3rd Inter-Jurisdictional Conference on Aboriginal Involvement in Natural Resource Management

Integrating Aboriginal People in Natural Resource Management



Manitoba Conservation, Aboriginal Relations Branch June 21-24, 2005 University of Manitoba, University Centre, Fort Garry Campus

REPORT ON PROCEEDINGS

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Introduction

The 3rd Annual Inter-Jurisdictional Conference on Aboriginal Involvement in Natural Resource Management, Integrating Aboriginal People in Resource Management, was held on June 21-24, 2005, at the Fort Garry Campus of the University of Manitoba in Winnipeg, Manitoba. Approximately 200 participants, representing provincial governments, their Aboriginal partners from across the country and other stakeholders, attended the Conference.

The main objective of the Conference was to provide a forum in which natural resource managers and Aboriginal partners could share their best practices based on past successes and challenges. Presentations at the conference were organized as panel discussions, each exploring one of six areas:

- Consultation Strategies: Legal Aspects & Best Practices
- Aboriginal Participation in Natural Resource Management
- Aboriginal Involvement in Forest Management Planning
- Community Capacity Building
- Broad Area Planning & Co-Management Agreements
- Metis Issues (Responses to the Powley Decision)

Each panel discussion concluded with a question and answer period. The Conference Agenda is included as Appendix I to this report.

Elders at the Conference provided guidance and support to the organizers, presenters and other delegates. The Conference also offered delegates several opportunities for networking, including a reception, feast with entertainment by Joe from Winnipeg also known as Ian Ross and luncheons and networking breaks incorporated into the daily agenda.

The Conference was hosted by Manitoba Conservation and supported by sponsors from both the public and private sectors, including: the Province of Manitoba; Sustainable Resource Development of the Alberta Government; Manitoba Model Forest Network; Hudson Bay Mining and Smelting; Manitoba Wildlife Federation; Freshwater Fish Marketing Corporation; the University of Manitoba Aboriginal Student Association; Nilex; Natural Resources Canada; Environment Canada; Manitoba Hydro; Louisiana-Pacific Building Products; and the First Nations Forestry Program.

The Conference achieved its expected outcomes – delegates shared best practices to integrate Aboriginal people in resource management, explored how resource managers and Aboriginal people, communities and First Nations can develop mutually empowering relationships and considered ways to address some of the challenges raised by jurisdictional issues in resource management.

This report provides an overview of the Conference, including a summary of presentations and key issues raised in the discussions that followed each panel presentation.

Conference Opening

The Conference opened with a prayer from Aboriginal Elder Marjorie Nelson and a song from the youth drum group, the Noo-Si-Sim Singers.

Following the prayer and song, Ron Missyabit, Conference Chair and Director of Manitoba Conservation's Aboriginal Relations Branch, introduced the Honourable Stan Struthers, Minister of Conservation, Province of Manitoba. Prior to his first election to the Legislative Assembly in 1995, Minister Struthers had been a teacher and school administrator in several rural communities in Manitoba. He has also served on several NDP policy committees, including Family and Social Policy, Education and Agriculture. He was sworn in as Minister of Conservation in November 2003.

Minister Struthers began by welcoming delegates to the 3rd Bi-Annual Inter-Jurisdictional Conference on Natural Resource Management, *Integrating Aboriginal People in Natural Resource Management*. The conference theme reflects the provincial government's goal to integrate Aboriginal people into decision-making with respect to natural resource management. Integration, he pointed out, means equal membership in decision-making.

For too long, government departments and agencies, as well as corporations, have made decisions that affect Aboriginal people in our province and country without their input. This has been particularly true when it comes to issues of land use and care.

Recently, however, the government has been working to change this. It has embarked on initiatives that involve Aboriginal people in decisions involving the lands they live on, use and care for. Minister Struthers believes that events such as this conference, which brings people together to talk about, plan and make a commitment to include Aboriginal leaders and community members in decision-making, will help government and other stakeholders move in the right direction.

Today, the government is working to build government to government partnerships with First Nations and Aboriginal people and is learning from the wisdom and knowledge of Aboriginal people. Minister Struthers appreciates the effort made by Department of Conservation employees to include Aboriginal people in decision making.

In closing, Minister Struthers thanked delegates for their participation in the conference and offered the hope that, over the next few days; they would come to a better understanding of equal partnership and reconfirm their commitment to ensure that policies and practices include equal partnerships with Aboriginal people.

The formal text of Minister Struthers' remarks is included as Appendix II.

Ron Missyabit spoke briefly after Minister Struthers. He welcomed delegates to Winnipeg. The term Winnipeg comes from words in the traditional language of

Ron's people that mean "muddy" or "murky water." The term Manitoba comes from words that mean "the place where the spirit sits." Ron reminded participants that this is where we are at.

The Winnipeg conference was preceded by the first bi-annual event, held in Saskatchewan in 2000 and the second event, held in Ontario. The organizing committee for this event was able to build on contributions made by the organizers of the first two conferences. Members of the Organizing Committee for this year's conference were Bruce Bruyere, Thomas Beaudry, Rick Ratte, Barry Verbiwski, Ramona Bird-Billy, Rod Lehman, Norma Taylor and Serge Scrafield.

Ron expressed his hope that delegates would find the many presentations offered over the next few days interesting and challenging. Issues to be discussed include the legal aspects of consultation, relationship-building, management policy and how participants can take back to their communities and workplaces and implement the networking and information-sharing they do at the conference. Expected outcomes of the conference are the promotion of information-sharing between Aboriginal and non-Aboriginal resource managers, the exploration of ways to share information such as best practices that is based on our experiences, and the promotion of a shared vision between non-Aboriginal and Aboriginal governments and peoples.

Ron pointed out that, across the country, jurisdictions are being challenged. Resource managers and other stakeholders need to understand how they can develop a better – and less confrontational – relationship with Aboriginal people. Historically, Aboriginal people have had virtually no involvement in government decision-making. Governments now are beginning to understand that that must change. It is now up to bureaucrats, policy people and decision-makers to find ways to incorporate that understanding and work together with Aboriginal people and their communities.

People who work together do not have to agree about everything. Ron offered the example of his relationship with a former director within his department. He and his colleague had very different philosophies and approaches, but succeeded in working together successfully in spite of that. Working together is about sharing ideas and acknowledging each others' positions. Just because someone has different ideas or takes different positions doesn't mean that they are wrong – or right.

This year's conference is designed to challenge participants to think about the relationships between Aboriginal and non-Aboriginal people with respect to Natural Resource participants. In particular, the organizers wanted to challenge people to think about how two governments or two cultures have worked together successfully in the past and what was done to make their relationship work better. Ron invited delegates to share, listen, learn and benefit from each others' experiences.

Keynote Presentations

The Honourable Minister Eric Robinson, Honourable Mr. Justice Murray Sinclair and Bill Yetman made Keynote Presentations at the Conference. Their presentations are summarized below.

The Honourable Minister Eric Robinson, Culture, Heritage and Tourism

The Honourable Minister Eric Robinson's political career began in 1993. In 1999, he was appointed the Minister of Aboriginal and Northern Affairs. He was appointed to his current position of Minister of Culture, Heritage and Tourism in September of 2003. Before entering politics, he had been the Grand Councilor of the Four Nations Confederacy of Manitoba and a founder of the Native Media Network. Minister Robinson, who is a published author, has dedicated his life to improving the lives of Aboriginal people and of all people in the province of Manitoba.

Minister Robinson began by greeting and welcoming delegates. Yesterday, he commented, he had the pleasure of designating a building in Portage La Prairie for the Long Plains First Nation. The building, a former residential school now known as Rufus Prince Memorial Building, is a heritage site that will enable First Nations to do some of the work they need to address the sad legacy and devastating effects that residential schools have had on many generations of Aboriginal people in our country.

Minister Robinson belongs to a government that believes that now is the time for change for Aboriginal people and that change for Aboriginal people will mean change for every person in province of Manitoba. Manitoba has highest per capita population of Aboriginal and First Nations people of any province in Canada. Over the next 10 years, many First Nations children will come of age and be ready to join the provincial workforce.

The subject of this conference is very important, in part because many of our people will continue to try to make a livelihood in the communities that they are from. Since being sworn into government in 1999, Minister Robinson has worked to ensure that opportunities are available to Aboriginal people. When the current government first came into office, they identified five areas that required attention in many of our northern communities. These areas became the government's Northern Development Strategy, addressing the following priority areas:

- Housing
- Equal economic development opportunities
- Training and employment
- Transportation needs, including the optimal use and maintenance of winter roads
- Health care, especially in relationship to socio-economic determinants of health and the high incidence of diseases and conditions such as tuberculosis and diabetes.

The government has attempted to address these priority areas in many different ways.

The Manitoba Bureau of Statistics has reported that, within the next few years, as many as one in four new entrants into our provincial workforce will be of First Nation ancestry. The government understands that education and economy are closely related and sees its economic strategy and education strategies as closely related. We are living in an age where advanced and fast-changing technology is a priority and education is vital to take advantage of opportunities in our society. The government has developed creative approaches to create educational and economic opportunities for First Nations people in northern Manitoba, especially for those who live in remote communities, supporting, for example, outdoor education and survival skills projects. Recently, the provincial and federal governments partnered to work with First Nation communities on programs that enable youth in their communities to learn the traditional skills of our forefathers, such as trapping, hunting and fishing and outdoor survival. Programs such as these are a proven way to engage youth in positive activities and the government anticipates that an increasing number of similar initiatives will be developed.

