
 - Register interests in land
 - Provide training in land management
 - Manage expropriations

Lands and Resources

LTS - Administer the Indian Act and its Regulations

- Natural Resource Functions
 - Deal with resource-related contraventions of Act and Regs.
 - Issue/monitor/enforce timber and mineral instruments
 - Provide resource-related training
- Environment Functions
 - Deal with waste-related contraventions of Act and Regs.
 - Issue/monitor/enforce waste instruments
- Other related functions
 - Review land, resources and environmental by-laws
 - Manage Indian moneys from land and resource instruments

Lands and Resources

LTS - Deal with legislative and regulatory changes

- First Nation Land Management Act
 - Support Parliamentary processes
 - If passed:
 - Transfer existing instruments
 - Establish environmental management regimes
 - Negotiate funding agreement
 - Assist with development of land management capacity

Lands and Resources

LTS - Provide funding

- For land management
 - 53/60 delegations and RLAP
 - Surveys
- For natural resource development
 - Resource access negotiations (RAN)
 - First Nation forestry (FNFP via NRCan)
- For environmental purposes
 - Assessment/remediation of contaminated sites (EII)
 - Community preventative training (CPT)
 - Environmental assessment processes (IEAF)
- For governance and capacity enhancement

Lands and Resources

What do other INAC Sectors do?

- Socio-Economic Policy and Planning (SEPP-PR)
 - Fund community economic development (CEDP)
 - Fund commercial businesses (RAL/OPP Fund)
 - Support partnership initiatives
 - Support post-secondary education (PSEP)
- Claims and Indian Government (CIG)
 - Address comprehensive and specific claims
 - Negotiation
 - Managing implementation of agreements, including funding
 - Address self-government arrangements
 - Negotiation
 - Implementation of agreements (Sechelt, Cree Naskapik)
- Northern Affairs Program (NAP)
 - Manage Crown lands and resources in territories

Lands and Resources

INAC Responsibilities under Other Federal Legislation

- Complete environmental assessments for relevant INAC decisions, as per Canadian Environmental Assessment Act
 - Leads to proponent requirement to provide information
- Report contraventions of other federal acts (e.g. Fisheries Act, Canadian Environmental Protection Act)
- Register larger fuel tanks on reserves, under fuel tank storage regulations

Lands and Resources

What do other federal departments do?

- Environment Canada
 - Administer environmental legislation and regulations
 - Canadian Environmental Protection Act
 - Manages Migratory Birds Convention Act
- Canadian Environmental Assessment Agency
 - Manages Canadian Environmental Assessment Act
 - Act requires federal departments to assess impacts of decisions
 - Panels and comprehensive studies

Lands and Resources

What do other federal departments do?

- Fisheries and Oceans
 - Manages and protects fisheries resource and marine and freshwater environment (e.g. Fisheries Act)
 - Administers the Aboriginal Fisheries Strategy
- NRCan
 - Funds (with DIAND) and manages FNFP
 - Conducts land surveys on reserves
 - Conducts science and technology
 - Builds and maintains knowledge infrastructure on Canada's resources

Lands and Resources

What do provinces and territories do?

- Administer their Crown lands and resources (e.g. timber, minerals, fish, wildlife)
- Create and manage their environmental laws of general application

APPENDIX F



Lands and Natural Resources Think Tank

Assembly of First Nations

Key Objectives for Think Tank

- To discuss existing national, regional, local initiatives;
- To discuss a shared vision;
- To establish what is needed to arrive at our long term goals.

AFN's Work on Lands & Natural Resources

- | | |
|---------------------------|--|
| ■ Land Rights Unit | ■ Economic Development Secretariat |
| ■ Treaty Implementation | ■ Fiscal Relations Secretariat |
| ■ <i>Deigamukw</i> Review | ■ Joint Initiative on Policy Development (LTS) |
| ■ Environment Secretariat | |

Key Activities

- Research & Policy Development
- Communications
- Advocacy
- Networking & Communications

Lands Rights Unit

- Mission
 - To provide support to First Nations in the promotion and the protection of their aboriginal & treaty rights in relation to lands and natural resources
 - Assist FN in developing & initiating constructive long term solutions through processes that are meaningful, equitable and based on mutual respect

Lands Rights Unit

- Mandate
 - Under direction of the AFN Chiefs in Assembly the Land Rights Unit provides support and offers technical advice, analysis, and political advocacy and lobbying as required.