Minister Robinson was a signatory to the Churchill River Diversion Archaeological Project Memorandum of Understanding with the Nelson House Cree Nation and the South Indian Lake community, together with the people at the Manitoba Museum, the government and Manitoba Hydro. The government believes that the people originally from a community or region are best suited to be able to work with other professionals to address the priority areas of the Northern Development Strategy. If further development is to occur, it should be done in consultation with the original peoples, the people that were first there and the people that are directly impacted by the development of projects such as hydro development. The Government of Manitoba is committed to deal with First Nations on a government-to-government basis. Similarly, First Nations signed treaties with the Crown and Great Britain, a responsibility that later was transferred to the Government of Canada and First Nations leaders are insistent that business related to treaties be done with the national government on a nation-to-nation basis

In the Manigotogan area, the province is initiating the River Stewards Program, which identifies the best-suited local people to be interpreters of the different symbolic meanings of particular points of interest on the Manigotogan River system. The government would like to expand that idea to other areas, including the Berens River, the Hayes River and the Blind River. Programs such as this generate further opportunities in the area of economic development, such as eco-tourism. To develop such opportunities, the government is going first to the people who live in and have maintained a living in those areas. The government recognizes that, over the years, hydro development has inflicted a lot of damage on the territories and lands. In the past, there typically was little regard for Aboriginal people who lived in project areas, projects proceeded and their benefits were reaped by white Canada, rather than the original inhabitants of those territories. The government is now trying to do business with the original people of the province in a new – and better – way.

Minister Robinson observed that the conference points to the value of combining traditional wisdom with specific knowledge and of ensuring that we have one common objective, that is, to protect our mother, which is our earth. Without her, of course, we would not be here today. He sees the potential to develop careers in the areas of conservation and the wise use of natural resources in our territories.

The Rupertsland region that Minister Robinson represents is very large. Transportation is very difficult in the region, the cost of living is very high and it is very difficult and expensive to bring nutritious food into communities. The provincial Ministers of Aboriginal and Northern Affairs and Healthy Living are working together to help communities find ways to grow their own food.

Minister Robinson has spent a lot of time with Elders and others in different areas and communities within the region he represents. Elders and other community members have shown him the trees, plants and medicines that should be preserved in their territory. Initiatives like the Churchill River project recognize the value of this kind of local knowledge and rely upon local people for information about things such as where burial sites are located or which plants provide medicines to community members.

In 2003, Manitoba signed a Memorandum of Intent (MOI) on tourism development with the Nunavut government. The MOI focuses on education and training, market research, product development and marketing and Manitoba is now working with the Nunavut government to determine on how their jurisdictions can benefit from the MOI.

As a government, the Province of Manitoba is working hard to help Aboriginal youth believe in the possibility of fulfilling their dreams and have faith in themselves and their communities. The province's commitment to maintain a government-to-government relationship with First Nations people is extremely important to Minister Robinson. He observed that First Nations have been short-changed over and over again in our history and feels it is crucial that, in the future, there should be either responsible development or no development at all.

The Honourable Mr. Justice Murray Sinclair

Mishanay Gheezihk (The One Who Speaks of Pictures in the Sky) is a member of the Fish Clan, a member of the Three Fires Society and a Third Degree Member of the Midewiwin Society of the Ojibway Nation. He was raised by his grandparents on the St. Peter's Reserve, north of Selkirk Manitoba. He graduated from the Law School at the University of Manitoba in 1979 and was called to the Bar in 1980. In his legal practice, he worked primarily in the fields of Civil and Criminal Litigation and Aboriginal Law. In 1988, Justice Sinclair was appointed Associate chief Judge of the provincial court and named co-commissioner of the Aboriginal Justice Inquiry. The more than 300 recommendations of the AJI have had a significant impact on the justice system. In 2001, the Federal Government appointed Justice Sinclair to the Superior Court in Manitoba, the Court of Queen's Bench. This appointment has offered him increased opportunities to have impact on the justice

system in Canada through written judgments that are more widely reported, carry substantial weight and can be precedent setting. Justice Sinclair is the first judge of Aboriginal descent in Manitoba and the second in Canada and has received many honours for his achievements. Throughout his career, he has maintained a strong connection to his tribal traditions and regularly attends traditional and ceremonial gatherings throughout Canada and the United States.

Justice Sinclair shared with delegates his understanding of the relationship between Aboriginal people and government, particularly with respect to resource rights and reviewed recent events relating to the issues of government control over resource rights, the status of Aboriginal people's rights, the duty to consult and the Crown's fiduciary obligation. He also discussed where he think things are going to go and principles that he feels apply to Aboriginal and governmental negotiations in the context of the growing recognition by the courts and the legal system of Aboriginal peoples' rights, either under treaty or under Aboriginal title, to have some say with regard to resource management and development.

Justice Sinclair began the presentation by sharing some of his own story with delegates. He grew up in the Selkirk area, just north of Winnipeg. The northern part of the town of Selkirk, at one time, used to be an Indian Reserve that went all the way up to Lake Winnipeg, part of the St. Peters Reserve. His father was a member of the St. Peters Band, which later became the Peguis Band, and Justice Sinclair has current membership in the Peguis First Nation. His mother comes from the Fisher River First Nation, which actually is a Reserve that was established for people who had left Norway House and moved south so that they could live around more Christianized people.

When he graduated from high school in 1968, he started at the University of Manitoba, but found the experience very difficult and quit after a few years. He then worked at the Friendship Centre in Selkirk, where he eventually became an administrator of programs for youth. He returned to the University of Winnipeg in 1975 and graduated from Law School at the University of Manitoba in 1979. When he had started Law School, he expected to become a politician. In his observations, lawyers seemed to have a great deal of influence in terms of getting political careers and he intended to run for and become a Member of Parliament. While he was in law school, however, he became very intrigued about the law and the legal system and, in particular, was enamored with the idea of going to court to represent people so when he graduated from law school, he decided that he would try that for a while.

Almost immediately upon graduation, he began articling for a law firm in his hometown of Selkirk. While articling, he was on call, 24 hours a day, 7 days a week. He had been the first member of his family to attend university and his family was very excited about his graduation. They did the appropriate thing for any law school graduate – they bought him his first 3-piece suit, a pair of very high-heeled shiny black boots and a black Samsonite briefcase. He definitely looked the part of a lawyer.

While he was articling, he received a call at about 7 o'clock in the morning from a lawyer who said, "I have a client who's appearing in the provincial court up in Fort Alexander. He's charged with an offence and he needs somebody to appear for him. You have to go up there and get a remand." He jumped out of bed, got dressed, grabbed his briefcase (it was empty, but he knew he had to carry it), jumped in his 1964 Oldsmobile and headed for Fort Alexander. About halfway there, he realized that, while he knew what a remand was, he didn't know how you got it. Law school teaches a lot of theory, but doesn't teach how to get a remand. He didn't know whether he needed to fill out a form or pay someone money, who he had to speak to or even if he had to be there.

The Fort Alexander court was held in the hall of what is now the Virginia Fontaine Treatment Centre. When he arrived, he walked through the doors of the hall and there was a room full of Aboriginal people. It seemed magnificent and he thought they were there for him. After more courtroom experience, he learned that Aboriginal people go to court for two reasons. Either they have been charged with something or they go to make fun of their friends who are *supposed* to be there, an activity Justice Sinclair described as second only to bingo in terms of entertainment in the community.

The hall was filled with probably 150 people, sitting in chairs facing the front, with the judge and lawyers working at tables at the front, the judge facing the crowd. There was an aisle down the middle of the room. Justice Sinclair was somewhat intimidated, because he didn't know quite what to do. He remembered advice he'd been given by his criminal law professor, who said: "If you go to court and you're not sure what to do, watch what the other lawyers do and whatever they do, however they do it, you do it that way and it will work." Justice Sinclair stood back and watched for a while. The majority of the cases that came before the court were remanded and, after a while, he felt that he had the hang of it.

When his client's name was called, Justice Sinclair stood up at the back and everybody's eyes turned towards him. He thought, "Jeez, these guys are really going to be proud of the fact that this young Aboriginal guy is representing our people." He walked up the middle of the hallway, got to the table, took his Samsonite briefcase and put it on the table in front of him. The judge was writing something and he thought he'd better wait for him to finish. The judge wrote and wrote and after a while Justice Sinclair was getting just a little bit uncomfortable. It felt like he just stood there for 10 minutes. Eventually, the judge looked up at him and then looked down at his sheet. He looked up again and then asked, "What are you here for?" Justice Sinclair replied: "Smith, sir. You called John Smith." The judge looked down again and said, "Oh yeah. Well, Mr. Smith," looking at Justice Sinclair, "what are you charged with today?"

That experience contributed to Justice Sinclair's perception that the court is often incapable of understanding that not every Aboriginal person who appears in court is an accused. Initially, he set out to change that, but came up against resistance from both the court, police and justice systems and from the Aboriginal community. Despite all his best efforts to get Aboriginal people to understand that he was there

to help them, he came to realize that they saw him as helping them in a system that they didn't want to be in and that they didn't like.

After a while, Justice Sinclair felt so frustrated that he was considering quitting law. Before making a decision, he spoke to friends, family members and his wife. One of the people he spoke to was Angus Merrick, a very respected Elder who had also been a Chief in his community and had worked in the court system. He spent a day with Angus. For most of the day, Angus didn't say much. He simply listened as Justice Sinclair talked about his frustrations.

After a while, Elder Merrick took a stick from his woodpile, held it up in front of Justice Sinclair and said, "This stick represents your life. Part of the stick represents the time when you were a young student going to school and part of the stick represents the time when you are working in whatever job you do. On this stick, this life that you have, you'll be a lawyer this long. You may become a judge but you'll only be a judge for this long," he said and he showed Justice Sinclair part of the stick. "But this whole stick is you and this stick is about your life. And it's this life you have to think about, because you will be Anishinabe forever. That's what's important. If you want to be a lawyer or a judge, you have to learn what it means to be Anishinabe. Anishinabe means, in our language, simply being an Indian person. You have to learn what it means to be Anishinabe, to be a human being. If you want to be a good lawyer, first of all you have to learn to be a good son. You have to learn to be a good father, if you have children. You have to learn to be a good husband. And you have to learn that before you can ever be good at anything else. You don't have to be a lawyer or practice law if you don't want to. But remember this – that whatever you do, you still have to be Anishinabe. So you have to learn what it means to be Anishinabe."

From that point forward, Justice Sinclair was determined to learn more about what it means to be Anishinabe. He realized that, even though he had grown up in an Aboriginal family and community, he didn't know a lot about it. He grew up in the 1950s and 60s, a time of considerable racism both inside and outside the Aboriginal community. The extent of racism within the Aboriginal community was a direct reflection of the oppressive history of this country and the racism that permeated relationships between Aboriginal and non-Aboriginal people.

Justice Sinclair wanted to understand why things were the way they were. He wanted to understand why his family couldn't give him his own culture, why he only understood English, why he didn't know about his treaties or history. At that time, Aboriginal men represented over 60% of the population of incarcerated men, Aboriginal women represented about 90% of the population of incarcerated women and Aboriginal youth represented about three-quarters of the young people in custody. About 90% of all children in care in Manitoba's child welfare system were Aboriginal. Justice Sinclair wanted to understand why these statistics existed. He had only recently become a father and wanted to be able to give his child more than he had – but felt that he couldn't.

As a first step in his attempt to understand who he was, Justice Sinclair began researching. He looked for authors who could help him find answers to his questions. He found many American authors, such as Vine Deloria, who influenced him and inspired him to keep looking for what he needed. He discovered that there is an abundance of information out there, but it's well hidden. As an example, he shared the story of a presentation he had made to the Manitoba Historical Society a few years ago. The Society was celebrating the anniversary of John A. MacDonald's birth and invited Justice Sinclair to do a presentation on Sir John A. MacDonald's influence over Indian Affairs in Canada:

Towards the end, when they were preparing a program, they phoned me up and said, "What's the title of your paper going to be?" I said, "Well, it's going to be Why I Hate Sir John A. MacDonald (laughter). They weren't very impressed with that and asked me if I could consider changing the title just a little bit. I thought about that and said, "Well, if you think about it, that's going to attract a lot of people, isn't it? And they'll come down there. Even if they're coming down there to hurt me, at least it will bring them down." But I subtitled it Why I Hate Sir John A. MacDonald and the main title was A Pocketful of Mumbles: The Canadian Government and Treaties.

His presentation was on the history of racist laws that John A. MacDonald passed when he was Prime Minister of Canada, laws not only against Indian people but also laws relating to Chinese people and Sikhs, people from India, from any visible minority country in the world. To his surprise, the Manitoba Historical Society did not seem to know about this history.

The first *Indian Act of Canada*, "an Act for the gradual civilization of Indians," was passed in 1867, the year of Confederation. It was a relatively benign piece of legislation that specified the department and people responsible for relations with Indian people. However, the legislation was premised on the Government of Canada's assumption that Indian people were 'legally incompetent,' which means that they don't have any rights. The courts were quick to change their minds.

In a case in Manitoba called *Sanderson vs. Heep*, an Indian actually went to court. In the *Manitoba Act* of 1870, all people who were in possession of land at the time of Manitoba's confederation were promised, in Sections 31 and 32, that they were entitled to legal title to their lands as long as they were occupying it to the knowledge of the Hudson Bay Company, which was the guarantor of the title back to Canada. Mr. Sanderson was an Indian man, a member of the St. Peters Band, in fact, who lived and farmed in the Selkirk area and was also a commercial fisherman. In 1872, Mr. Sanderson came back from his summer of fishing to find that Mr. Heep had moved onto his farm. Mr. Heep, who was a quite wealthy white man and well-connected to the government of the day, claimed that Mr. Sanderson had no legal right to his land (because he was an Indian) and that therefore Mr. Heep could take that land if he wanted it, in accordance with the provisions of the *Federal Lands Act*. Mr. Heep resisted Mr. Sanderson's efforts to move back into his house and, in fact, burned down Mr. Sanderson's house. Mr. Sanderson decided

that he was going to go to court. In spite of claims by Mr. Heep that Mr. Sanderson had no rights (including the right to appear in court), the Court of Queen's Bench of Manitoba ruled that Mr. Sanderson has the same rights as any other human being in Canada, "unless there is a law saying he doesn't have it – and there is no law." The *Indian Act* of 1867, which at that time didn't extend to Manitoba, did not actually state that Indians didn't have any rights – it was simply premised on the assumption they wouldn't. The Court of Queen's Bench upheld Mr. Sanderson's claim and ordered Mr. Heep to get off the land.

After Mr. Heep met with his friends in Ottawa and pressured them to do something about the outcome of his case, the government changed the law. In 1874, an Amendment to the *Indian Act* was passed that said, in effect, the declaration of the Court in the decision of *Sanderson vs. Heep* no longer has any effect, Indians no longer have any civil rights and they can't go to court unless they get permission from the Superintendent General of Indian Affairs, Sir John A. MacDonald.

The 1874 amendment not only limited the civil rights of Indians; it also limited their ability to own lands, stating that Indians cannot own lands outside of an Indian Reserve and deeming them wards of the state. Further laws were passed to ensure that Indians would be gradually assimilated and done away with from a legal perspective. The law relating to Indian residential schools was passed in 1882. All Indian children over the age of 5 and up to the age of 17 were compelled to go to schools designated by the Superintendent General of Indian Affairs. Limitations were placed upon Indian ceremonies. It became illegal to wear Indian garb or to participate in Indian ceremonies. Parents were prevented, by law, from interfering with their children being taken away from them to go to school. Indians could not go to court for any reason, not just against the government, but for any reason whatsoever without permission from the government. Anybody representing them was prevented from doing so. A limitation on collective political action was imposed through an amendment to the *Indian Act* that said that if three or more Indians get together in order to discuss a grievance against the Government of Canada, they're committing an 'Indian conspiracy', which was now illegal.

Indian Friendship Societies, societies of white people who recognized that what was being done to Indians was wrong, were also made illegal so that even white people trying to help the Indians were prevented from doing it. The Indian Pass System, an administrative policy imposed by the government in 1882 required that Indians who wanted to leave the Reserve first had to get a pass. All Northwest Mounted Police and other police services were directed that they had the right to arrest, hold in custody and take back to the Reserve any Indian found outside of a Reserve without a pass.

Further limitations on civil rights occurred. Indian governments were abolished at the direction of Indian Affairs. With passage of *The Indian Advancement Act*, traditional band councils and chiefs, elected in accordance with the custom of the band, no longer had any authority whatsoever and, from that day forward, Indians were required to elect their Councils, Chiefs and Leaders in accordance with regulations passed by the government. The *Act* also denied women the right to

vote, ignoring the many matriarchal societies existed at the time and, more importantly, undermining the relationship that women had with their governments at the community level.

The influence of Indian agents increased with the new laws. The agents were responsible for collecting children to go to residential school (and consequently in control of which families lost their children to the residential school system). They also issued the passes. By law, all band Council meetings had to be chaired by an Indian agent and all agents were appointed magistrates and made responsible for prosecuting offences under the *Indian Act*. Interestingly, an Indian agent could be prosecuting an offence against an Indian in a courtroom where one of his colleagues sat as a magistrate.

Laws were also passed that limited resource use. In Manitoba, for example, the Natural Resource Transfer Agreements were negotiated and an Indian clause was inserted, totally without consultation with the Indians. As a result, the Indian right under treaty to exercise their rights over harvesting resources was absolutely undermined by the Natural Resources Transfer Agreement. In law, the Natural Resources Transfer Agreement is a much more limited right than the treaty rights are, but cases have held since then that treaty rights, when identified as rights that falls within the Natural Resources Transfer Agreement, no longer exist when there's an NRTA.

The advent of the Second World War had a tremendous influence on the relationship between Canadian people and Aboriginal people. Aboriginal communities signed up in the hundreds to go to war on behalf of their country and in some communities there were no males left behind. When veterans returned – if they returned – many suffered from Post Traumatic Stress Disorder. We now know what that does to an individual and, in turn, what that individual may do to his family, friends and community.

Changes to liquor laws that allowed more open access to alcohol occurred in all jurisdictions during the 1950s, along with changes to policing agreements that established more police detachments, particularly in the prairies. In the same decade, Indian Affairs engaged in a policy of actively encouraging Aboriginal people to move from their Reserves into urban communities through, for example, housing incentives and the movement of Aboriginal peoples into urban areas significantly increased.

By the 1960s, the numbers of Aboriginal people incarcerated and of Aboriginal child welfare cases had begun to escalate. The government began to require more Aboriginal people to attend public schools, a demand that, in many cases, was not responded to adequately and Aboriginal children developed high drop-out and failure rates in school. A 1981 study reported that only 3% of Aboriginal and First Nations children who had started school in 1969 had graduated from high school, compared to about 80% of the non-Aboriginal population.

Justice Sinclair described some of his own disenchantment with school. In his extensive study of history, when the rise of civilization was discussed, there was

never any mention of the Aboriginal civilizations of North America. History helps us understand why things are the way they are, he pointed out, yet he realizes now that when he was growing up, his history was a real mystery. He feels that this is the case not only for Aboriginal people but for everybody: "If I don't know about my history as an Aboriginal person then neither do you." Because of this, when we talk to each other, we both speak from a disadvantage and sometimes our conversations do not go well. "My story is not your story, your story is not mine and my story is about the centre of the world – that's where I am. That's also where you are. Your centre of the world is where you are. We need to understand that difference as part of the conversation we're going to have. We have a hard time doing that."

Where, then, do we find our stories as Aboriginal people? Hstory can help us answer the big questions of life, such as: Where do I come from? Where am I going? Where do I belong? Why am I here? Ultimately, who am I? Aboriginal people need to answer these questions at both an individual and a collective level. How did we come to be upon this earth, in this place, at this time? How did all this evolve? Without answers to these questions, people feel disconnected.

Judge Sinclair offered the following advice to guide us in the course of our future together:

- We need to understand the Aboriginal view of things, that the Aboriginal view is real, that Aboriginal view has a foundation and what that foundation is.
- Not all Aboriginal people are Aboriginal. There are people who have Aboriginal ancestry and who also have no understanding of their culture and don't want to. Sometimes we impose upon them the obligation to represent the Aboriginal community and they may take that on without realizing their own limitations.
- Not all Aboriginal views are the same. They are influenced by culture, tradition and history, which, for example, are different for Dakota people than they are for Cree, Ojibway or Mohawk people. Reading something about the Mohawk people is not likely to help someone understand the Cree people in northern Manitoba and may even confuse them.
- A little knowledge is a dangerous thing. Trying to understand Aboriginal society by looking at traditional teachings is like trying to understand white society by only looking at the Ten Commandments. It gives you a little flavour perhaps of what's out there, but it doesn't give you an understanding. Understanding the traditional teachings of a particular community that you're dealing with is important, but that's just part of the step. It isn't going to give you everything you need to know when it comes to talking to the community at large.
- Institutionalizing Aboriginal traditions is a common practice now and can be valuable. However, it is not for the institutions to create Elders. Someone does not become an Elder simply because they've been hired as one. Wisdom comes with age but sometimes age comes alone. Not all old people should have imposed upon them the obligation to be a representative of the wise Elder community. Be careful about people who claim that they have healing power. "Those that know don't brag and those that brag don't know." If the Aboriginal community recognizes that person as having special powers that means that

they're recognized as an Elder – but not all people who claim to have special powers that should be regarded as that.