Land Rights Unit

- **Advocacy Plan**
 - Specific Claims Policy Reform, joint process to develop a new Independent Claims Body to settle specific claims.
 - Provide technical support for initiatives on policy, legislation and legal issues related to lands, forestry, fisheries, minerals and water rights
 - Individual FN support as requested on a daily basis

Land Rights Unit

- **Communication and Networks**
 - Joint communications plan for ICB and First Nations, public education and lobby.
 - Coordinate activities, meetings, joint dialogue at national & regional levels
 - Production and delivery of information to governments, specialized agencies, institutions and general public
 - Provide focus on overlapping land issues and resource related issues

Treaty Implementation

- **Mission**
 - to work with First Nations to implement and enforce their Treaties with the Crown in accordance with their original spirit and intent

Treaty Implementation - Mandate

- **Resolutions direct AFN to develop national implementation strategy for**
 - Nation-to-nation relationship/partnership
 - recognition & strengthening governments
 - Jurisdiction, management & equitable access to natural resources in treaty territories

Treaty Implementation -

- **Advocacy Plan**
 - assess Canada's treaty policy & formulate joint mechanisms to recognize, implement & enforce treaties
 - develop linkages among treaty processes
 - recommend treaty dispute resolution mechanisms

Treaty Implementation - Communication & Networking

- **Establish National Treaty Communication network**
- **Develop Public Education/Information materials**
- **Hold forums on treaty and aboriginal rights**
- **Work with related AFN initiatives**

Delgamuukw Review

■ Mission

- To maximize the benefits to First Nations of the *Delgamuukw* decision

■ Mandate

- To undertake research and consultations to assist First Nations in implementing the findings in *Delgamuukw*

Delgamuukw Review

■ Advocacy Plan

- To hold forums to facilitate discussions on the legal, political, and other issues arising as a result of the *Delgamuukw* decision

■ Communications & Networking

- Meetings, presentations, work with other AFN processes

Environment

■ Mission

- To identify & address environmental problems that may endanger the health & well-being of First Nations people & lands

Environment

■ Mandate

- To support, strengthen & promote First Nations environmental policy based on an understanding of First Nations practices, principles & philosophies;
- To analyze federal & provincial environmental legislation & policies to determine their impact upon First Nations.

Environment

■ Advocacy Plan

- facilitate First Nation participation & consultation in environmental decision-making processes (i.e. regional sessions on Species at Risk legislation);
- Present First Nations' views on federal environmental legislation, policies & programs before within federal forums (e.g. Standing Committees, national roundtables).

Environment

■ Communications & Networking

- AFN Environment Committee,
- First Nations environmental resource kit on AFN -
- Environment Web Site
- project-specific media tools (e.g. brochures) to disseminate information on First Nation, AFN, federal & other environmental initiatives.

Economic Development

Statement*

The Chiefs Committee on Economic Development is committed to improving the economic quality of life for all First Nations while respecting First Nations traditions and beliefs.

This also applies to the work of the Economic Development Secretariat and the Chief's Technical Committee.

Economic Development

- lobby on behalf of First Nations local and level Economic Development strategies
- advance the RCAP Economic Development recommendations
- ensure the tools of business are available for all First Nations people, businesses and communities
- examine and advocate for business policies that positively affect all First Nations businesses

Economic Development

Plan

- an advocacy strategy to discuss issues related to resources and capital with all levels of government.

Communications & Networking

- develop a National Economic Development Network so our message gets out to First Nation communities

Fiscal Relations Secretariat

Mission (draft)*

- to develop a new fiscal relationship between the Government of Canada and First Nations that promotes equity and accountability, and provides the financial capacity and autonomy needed for self-government for the First Nations of Canada.