We are in a different era now than we were even a generation ago. Recently, the Supreme Court of Canada imposed on the government an obligation to recognize its fiduciary responsibility. This diminishes the absolute control that the federal and provincial governments had over resources I think is now gone. The courts have also stated that the Crown has a duty to consult when it engages in the development of resources where Aboriginal rights may be affected. These consultations need to be real, they have to be effective and both sides, in approaching that consultation process, have to be very principled about what they are going to talk about and what will guide their part of the discussion. Each side of the discussion needs to consider long-term impacts that will extend to the next several generations.

Judge Sinclair believes that if the duty to consult is not satisfied in real and effective consultations, the courts will enforce the duty. The duty to consult is a court-created concept and, in effect, is an invitation from the courts to the government to demonstrate that the government has the wherewithal to do what is right in these circumstances. If not, the courts will likely feel the need to intervene more than they have in the past and duty to consult may become, in fact, a duty to incorporate, i.e., governments ultimately may have imposed upon them by the courts a duty to incorporate all those rights within the resource policies of government. In some jurisdictions, they're doing that now in the form of comanagement agreements with regard to resources. Resource-sharing is an increasingly important issue for governments and the Aboriginal community. The Aboriginal community is just now developing its own expertise in this area and Aboriginal communities are becoming increasingly skillful at bringing their views into negotiations they are undertaking.

Where does that leave us now? Governments have to engage with the Aboriginal community and recognize and validate Aboriginal systems. There has to be give-and-take so that both sides have a say in what's happening. The government needs to recognize the diversity within as well as outside of the Aboriginal community and also recognize the growing presence of urban Aboriginal populations as well. The tendency has been to assume that Aboriginal people who move into urban areas no longer have an interest in resource issues back in their home communities. That's far from the truth. We need to figure out how that will work into the equation.

We need to recognize the existing state of transition. Things are going to change. The way that things are happening today is not the way that things are going to happen in the future. The Aboriginal community is just beginning to develop its own expertise. Change is going to occur, but change has to be managed to be effective. Change should be done in a way that works for both sides and we need to make sure that we understand the effects of the things we are doing.

Bill Yetman

Bill Yetman is from the Nisichawayasihk Cree Nation, formerly known as Nelson House. He is the Resource Coordinator of the Nisichawayasihk Resource Management Board and Treaty Land Title Coordinator. Bill is involved in future development as a Technical Advisor and recently completed a traditional occupancy and habitation study for his nation. The study determined that the Nation's land is being fully utilized by its people in traditional use. His Nation also recently reviewed and revised the Environmental Protection Plan for the Wuskwatim access roads, campsites, generation site and transmission lines by applying their language, values, aspirations and principles, beliefs and traditional knowledge.

The Nelson House Resource Management reflects the interest of Nelson House Cree Nation (NCN) citizens in identifying, recognizing and providing some form of protection to certain sites, lands, waters and resources within the NCN traditional territory, also described generally as the Nelson House Trap Line District or the resource management area. These interests have included a desire to protect, enhance and conserve resources and their environment, as well as recognizing and preserving areas of ecological, cultural and historical significance. The citizens of NCN have also expressed an interest in ensuring that all decisions regarding land uses, allocation, designation, management and regulation within NCN traditional territory must take into account the customary laws, beliefs, values, principles, objectives, priorities and jurisdiction of NCN citizens and NCN Chief and Council. These interests have specifically included measures for protection, enhancement, conservation and the preservation of lands, water, resources and the environment of the NCN traditional territory.

Article 6 of the NCN Comprehensive Implementation Agreement provides for the regulation of a specified Resource Management Area and the establishment of a Resource Management Board. The primary activities of the NCN Resource Management Board are to oversee the development of a Land Use Plan and Resource Management Plan for the NCN Resource Management Area and to monitor the implementation of these plans. Once the Land Use Plan and Resource Management Plan are approved by the NCN Chief and Council and the Manitoba Minister of Conservation, each of NCN Chief and Council and Manitoba shall promptly take the appropriate steps within their respective jurisdictions to give the plan full effect.

Under implementation initiatives of Article 6, NCN Chief and Council and the NCN members of the Resource Management Board agree that completion and approval of the Resource Management and Land Use Plans are a priority of considerable importance to NCN and its citizens. NCN Chief and Council have resolved to make available the technical and advisory support to the NCN citizens, Chief and Council, technical person and appointed members of the Resource Management Board in order to ensure the earliest completion and approval of the NCN Resource Management and Land Use Plans.

Article 6 intends that any proposed allocation or designation intended for the protection, enhancement and conservation of resources and environment or for the recognition and preservation of areas of ecological, cultural or historical significance must be consistent with approved Resource Management and Land Use Plans.

The completion of an approval of Resource Management and Land Use Plans remains in progress, although the NCN Resource Management Board has recently proceeded to develop a basic draft of the Planning Statement. In the absence of completed Resource Management and Land Use Plans, proposed resource allocation and designation within the NCN Resource Management Area continue to be considered by the NCN Resource Management Board, pursuant to interim provisions provided in Article 6 of the NCN Comprehensive Implementation Agreement.

The preparation of the Resource Management and Land Use Plans will each be broadly based on customary laws, beliefs, values, principles, policies, objectives and priorities, to be determined by NCN citizens, Resource Management Board, Chief and Council and Manitoba. The draft principles presently being applied by the NCN Resource Management Board are a framework for a plan to develop activities that have been described in the basic statement as:

- Balance and harmony
- Respect
- Protection and conservation
- Enhanced opportunities
- Understanding and acceptance
- Cooperative planning

The Section 35 process includes:

Step 1: Initiate consultation with Aboriginal groups to assess whether an infringement is likely.

Step 2: Consider the specific impacts of an action or decision on Aboriginal interests and determine the scope of any infringement of Aboriginal rights.

Step 3: Consider whether any infringement of Aboriginal rights could be justified.

Step 4a: In the event of an infringement that can be justified, address or reach a workable accommodation of the Aboriginal interest being infringed.

Step 4b: In the event that an infringement cannot be justified and a negotiated solution cannot be arrived at, re-evaluate decision and seek legal advice before proceeding.

The Nisichawayasihk people traditionally live by reference to the Great Law of the Creator, which is underpinned by philosophical and spiritual beliefs, values, principles and goals. Their customary law is sum total of these beliefs, values and norms, all combined to guide and direct the conduct of individuals, the family, the extended family, the clans and the Nations. In this way, the social order was maintained by doctrines that reflect the Great Law that determined and still determines their customary law. As the people of where the three rivers meet, our land has been entrusted to us by the Creator for our children, since time immemorial.

The development of any Land Use and Resource Management Plans to guide the activities and conduct of any persons while within NCN will be based upon the sacred duty and responsibility to protect NCN. The specific terms, conditions, protocols, guidelines, recommendations and best practices incorporated into the Land Use Plan and Resource Management Plan will apply the belief that what you do to nature comes back to you. The Plans will be consistent with and will reflect decision-making roles in accord with the exercise of NCN sovereignty. The development and implementation of the Land Use and Resource Management Plans will incorporate and apply the wisdom and traditional knowledge of the people.

NCN representatives to the Resource Management Board are responsible for ensuring that the Land Use and Resource Management Plans are reflected in addressing any concerns, as well as in addressing the discovery of human remains or artifacts and assisting in the conduct of ceremonies, ensuring that the [our traditional knowledge] is applied to any decision and to any activities further to the Land Use and Resource Management Plans.

Specific provisions of the Land Use and Resource Management Plans will reflect [traditional knowledge] by clearly defining the roles and responsibilities, relationship and authority of our people. It will also be expressed in terms relevant and meaningful to our people. It will be guided by [traditional knowledge], including the influence of moons, seasons on climate, weather, animals, plants and seasonal harvesting cycles and practices. The Manitoba Heritage Resource Agreement and the Land Use and Resource Management Plans will reflect clear NCN roles, responsibilities, relationships and authorities regarding the protection of nonforensic Aboriginal human remains and artifacts consistent with our traditional knowledge.

Consistent with Article 6, the NCN Manitoba Agreement-in-Principle to Develop a Heritage Resource Agreement provides for the immediate negotiations and development of several agreements affecting the protection of heritage resources related to the proposed Wuskwatim Project. Prior to April 1, 2006, the NCN Heritage Resources Agreement provides for heritage resource protection within [NCN] and the Resource Management Area. The renewal of the Churchill River Diversion Archaeological Project, will be effective April 1st, 2006, which agreements to include Manitoba Hydro.

The Heritage Resources Protection Plan and Environmental Protection Plan will reflect [traditional knowledge] and take into account cultural considerations that affect the timing and nature of project activities — moons, seasons, seasonal harvesting practices. Any Land Use and Resource Management Plans will reflect and be consistent with the exercise of [NCN] sovereignty and with [NCN's] vision of exercising sovereignty that sustains a prosperous socio-economic future for [NCN] citizens.

QUESTIONS AND ANSWERS

Question: I have a number of questions specific to the land use planning effort. The first question is whether or not your community has any unresolved land claim issues.

Answer: Yes we do. We're one of the entitlement First Nations for a treaty land entitlement process of Manitoba. We have several.

Question: How can the information that's been collected through the land use planning process be used to support treaty and land claim research? Will the land use plan stand up to the legal tests? Is the methodology of the research adequate to support future legal arguments?

Answer: That's a good question (laughter). The way we're looking at our Land Use and Resource Management Plans at a local level is that it's going to be our bread and butter. Article 6, as it's written, it doesn't offer any merit, but we look at the Land Use and Resource Management Plans as being our bread and butter to strengthen our Article 6 Agreement.

Response by questioner: Right. The reason I asked the question is because we are seeing an increasing number of First Nations participating in land use planning efforts that are solely within the context of forest management and those types of land use. So that research is going on, basically mapping values etc., in the context of forest management, but there are other efforts around research and land use that are linked to future legal action for treaty and land entitlement issues. I guess, trying to look at efficiencies in terms of conducting research, I think that the big question is about methodology and the legal tests that exist. I wonder if people want to talk a little bit about that and whether or not we're going to be needing research when we go into land claim discussions.

Michael Anderson (Director, Natural Resource Secretariat, Manitoba Keewatinowi Okimakanak): The creation of the Land Use and Resource Management Plans under Article 6 of the Comprehensive Implementation Agreement, which is a successor to the 1977 Northern Flood Agreement. The Minister of Aboriginal and Northern Affairs in the Province of Manitoba, in a ministerial statement on December 15, 2000, declared the NFA to have the force of So the policy of government in Manitoba is to approach treaty in Manitoba. implementation of the Northern Flood Agreement and all the successor arrangements, including the Comprehensive Implementation Agreement with [Nisichawayasihk] as if it were a treaty. The references that Bill made to the provision in the agreement about plan implementation was that, once the Plans are developed and approved by both NCN and Chief and Council and by the Minister, each will use their respective authorities to ensure the full implementation of the Plan within the Resource Management Area. The planning process for both is comprehensive. It deals with water, forests, mineral activities (with respect to the zoning of lands for mineral use and so forth). It also specifies measures for harvesting, for the protection of heritage and culture resources, as Bill had outlined earlier. These are what would amount to a comprehensive, wide area planning

commitments that are a successor to the 1997 Flood Agreement, which the government of Manitoba has described as having the force of treaty with respect to its intention to implement. The information that is collected to develop the plan broadens the community's knowledge and that of government by working collectively on all the resources, lands and issues within [Nisichawayasihk region]. In that way, it creates a stronger mutual understanding of issues and mechanisms for resolving them. The Resource Management Board has the ability to make recommendations for Plan policies that are intended to resolve conflicts in land use specifically provided for in Article 6. The Plans are going to become the principle guiding references for all activities within the entire Nisichawayasihk Resource Management Area.

Question (Jack Kinnear, Saskatchewan Environment): I have a question about the funding and the capital – who's providing for the Boards and all that kind of stuff?

Bill Yetman (Resource Coordinator & Technical Advisor, Nisichawayasihk Resource Management Board and Treaty Land Title Coordinator): We're still waiting for a cheque from Don Cook (laughter). So far, under our Resource Management Boards, we're allowed 4 meetings a year, so we have our meetings one day and the next day is strictly focused on land use planning. We've been at it now for 4 years and we're getting closer. The last component of our Land Use Plan is the heritage component. We have something on that. Other than that, it's been mostly voluntary. We're all busy guys and it's only when we can actually get together that we can sit down and do these land use plans. But as it is right now, we've seen no funding.

Michael Anderson (Director, Natural Resource Secretariat, Manitoba Keewatinowi Okimakanak): The intended mechanism part is that Manitoba and [Nisichawayasihk] would jointly fund the development of the Plans. There's a capital trust that's funded as part of the Settlement Agreement, the Comprehensive Implementation arrangement that's administered by [Nisichawayasihk] Trust. Every September, the Board is to submit a budget for approval by NCN and the Minister. It's intended to do the sharing. Also, the Agreement provides that the technical resources that NCN requires to develop and implement the plan, for example, dealing with specialists on fisheries and resources, would be provided at no cost by Manitoba. As you can see from the presentation, [the community] has developed considerable capacity itself to carry and bring forth its part of the planning process in its partnership and also to ensure that the interests of [Nisichawayasihk people] are reflected in terms and principles that are relevant to the Nisichawayasihk people. It's a jointly funded process between the two parties. That's the intention.

Panel Presentations

The Conference agenda featured six panel discussions and question and answer periods. The panels included the following presentations:

Session 1. Consultation Strategies: Legal Aspects & Best Practices

Know Your History: A Foundation for Relationship-Building (Mary Gordon, Policy Officer, Ministry of Natural Resources, Ontario)

The Crown's Duty to Consult Aboriginal Peoples About Decisions That Might Affect Aboriginal or Treaty Rights (Heather Leonoff, Director, Constitutional Law Branch, Manitoba)

Wuskwatim Projects' Crown Consultation (Steve Topping, Executive Director, Infrastructure and Operations Division, Manitoba Water Stewardship; Heather Leonoff, Director, Constitutional Law Branch, Manitoba; Ramona Bird-Billy, Agreements Coordinator, Aboriginal and Northern Affairs, Manitoba)

First Nations' Consultation Policy on Land Management and Resource Development (Neil Reddekopp, Assistant Deputy Minister of Land and Resource Issues, Aboriginal Affairs and Northern Development, Alberta)

Involvement of Aboriginal Peoples in the Implementation of Species-At-Risk Act in Alberta, Saskatchewan & Manitoba (Carmen Calihoo, Aboriginal Specialist, Canadian Wildlife Service; Andries Bluow, Department of Fisheries & Oceans, Canada)

Session 2. Aboriginal Participation in Natural Resource Management

Aboriginal Involvement in Forest Management Planning – Ontario's Approach (Frank Miklas, Native Liaison, Ministry of Natural Resources, Ontario)

Access & Development of the Territory with First Nations (Jean Francois Gravel, Ministry of Natural Resources, Quebec)

Session 3. Aboriginal Involvement in Forest Management Planning

Southern Hardwood Project (Fred Meier, Manitoba Conservation; Albert Sutherland/Ray Starr, First Nation Limited Partnership)

IOG Report on First Nations and Forest Industry (Lorraine Rekmans, Executive Director, National Aboriginal Forestry Association)

Session 4. Community Capacity Building

Manitoba Model Forest and First Nations Partnerships (Rene Barker, Hollow Water First Nation)

Aboriginal Training and Employment (Dan Bulloch, Forest Development Analyst, Sustainable Forestry Unit, Manitoba; Rebecca McKay, Fisher River Cree Nation; Deborah Smith, Brokenhead Ojibway Nation Forestry Management Team)

Session 5. Broad Area Planning & Co-Management Agreements

East Side of Lake Winnipeg – Sustainable Resource Management (Bill Anderson, Project Coordinator, Wapanong Makaygum Okimawin; Ed Wood, Elder, First Nation Council) Saskatchewan Environment and Agency Chiefs Tribal Council Partnerships (Jack Kinnear, Acting Director, Aboriginal Affairs, Saskatchewan Environment)

West Region Tribal Council Co-Management Agreement (Harvey Nepinak; Blair McTavish)

Session 6. Metis Issues

The Alberta Response to the Powley Decision (Neil Reddekopp, Assistant Deputy Minister of Land and Resource Issues, Aboriginal Affairs and Northern Development, Alberta) Saskatchewan's Response to the Powley Decision (Jack Kinnear, Acting Director, Aboriginal Affairs, Saskatchewan Environment)

The panel presentations, along with the question and answer periods that followed each panel, are summarized in the following pages. Speakers' biographies are presented in Appendix III.

SESSION 1. CONSULTATION STRATEGIES: LEGAL ASPECTS AND BEST PRACTICES

KNOW YOUR HISTORY:

A FOUNDATION FOR RELATIONSHIP-BUILDING
Presenter: Mary Gordon, Policy Officer, Native Affairs Unit, Field Services
Division, Ministry of Natural Resources, Ontario

For several years in a row, every program at the Ontario Ministry of Natural Resources (MNR) has identified "Aboriginal awareness" as a corporate training priority. The Native Affairs Unit optimistically and energetically took on the task of developing a training program in January of 2001. Four years and many drafts later, MNR now offers a one-day, entry-level *Aboriginal Relations 101* workshop and hopes to develop a comprehensive program some day.

MNR established several objectives for its Aboriginal awareness training:

- To provide essential information to MNR staff on Aboriginal interests in the management of land and natural resources
- To improve staff awareness of Aboriginal treaties, rights, interests, economics, communities and demographics
- To provide staff with tools for building relationships, consultation and facilitating economic development
- To promote access to Aboriginal training programs and resources for all interested staff
- To improve the exchange of information on the MNR Aboriginal agenda

Target audiences for the training include field staff who work directly with Aboriginal communities and interests, policy and program staff and managers who make decisions affecting Aboriginal communities and interests, all staff who are interested in the training and other ministries within MNR's cluster.

Aboriginal Relations 101 was developed with the understanding that before we can understand how to change things for the better, we need to know how we got here. The entry-level training workshop provides an overview both the historical and current relationships between Aboriginal communities and the Crown. The workshop examines the history of the relationship between the Crown and First Nations, the Government of Ontario's role in this historical relationship (with respect to land and resource management), the law and Aboriginal and treaty rights, contemporary government initiatives and relationships with Aboriginal communities. Participants also receive a manual that provides additional information, resource materials and references.

Although the training program is new, MNR believes it will lay the right foundation for future training and for building new relationships with Aboriginal communities in Ontario. MNR staff recognize that they do not have all the answers to key questions such as why it took so long to develop the training, why it was so difficult to get agreement on exactly what was needed or why there is so much criticism

about efforts to provide training in this area. They can, however, share some of the lessons they learned along the way:

Analyze the need:

- People don't always say what they mean, or mean what they say
- Tailor your surveys and be specific with your questions
- Test assumptions continually

Aboriginal Awareness:

- A phrase full of pitfalls, inexact, non-specific, and open to misinterpretation
- Who needs to be made aware? Of what? And why?
- Keep pushing to get more specific

Pay the piper:

- Make sure the groups identifying the need are the same groups paying for the work
- Get the right people to an advisory committee, work team, design team etc.
- Report regularly and check for direction

Bite-sized pieces:

- Get agreement on priorities
- Think in terms of foundations and futures
- Know your own history first

Test, test, test:

- Good selection criteria for testers
- Make it meaningful, effective evaluation techniques
- Use it for marketing

Supplemental materials for this presentation are included as Appendix IV to this report.