♦ Subject to approval by Chief's Committee

Fiscal Relations Secretariat

Mandate

- To develop a new fiscal relationship between First Nation governments and the Government of Canada (resolution #5/96 and #49/98).

Fiscal Relations Secretariat

Advocacy Plan

- establish technical tables to deal with revenue options and potential for financing First Nation governments.
- undertake discussions with the provinces and the federal government on *Delegamukw* for resource revenue sharing, expanded land base, enhanced access to resources and improved fiscal relationships.

Fiscal Relations Secretariat

■ Communication and Networking

- Work closely with the *Delgamuukw* Review & other AFN Processes
- Establish federal, regional and provincial information sharing partnerships
- Develop a communication strategy
- Prepare reference binders for First Nations on renewed fiscal relation.

Joint Initiative for Policy Development (LTS)

■ Mission

- To create a policy and operational framework by which First Nations may assume control of lands and governance

Joint Initiative on Policy Development (LTS)

■ Mandate

- To create a First Nations driven national process that addresses issues related to lands and trust services
- To undertake research and formulate policy options on matters currently administered under the *Indian Act* by the Lands & Trust Services Sector of INAC

Joint Initiative for Policy Development - LTS

■ Advocacy Plan

advocate for the development of institutional, technological, human resource, and financial capacity to support First Nations and their governments in exercising their rights

■ Communications & Networking

- Includes regional involvement processes, communication materials, webpage, national focus groups, and a national conference

What can we achieve over the next 2 days?

■ With respect to Lands & Natural Resources, to establish

- What is the shared national vision?
- What linkages do we need to arrive at our vision and long term goals?
- How can we work together to support First Nations regional and local initiatives?



APPENDIX G

POLICY ISSUE:

Sharing of Taxation Revenue Initiated Within First Nation Lands

The Siksika Nation has examined the roots of the British North America Act 1867 and the Constitution Act R.S.C 1982 and has linked these documents to rights established for the Siksika Nation through the signing of the Blackfoot Treaty Number Seven in 1877. This examination established that in general the Siksika Nation has a right to an 'equitable' share of taxation revenues collected by the Government of Canada from development within the traditional lands of the Blackfoot Confederacy. More specifically the Government of Canada has a Constitutional obligation to assure that an equitable share of taxation revenues realized as a direct, or indirect, result of economic development initiatives within Siksika Nation lands are returned to the Siksika Nation.

Section 35(1) of the Constitution Act R.S.C. 1982 affirms the right of the Siksika Nation to be treated in an 'equitable' manner and this right must certainly be applied to the 'equitable' distribution of taxation revenues, including taxes which trace their origin to economic development initiatives located within Siksika Nation lands.

Siksika Resource Developments Ltd. (SRDL) as the economic development arm of Siksika Nation Government has established that the Government of Canada and the Province of Alberta have received, and continue to receive, substantial economic benefits as a direct result of economic development within the traditional lands of the Blackfoot Confederacy. More importantly the Government of Canada and the Province of Alberta are realizing substantial benefits from economic development within lands set aside for the exclusive benefit of the Siksika Nation in 1877.

Not only are the economic benefits received in the form of direct and indirect taxation being shared in an 'unequitable' manner but policies introduced by Indian and Northern Affairs Canada actually penalize the Siksika Nation for generating income through the development of their non-renewable resources.

Section 15 of the Constitution Act R.S.C. 1982 states that;

"Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability."

Section 52(1) of the Constitution Act R.S.C 1982 provides;

"The Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force and effect."

Section 52(2) defines the "Constitution of Canada" as including the Acts and orders referred to in Schedule 1. The Rupert's Land Order and North-western Territory Order, which relate to much of the traditional land of the Blackfoot Confederacy, are listed in Schedule 1 and are therefore entrenched in the Constitution Act R.S.C. 1982.

When First Nation lands were transferred to the British Crown, in right of Canada, shortly after Confederation the British Crown confirmed that First Nations would 'always' be treated in an 'equitable' manner.