THE CROWN'S DUTY TO CONSULT ABORIGINAL PEOPLES ABOUT DECISIONS THAT MIGHT AFFECT ABORIGINAL OR TREATY RIGHTS Presenter: Heather Leonoff, Director, Constitutional Law Branch, Province of Manitoba

Recently, the Supreme Court of Canada clarified the Crown's duty to consult with and accommodate Aboriginal peoples when making decisions that may adversely affect Aboriginal or treaty rights, even in situations where those rights have not yet been proven.

The Government does not need to consult with Aboriginal people about every action it takes that can potentially affect Aboriginal people – but the Supreme Court of Canada has made it clear that the government has a duty to consult with Aboriginal communities when a Government decision might adversely affect the exercise of an Aboriginal or treaty right of the Aboriginal communities.

The Government's obligation to consult with Aboriginal peoples arises out of the interpretation of section 35 of the *Constitution Act, 1982*, which says:

The existing Aboriginal and treaty rights of the Aboriginal peoples of Canada are hereby recognized and affirmed.

"Aboriginal peoples" are defined in the *Constitution Act, 1982*, as including the "Indian", "Inuit" and "Metis" peoples.

Starting in 1870 and continuing until as late as 1908, treaties were made in Manitoba between the Crown (representing the Imperial British Government and the Government of Canada) and First Nations groups or "tribes". Some provisions of these treaties were modified in 1930 by the Natural Resources Transfer Agreement, part of the *Constitution Act, 1930*. The treaties represent solemn promises made by the Crown to First Nations and must be afforded great respect.

Undertaking consultations can often be the most prudent practice, since the failure to consult in a situation where a court ultimately finds it was required may mean that a Government decision will be invalidated by the courts.

It is also important to recognize that consultation can be desirable as a matter of good government, even if it is not legally required.

The case law and the legal principles relating to Aboriginal and treaty rights – including on questions relating to the duty to consult - are continually developing through greater understanding between the Crown and Aboriginal peoples and through developing case law.

WUSKWATIM PROJECTS' CROWN CONSULTATION

Presenters: Steve Topping, Executive Director, Infrastructure and Operations Division, Manitoba Water Stewardship; Heather Leonoff, Director, Constitutional Law Branch, Manitoba; Ramona Bird-Billy, Agreements Coordinator, Aboriginal and Northern Affairs, Manitoba

The Wuskwatim Generation Project is a proposed 200 megawatt generating station on the Burntwood River in northern Manitoba. It is jointly proposed by Manitoba Hydro and the Nisichawayasihk Cree Nation. The Wuskwatim Transmission Project would connect the generating station to the rest of the hydro transmission system. The projects would require the allocation and use of Crown land, water and water powers. Licenses and permits would be required under *The Water Power Act* and *The Crown Lands Act*. The projects would also require other licenses and approvals under provincial and federal legislation.

The Government of Manitoba acknowledges the responsibility to consult in a meaningful way with First Nations and other Aboriginal communities when the granting of licenses and permits might result in an infringement of Treaty or Aboriginal rights. In 2003, the Province initiated a consultation process with Aboriginal communities that might be affected by the proposed Wuskwatim Generation and Transmission Projects.

A multi-departmental Steering Committee was established with the support of a professional Consultation Facilitator to design and direct a consultation process. The Steering Committee developed a framework for undertaking consultation that involved:

- Contacting potentially affected First Nations and Northern Affairs communities;
- Confirming their interest in the consultation;
- Developing mutually acceptable consultation protocols and plans;
- Conducting the consultation according to these plans;
- Documenting and reviewing the consultation information; and
- Communicating decisions to the First Nations and Northern Affairs communities.

The Wuskwatim Consultations Steering Committee has completed its report for consideration by the provincial government in its decisions on the projects. A follow-up communication phase with the communities will occur following licensing decisions. The Steering Committee is evaluating the consultation process and lessons learned.

Supplemental materials from this presentation are included as Appendix V to this document.

FIRST NATIONS CONSULTATION POLICY ON LAND MANAGEMENT AND RESOURCE DEVELOPMENT, ALBERTA

Presenter: Neil Reddekopp, Assistant Deputy Minister of Land and Resource Issues, Aboriginal Affairs and Northern Development, Alberta

The Government of Alberta recognizes and respects the treaties and the lands set aside under the treaties as First Nation reserve lands. Nothing in this document will abrogate or derogate from the treaties. Under Section 35 of the *Constitution Act, 1982*, existing Aboriginal and treaty rights of the Aboriginal peoples of Canada are recognized and affirmed. Alberta recognizes that some activities on provincial Crown lands affect existing treaty rights and other interests of First Nations in Alberta (*Rights and Traditional Uses*¹).

Alberta's consultation process is intended to produce better communication, stronger relationships and easier resolution of issues between government and First Nations. The consultation process also seeks to encourage strong relationships, communication and easier resolution of issues between industry and First Nations. It will provide more effective procedures for addressing First Nations *Rights and Traditional Uses*. Alberta will seek to ensure that this consultation policy is coordinated with related measures that may be undertaken by the federal government.

Supplemental materials from this presentation are included as Appendix VI to this document.

¹Rights and Traditional Uses includes uses of public lands such as burial grounds, gathering sites, and historic or ceremonial locations, and existing constitutionally protected rights to hunt, trap and fish and does not refer to proprietary interests in the land.

INVOLVEMENT OF ABORIGINAL PEOPLES IN IMPLEMENTATION OF SPECIES-AT-RISK ACT (SARA) – APPROACH IN PRAIRIE PROVINCES BY CANADIAN WILDLIFE SERVICE (CWS), ENVIRONMENT CANADA (DOE) AND FISHERIES AND OCEANS CANADA (DFO)

Presenter: Carmen Callihoo, Aboriginal Specialist, Canadian Wildlife Service

Involvement of First Nations in the implementation of species-at-risk programs is a mandatory requirement under SARA. There are 810 Reserve Lands in the Prairie Provinces, with 178 First Nations represented by nine numbered treaties (Treaties 1-8, 10). To increase awareness and build capacity for First Nations, seventeen of these Reserve Lands have been identified as high priorities, i.e., lands that fall within significantly more ranges of species-at-risk than others.

Currently, participation of Aboriginal Governments in species-at-risk management efforts in the Prairie Provinces is non-existent or minimal. This lack of involvement may be due to a number of issues, including: the lack of interaction (dialogue) with which to communicate about Federal Government programs to Aboriginal Governments, Aboriginal organizations and other Federal and Provincial Governments; information gaps with respect to biophysical inventories (including wildlife and habitat) on Aboriginal lands; varying levels of capacity of peoples and administration on Aboriginal Lands to deal with species-at-risk management issues; and ongoing issues on Aboriginal lands such as educational, housing, healthcare that take priority over Wildlife Conservation Issues.

Recognizing many similar goals and challenges for the involvement of Aboriginal people in the Implementation of SARA, Carmen Callihoo, Aboriginal Specialist, Canadian Wildlife Service, is working with Andries Bluowes, Communications Officer, Fisheries and Oceans Canada to combine their respective work plans. The overall strategy is to make meaningful progress on both capacity and critical habitat issues in overlapping priority areas. To address species-at-risk management issues on First Nations lands in the prairie provinces, Environment Canada and the Department of Fisheries and Oceans Canada are committed to involve Aboriginal Peoples in the continued implementation of the Species-at-risk Act. This will happen through many evolving methodologies, including: holding further general information sessions; implementing regional and local support to First Nations to build capacity within communities to address species-at-risk management issues; and sharing of resources and data with Aboriginal Governments and other Federal Departments and partners.

Supplemental materials from this presentation are included as Appendix VII.

SESSION 1 QUESTIONS AND ANSWERS

Question: Regarding cross-cultural training, how were the various Aboriginal people consulted on the training and who will deliver the training (Carmen Callihoo, Environment Canada)?

Mary Gordon (Policy Officer, Ministry of Natural Resources, Ontario): In the first round of CRT in the late 80's and early 90's, there were Aboriginal trainers going from district to district, but this process was not an enormous success. It did not change the nature of the relationship at the local level. In some specific cases it may have had an impact but, by far, in the majority of cases, it did not have an effect on the relationships between the ministry and Aboriginal communities. We are therefore proposing that our first foundational piece will be history from the Aboriginal perspective and we will set contracts with consultants in that field. All treaty organizations and First Nations will be notified about this training opportunity. Currently, we access Aboriginal consultants from a catalogue of training providers.

Heather Leonoff (Director, Constitutional Law Branch, Manitoba): I am dealing with the most senior people in Manitoba government and they know nothing or close to nothing about Manitoba history [and] Aboriginal people. Whenever I go to a meeting with a Minister, the first thing I do is give an overview on the history of Aboriginal people. We need to put together a *History 101* for our own government employees. They need to understand how we got to where we got to.

Question: What Metis communities are [rights] holders? It wasn't Metis rights that were extinguished – it was the Metis political party. Has it ever been thought that one solution to deal with Metis rights is to recognize them as a formal political party (Norm Loquese)?

Heather Leonoff (Director, Constitutional Law Branch, Manitoba): We have to draw a distinction between legal and policy issues. There are a number of things we can with the Inuit, First Nations and whatever group we are dealing with. In the three Prairie Provinces, we follow the terms of the Constitution document which speaks about extinguishing Half-Breed and Métis rights. We need to better understand the provisions of that document. Constitutional rights are basic rights that all governments are bound by. We don't understand the total effects of that document yet.

Question: Regarding the legal right to consult, is it strictly a government requirement or is it a legal requirement of industry as well (Tim Byers)?

Heather Leonoff (Director, Constitutional Law Branch, Manitoba): It is not a legal requirement of industry. It is a legal requirement of government. It is about learning about another government's view of things. It is government-to-government consultation.

Question: What is your advice regarding legal obligations which must be carried out versus policy obligations which are really a matter of choice (Sharon Rew)?

Heather Leonoff (Director, Constitutional Law Branch, Manitoba): It is important to draw the distinction between the two concepts and understand that governments have to govern. They cannot give up their duty to govern and tie their hands on a particular issue.

Question: Could you clarify the differences between and among consultation, accommodation, litigation and reconciliation when it comes to Aboriginal Consultations (Jack Kinnear)?

Heather Leonoff (Director, Constitutional Law Branch, Manitoba): Consultation and accommodation are designed as a reconciliation mechanism. We are saying that, in the past, we have behaved inappropriately for all these years. In order to be better, in order to be respectful, it's about wanting to listen to Aboriginal people. It is about wanting to accommodate Aboriginal people. It is about doing things differently.

Question: Do all provinces have a written consultation policy? If not, when will one be ready (Bill Yetman)?

Heather Leonoff (Director, Constitutional Law Branch, Manitoba): We have been working on it for many years. We can't get our politicians to get over the hump.

Mary Gordon (Policy Officer, Ministry of Natural Resources, Ontario): Consultation guidelines are being developed in consultation with Native Affairs Secretariat and Aboriginal leaders.

Question: When you talk about appropriate budget [for consultation], are you talking about both provincial resources and First Nation resources (Bob Stanton)?

Heather Leonoff (Director, Constitutional Law Branch, Manitoba): Yes, government is funding both. Government is responsible for making the consultation processes work and to change a way of behaving that was not appropriate. This does not mean a blank check is available for consultation purposes. A realistic assessment of what needs be done and a budget that is reflective of what Aboriginal communities need to be effective in their endeavors is imperative. The work has to be defined in terms of Aboriginal culture, Aboriginal perspective and traditions.

Question: There is a wide gap between how Ontario government understands Treaty Rights and how Aboriginal people understand those rights. Because of the differences in views we are not there yet in terms of sharing the same view. Could you comment on this (Marilyn Hyde)?

Heather Leonoff (Director, Constitutional Law Branch, Manitoba): We don't know where we are going yet in that regard. We are perhaps 15 years into a new regime. We need more information from the Supreme Court to tell us about what we have to do.

Question: Do you think it is wise to have a professional consultant versus someone who is embedded in the Aboriginal community doing the consultation work (Biologist, New Zealand)?

Heather Leonoff (Director, Constitutional Law Branch, Manitoba): Good point. We need professional communicators who have experience and have an Aboriginal perspective and background and knowledge on how to work with Aboriginal people. A combined approach is perhaps best. We have a professional communicator who is responsible for organizing the consultation process.

Mary Gordon (Policy Officer, Ministry of Natural Resources, Ontario): We have resource people in every district who developed a relationship with Aboriginal communities. Most of these individuals are not Aboriginal because they represent the Crown.

Question: What was the Department of Fisheries and Oceans Canada's (DFO) role in the Wuskwatim Projects and were there any conflicts of interests given their regulatory role in the resource management process (Charles Spouse, Ontario Ministry of Natural Resources, Nippissing)?

Ron Missyabit: The DFO was brought into the process mainly as a cost saving measure. Bev Ross of the DFO would be the best person to answer the question. She can be reached at (204) 983-5000.

Question: Regarding the Wuskwatim Projects why didn't more First Nation people participate (Fred Richardson, Mines, Kenora, Ontario)?

Ramona Bird-Billy (Agreements Coordinator, Aboriginal and Northern Affairs, Manitoba): Twenty-one First Nation and Native Affairs Community Council members were contacted and 13 expressed interest in taking part in the consultation process. Those who did not want to participate indicated that they had received enough information from the Hydro Public Information Participant Program and opted out because they either had no concerns or felt their concerns were already being addressed through the program.

Question: Regarding the issue of Capacity Building in the Wuskwatim Projects, was a targeted approach used in terms of whom to contact for consultation purposes or was a more general approach utilizing a broader consultation processed used (Don Bergery, Sustainable Resource Development, Alberta)?

Ramona Bird-Billy, Agreements Coordinator, Aboriginal and Northern Affairs, Manitoba: In the Wuskwatim Projects, a targeted approach was used where specific First Nation and Native Council Community members were consulted.

The information gathered from these consultations is protected and can only be released with the consent of the First Nation and NCC community members involved in the process.

Question: Regarding capacity building in the Hydro Generation project in Alberta, how are you measuring success in terms of capacity building given the large sums of money spent on some of these projects and given that consultants do most of the work and then leave the community (Linda Wall, Ontario Ministry of Natural Resources)?

Neil Reddekopp (Assistant Deputy Minister of Land and Resource Issues, Aboriginal Affairs and Northern Development, Alberta): We have contribution agreements that differ with each project. These contribution agreements spell out clear deliverables that are used to measure whether a consultation was successful in building capacity.

Question: It appears that most of the consultation work is done by the proponents, how are the procedural aspects of projects delegated to third parties and managed and what are the risks associated with this factor (Marilyn Hyde, Ontario Ministry of Natural Resources)?

Neil Reddekopp (Assistant Deputy Minister of Land and Resource Issues, Aboriginal Affairs and Northern Development, Alberta): This is a central paradox. These companies have the expertise and quite often more resources than the Crown. Right now, unfortunately, we are not managing it. However, we are currently designing operational guidelines that will outline the right questions to ask First Nation people. We are trying to minimize [extreme consultation and] may use a checklist model to try and target activities in which consultation should take place. We have a role to play other than to bring the parties together.

Question: Has DFO finished its report on Wuskwatim Project and is it ready for public reviewing? If not, when will they be ready (Bill Yetman, Manitoba)?

Ramona Bird-Billy, Agreements Coordinator, Aboriginal and Northern Affairs, Manitoba: The one thing that I can share is that the report is a joint report and one report was presented to our Manitoba government decision makers. One is the consultation report that we completed when we were up there in the communities along with the steering committee and the other one is a Comprehensive Study Report being completed by Bev Ross of the DFO. I am not sure when that part is ready. She has two different reports that she is preparing – one that she has done with us and I do not know the status of the study report.

Question: Our Customer law still exits today. Some of our beliefs and values principles are similar to foreign beliefs. Will you integrate customary law from First Nation people and First Nation terminology in your policies and laws and legislation (Darcy Linklater, First Nation)?

Andries Bluow (Department of Fisheries & Oceans, Canada): The legislation is Federal and is already passed. It is already in place. There are lots of species listed with that legislation. A great deal of Aboriginal consultation went into drafting the law on endangered wild life in Canada.

Neil Reddekopp (Assistant Deputy Minister of Land and Resource Issues, Aboriginal Affairs and Northern Development, Alberta): We are committed and hoping to integrate more and more the knowledge and reactions we are receiving from First Nations people. We will of course have to exercise our jurisdiction but will be fully informed by First Nations people.

Ramona Bird-Billy, Agreements Coordinator, Aboriginal and Northern Affairs, Manitoba: The consultation materials/results we gathered were gathered using guidelines that were not written in stone. There was a lot of flexibility. We incorporated community values. What the community shared with us is what we reported back to our government decision makers. I also brought in my own personal experience having grown up on the reserve.

SESSION 2. ABORIGINAL PARTICIPATION IN NATURAL RESOURCE MANAGEMENT

ABORIGINAL INVOLVEMENT IN FOREST MANAGEMENT PLANNING – ONTARIO'S APPROACH

Presenter: Frank Miklas, Native Liaison, Ministry of Natural Resources, Ontario

In Ontario, Forest Management Plans are prepared in accordance with the Forest Management Planning Manual for Ontario's Crown Forests, June 2004. The Ontario government is committed to increasing social benefits and economic opportunities for Aboriginal peoples and as such has provided for specific opportunities for Aboriginal communities to be involved during the development of a Forest Management Plan. For example, an opportunity is provided for a representative of an Aboriginal community to participate on a planning team. As a member of the planning team, the representative will be involved with ongoing decisions on how the forest is to be managed. In addition, each community is provided an opportunity to work with the Ministry of Natural Resources and the plan author to develop a customized consultation approach, which is intended to describe how the community chooses to be involved and how the community's interests will be considered in the production and implementation of the forest management plan. The planning process also requires the identification and protection of Aboriginal values, involvement of communities in the development of prescriptions to protect those values, and opportunities to participate in the development and review of an Aboriginal Background Information Report and a Report on the Protection of Identified Aboriginal Values.

Supplemental materials for this presentation are included as Appendix VIII to this document.

ACCESS TO AND DEVELOPMENT OF NATURAL RESOURCES BY THE FIRST NATIONS

Presenter: Jean-François Gravel, Ministère des Ressources Naturelles et de la Faune, Quebec

The Ministry of Natural Resources of Québec has a crucial role to be played to favour the access and development of the territory for the entire population through the harmonization of various uses. It has a firm will to make the Aboriginal participate in the management of the territory. Québec will present its governmental guidelines in this regard. The current negotiations with the Aboriginal people, to favour their participation in the management of the territory, will demonstrate that these guidelines are concretely applied. Specific cases of Aboriginal peoples' involvement in the files of forestry, energy, mining and the territory were also discussed.

Supplemental materials to this presentation are included as Appendix VI.

SESSION 2 QUESTIONS AND ANSWERS

Question: Could you talk about Term and Condition 77 and how it has been brought over in the new [CASSIA] (Sharon Rew, Natural Resources Ontario)?

Frank Miklas (Native Liaison, Ministry of Natural Resources, Ontario): Condition 77 was rolled into the new [CASSIA] as Condition 34 and is virtually identical to what it was in the old approval. The new manual looked at that con as an economic development opportunity for the community. We are still working on some implementation guidelines for that condition.

Question: Regarding Cumulative Assessment situations, I was wondering if Aboriginal people in Quebec are only discussing forestry or do people from the Aboriginal communities also talk about Hydro and mines and their effects on the water sheds? If yes, how does your department address their concerns (Tim Byers, Consultant)?

Jean-François Gravel (Ministère des Ressources Naturelles et de la Faune, Quebec): There is certainly a more definite link between Quebec First Nations and forestry. But they are also concerned with mines and so on. One commitment the Quebec government made with the Cree nation is having them identify very sensitive areas in terms of wild life preservation. I feel grassroots interactions at an early stage are instrumental to future planning rather than asking for consultation at later planning stages because when we have hearings about putting in a road it makes things easier.

Question: What is the value of having an independent secretariat separate from a management board that consists of members appointed from both the province and First Nation communities (Harold Smith, Manitoba Aboriginal and Northern Affairs)?

Jean-François Gravel (Ministère des Ressources Naturelles et de la Faune, Quebec): It was clear from the beginning that we did not want external parties. The independent secretariat makes sure the standards we agreed upon are followed and implemented at the community level and also makes sure planning and consultations mechanisms/processes are working at the community level.