The 1867 Address which formed part of the British North America Act included a number of conditions relating to the transfer of Rupert's Land and the North-western Territories to Canada. These conditions included;

"and furthermore, that, upon the transference of the territories in question to the Canadian Government, the claims of the Indian tribes to compensation for lands required for the purposes of settlement will be considered and settled in conformity with the equitable principles which have uniformly governed the British Crown in its dealings with the aborigines."

Clearly all actions of the Government of Canada and the Province of Alberta, including legislation and policies related to the development of First Nation economies, must conform to the Constitution Act R.S.C 1982. Current legislation and policy interpretation which allows the Government of Canada and the Province of Alberta to retain 100% of all taxation revenue generated as a direct result of economic development within First Nation lands is not only misdirected but appears to be contradict the intent of the Constitution Act R.S.C 1982. The Siksika Nation has respectfully requested support from the Assembly of First Nations to challenge policies which allow for the retention of taxation revenue generated from economic development within First Nation land on Constitutional grounds.

In a submission to the Royal Commission on Aboriginal Peoples the Siksika Nation suggested that transfer payments between the Government of Canada and First Nations should be based on an equitable distribution of revenues collected by the Government of Canada and Province of Alberta through development of the traditional lands of the Blackfoot Confederacy.

The Siksika Nation suggested that transfer payments should be based on providing First Nation Governments an 'equitable' share of National wealth and should be provided in the form of an unconditional grants similar to those provided to the Provincial Governments. Transfer payments to First Nations would increase in proportion to the overall increase in the wealth of Canada.

The Siksika Nation also proposed that their specific transfer payment agreement with the Government of Canada should be directly linked to future taxation revenues which would be collected by the Government of Canada and the Province of Alberta as a direct result of expansion within the Siksika Nation economy or through the expansion of neighbouring economies who had previously been granted permission to utilize or exploit Siksika Nation resources.

Attached to this Policy Paper is a summary of a detailed research paper completed by the Siksika Resource Developments Ltd in 1997. This research paper examined development of irrigation infrastructure in Southern Alberta, including construction of the Bassano Dam, and identified two serious issues where the Province of Alberta and the Government of Canada have deliberately violated the Constitutional Rights of the Siksika Nation.

- 1) The Government of Canada expropriated land from the Siksika Nation to allow the CPR to construct the Bassano Dam, storage reservoir and associated infrastructure. Notwithstanding the fact that this expropriation, completed in 1914, was found to be illegal the Bassano Dam supports the irrigation of over 500,000 acres of land immediately East of the Siksika Nation. In 1998 irrigation projected based on the Bassano Dam generated in excess of \$100,000,000 in value added taxation revenues for the Province of Alberta and the Government of Canada. This represents an average annual return of \$200.00 in taxation revenue from every acre of land irrigated as a result of constructing the Bassano Dam within Siksika Nation lands.

Since the Bassano Dam was completed in 1915 not one single dollar of the billions of dollars in taxation revenue realized by the Province of Alberta and the Government of Canada, as a direct result of the Bassano Dam, have ever been transferred to the Siksika Nation.

- 2) Between 1945 and 1997 the Province of Alberta and the Government of Canada invested more than \$400,000,000 in capital grants to extend irrigation infrastructure from the Bassano Dam to land within the Eastern Irrigation District. This represented an average capital investment of \$800.00 for each irrigated acre.

Between 1989 and 1998 the Siksika Nation financed the irrigation of 5,250 acres of land. After numerous requests for financial assistance less than \$500,000.00 was offered as financial assistance by the Government of Canada and not one single dollar of assistance was offered by the Province of Alberta. As a direct result of Government policy, or lack of policy, which limited financial assistance to the Siksika Nation to less than \$100.00 per irrigated acre the Siksika Nation was forced to borrow in excess of \$1,200,000 from financial institutions to install the infrastructure necessary to irrigate Siksika Nation land. An additional \$2,800,000 was borrowed from financial institutions or contributed as equity by the Siksika Nation to finance the installation of connections and irrigation pivots.

The irony of this situation is that in 1998 Province of Alberta and the Government of Canada received over \$1,000,000.00 in taxation revenue from irrigated lands within the Siksika Nation while the Siksika Nation received less than \$300,000.00 in net revenue from leasing the irrigated land to taxable entities. If the Government of Canada and the Province of Alberta had contributed an average of \$350.00 per irrigated acre (an additional \$1,300,000 for 5,250 acres) to finance the installation of irrigation infrastructure (compared to \$800.00/acre in the Eastern Irrigation District immediately East of the Siksika Nation) the revenue earned by the Siksika Nation would increase by more than \$200,000 per year.

Economic losses to the Siksika Nation as a result of Government policies related to irrigation while significant pale in comparison to the economic losses associated with the development of hydrocarbon reserves. Over the past twenty years the Siksika Nation has received approximately 25% of the \$200,000,000 generated from the development of oil and gas wells within their lands (\$50,000,000). By comparison the Government of Canada and the Province of Alberta have realized in excess of 50% of total production value in taxation revenues as the hydrocarbon resources are refined and sold down stream. In simple terms non-renewable oil and gas reserves extracted from Siksika Nation lands have generated in excess of \$100,000,000 in taxation revenues for the Government of Canada and the Province of Alberta while the only economic result for the Siksika Nation, in addition to royalty income, was a reduction in their transfer payments to reflect interest earned in their Capital Trust Account.

Does the Constitution Act R.S.C. 1982 permit Government of Canada and Province of Alberta policies to discriminate against the Siksika Nation by forcing the Siksika Nation to incur millions of dollars of additional debt solely for the purpose of finance irrigation infrastructure which would have been financed by the Government of Canada or the Province of Alberta if the Siksika Nation was under Provincial jurisdiction?

Does the Constitution Act R.S.C. 1982 permit the Government of Canada and the Province of Alberta to retain 100% of all taxation revenues generated as a direct result of economic development within Siksika Nation lands when the recipients of this additional taxation revenue continue to ignore requests for direct financial assistance or revenue sharing from the Government who was forced to finance 100% of development costs?

The Siksika Nation has strenuously voiced their objection to Government policies which link 'Financial Transfer Payments' to First Nations to the annual percentage increases provided to Indian and Northern Affairs Canada in the Main Estimates. Policies which deliberately restrict the equitable transfer of financial resources to First Nations, or which deny First Nations their 'equitable' share of taxation revenues generated from economic development within First Nation lands are by definition 'unconstitutional' and hence should have no power or effect.

The Siksika Nation also voiced their concern over Government policies which restrict the ability of the Siksika Nation to invest any portion of royalty income received from the development of non-renewable resources in future development of the Siksika Nation economy. In order to develop their economy the Siksika Nation has been forced to borrow millions of dollars from financial institution at interest rates substantially higher than those paid to the Siksika Nation by the Government of Canada for funds on deposit in the Capital Trust Account maintained under Section 64 of the Indian Act R.S.C. 1985.

It seems ironic that the Blackfoot Treaty, signed in 1877, dealt with development of the Siksika Nation economy at considerable length while in 1999 the Minister responsible for Indian Affairs and Northern Development has steadfastly refused to allow the Siksika Nation to withdraw funding from the Capital Trust Account to replace commercial financing for economic development projects that have generated positive cash flows for more that two years.

Even more ironic is the fact that the Minister responsible for Indian Affairs and Northern Development has refused to allow the Siksika Nation to withdraw funds from their Capital Trust Account to service debt related to economic development initiatives undertaken by Siksika Resource Developments Ltd. even when a significant portion of funds on deposit in the Capital Trust Account originated through economic development projects initiated by SRDL.

The Government of Canada and the Province of Alberta continue to collect millions of dollars in additional taxation revenues as a direct result of SRDL initiatives while refusing to allow the Siksika Nation to use a portion of their additional income to support future SRDL initiatives and the generation of future taxation revenues. Words cannot describe the insanity of current Government policies and the Siksika Nation respectfully requests that the Assembly of First Nations initiate immediate action to establish policies which will assure the Siksika Nation an equitable share of taxation revenues realized as a direct result of their initiative and their confidence in the ability of First Nations across Canada to achieve economic self reliance.