Question: How do both Ontario and Quebec deal with traditional values and traditional ecological data to help make allocation decisions (Don Ruggerieri, Alberta Sustainable Development)?

Jean-François Gravel (Ministère des Ressources Naturelles et de la Faune, Quebec): This portion of the implementation of our consultation plans is the most sensitive and we treat is as such. A management plan is prepared and we respect the confidentiality agreed upon by both parties. We have no agreement yet to make confidential information even available to other departments in order to protect Cree values.

Frank Miklas (Native Liaison, Ministry of Natural Resources, Ontario): We recognize that information is sensitive so confidentiality is maintained. We ensure the Aboriginal parties that the information they provide us remains confidential.

SESSION 3. ABORIGINAL INVOLVEMENT IN FOREST MANAGEMENT PLANNING

SOUTHERN HARDWOOD PROJECT

Presenters: Fred Meier, Manitoba Conservation and First Nation Limited Partnership

The Interlake and South-eastern Manitoba is home to over 15 First Nations communities and contains one of the last large inventories of unallocated hardwood in Manitoba. The Province of Manitoba and the First Nation Limited Partnership (FNLP) — a consortium of First nations — are seeking an industry partner for a major hardwood-based development. This presentation provided a review of progress and challenges to date.

Supplemental materials from this presentation are included as Appendix IX to this document.

INSTITUTE ON GOVERNANCE REPORT ON FIRST NATIONS AND FOREST INDUSTRY

Presenter: Lorraine Rekmans, Executive Director, National Aboriginal Forestry Association

In 2004, the Forest Products Association of Canada, National Aboriginal Forestry Association and First Nations Forestry Program sponsored the Institute on Governance (IOG) to conduct a nation-wide survey into the relationships between First Nations and the forest industry. The report provides an overview of the legal and policy context of each jurisdiction across Canada, the collective responses, of First Nations, forest industry and government representatives. The IOG report also identifies common issues and makes recommendations for advancing First Nations in forestry.

Supplemental materials from this presentation are included as Appendix X to this document.

SESSION 3 QUESTIONS AND ANSWERS

Question: Could you expand on your concerns of the corporation? From a business point of view I would have though that you would espouse to a joint venture vehicle (Ann Gutierrez, Ontario).

Lorraine Rekmans (Executive Director, National Aboriginal Forestry Association): Under the [In]corporation Act, a corporation is a corporation and there is a big difference between a corporation and an Indian, especially in terms of their rights. Aboriginal rights are communal rights and are not individual rights and the Constitution talks about individual rights. There are big differences.

Question: Regarding the request for proposal to get industry to work with First Nation people, how receptive was industry to meet that request (Barry Silver, Ontario Native Affairs Secretariat)?

Fred Meier (Manitoba Conservation): Quite receptive. 13 proposals were received.

Question: What information do you have on First Nation Partnership capital? What was the process in raising First Nation Partnership capital (Fred Richardson, Ontario Northern Development and Mines)?

Fred Meier (Manitoba Conservation): Capital issues are certainly not over and we are working diligently on a model, whether it is a venture capital model or government support. We are starting to get positive response but there is still plenty of work that is needed in this area.

SESSION 4. COMMUNITY CAPACITY BUILDING

MANITOBA MODEL FOREST (MBMF) AND FIRST NATIONS PARTNERSHIPS, TRADITIONAL AREA ADVISORY COMMITTEE & HOLLOW WATER AND BLACK RIVER LAND USE STUDIES

Presenter: Rene Barker, Hollow Water First Nation

The Traditional Area Advisory Committee (TAAC) was established to function effectively as a liaison between the Band membership and all external Governments and industry proponents whereby Hollow Water First Nation membership concerns and values on the traditional area are addressed appropriately within certain fields such as trapping, fishing, gathering, sustainable economic development, and social well being of the community.

Hollow Water First Nation and Black River have established a working relationship to cooperate to develop information related to their traditional land use areas. The intent of the land use studies is:

- To document ecological knowledge/indigenous land values with a view to applying this knowledge as a tool to foster livelihood security for the members of the First Nations
- To create an information database regarding native land values of First Nations people on the East Side of Lake Winnipeg
- To document relevant traditional ecological and cultural knowledge of how indigenous land use customs can support appropriate economic opportunities for the First Nations people involved.

ABORIGINAL TRAINING AND EMPLOYMENT: INCREASING FIRST NATION PARTICIPATION IN MANITOBA FOREST SECTOR

Presenter: Dan Bulloch, Forest Development Analyst, Sustainable Forestry Unit, Manitoba; Rebecca McKay, Fisher River Cree Nation; and Deborah Smith, Project Manager, Brokenhead Ojibway Nation Forestry Management Team

Manitoba is pursuing training and employment opportunities for First Nations through various partnerships with industry, tribal councils, other government departments and educational institutes. These include forest inventory, forest renewal, non-timber forest products and forest development.

SESSION 4 QUESTIONS AND ANSWERS

Question: Regarding value mapping of the three communities, how much did it cost to do the work (Marilyn Hyde, Ontario Northern Development and Mines)?

Rene Barker (Hollow Water First Nation): For the three communities, on an annual basis for three years, it cost \$100,000 per community.

Question: What portion of the project was completed on reserve (Carmen Callihoo, Environment Canada)?

Rene Barker (Hollow Water First Nation): Ninety percent of the work was completed on traditional territories on Reserve and surrounding traditional territories.

Question: Regarding the \$100,000 cost per community, what were your funding sources (Paul Gamble, Ontario Northern Development and Mines)?

Rene Barker (Hollow Water First Nation): Manitoba Model Forest, INAC and in kind donations from Tembec, Manitoba Conservation and First Nation Communities.

Question: You had mentioned the possibility and need for Manitoba Conservation to conduct a gap analysis in the future. How do you foresee that gap analysis going forward and who is going to do it (Rebecca McKay, Manitoba Conservation)?

Dan Bulloch (Forest Development Analyst, Sustainable Forestry Unit, Manitoba): We are starting to see training gaps in the forestry industry. New Brunswick did something similar and found the need for a major amount of training in forestry. Larger projects won't go ahead without some major training here in Manitoba. There is a lot of work to be done in this area.

SESSION 5. BROAD AREA PLANNING & CO-MANAGEMENT AGREEMENTS

TRAPPING HARMONIZATION AGREEMENTS IN ONTARIO

Presenter: Graham Vance, Policy Advisor, Field Services Division Ontario Ministry of Natural Resources

The Ontario Ministry of Natural Resources, the federal Department of Indian Affairs and the Anishinaabe Nation of Treaty #3 recently signed a Trapping Harmonization Agreement.

Aboriginal people have trapped for centuries throughout Ontario. Europeans' commercial interest in the fur trade, brokered through the Hudson Bay Company and the Northwest Company, formed the basis of the first relationships between Aboriginal and non-Aboriginal peoples in Ontario. By the late 1800s, a significant number of non-Aboriginal people had begun trapping and, by the mid-1900s, as disputes arose over trap line boundaries, the provincial government was under pressure to assume more control over trapping.

In 1992, the Grand Council of Treaty #3 asked the Indian Commission of Ontario (ICO) to work to address trapping-related issues, including their community members' entitlement, through treaty right, to pursue more trapping opportunities and to trap with less regulation, pursuant to the *Sparrow Decision*. ICO facilitated negotiations between Treaty #3, Nishinawbe-Aski Nation and the Ministry of Natural Resources, under the NDP government of Bob Rae. In 1995, however, Rae's government was replaced by the Conservative government of Mike Harris. As part of a drive to reduce government costs, the new government established Ontario Fur Managers' Federation (OFMF), responsible for licensing and educating trappers. A new licensing system and fee structure were set up, all without consultation with Aboriginal peoples.

Around the same time as the OFMF was formed, the federal government, working closely with Aboriginal trapping interests across the country, negotiated the International Agreement on Humane Trapping Standards (IAHTS). The Canadian partners to the agreement hoped it would maintain access to the European market for Canadian fur producers. The European partners recognized that trapping remained a crucial income source for northern and remote residents.

The imposition of the OFMF incensed the Ontario treaty organizations and, in response, they formed the Treaty Trapping Alliance (TTA). Unilaterally opting out of the new licensing system, they established their own licensing system for registered trappers from their communities. Because the IAHTS was in place, the Aboriginal trappers were able to continue marketing their pelts in Europe. A regulation that made the TTA licenses equivalent to Crown licenses was quickly passed.

After years of negotiation, the Grand Council of Treaty #3 developed a Trapping Harmonization Agreement that has become a model for other agreements under

development in Ontario. The harmonization agreements are comprehensive and include: a discussion of the role of treaty-based rights; an approach to deal with traditional trap lines and trapping areas that the Ministry of Resources had unknowingly split and/or assigned to other trappers; an evaluation system for trap line reassignment that addresses both priority allocation (as described in the *Sparrow Decision*) and the interests of active non-Aboriginal trappers; trapper education programs that include cultural components; enforcement protocols; reporting requirements; consideration of the impact of other resource users on trapping; and dispute resolution mechanisms.

The Treaty #3 Trapping Harmonization Agreement, now in its implementation phase, promises many benefits. Information on license holders, quotas and harvests will be posted on-line, available to all offices involved in trap line administration. The Ministry of Natural Resources sees the Agreement as an administrative partnership and a framework on which they can build an extended partnership that offers Treaty trapping administrations a stronger role. The Treaty organizations see the agreement as an indication of the province's willingness to co-manage and regulate resources with them.

EAST SIDE OF LAKE WINNIPEG – SUSTAINABLE RESOURCE MANAGEMENT Presenters: Bill Anderson, Project Coordinator, Wapanong Nakaygum Okimawin and Ed Wood, Elder & Co-Chair, Wabanong Nakaygum Okimawin

Wabanong Nakaygum Okimawin (WNO), a planning initiative for the East Side of Lake Winnipeg ("East Side of the Lake Governance"), is based on the sustainability of the ecosystem. A broad plan has been created by members of the initiative. The planning process is intended to ensure that future land, resource and development decisions address the environmental, social, health, cultural and economic needs of the public, local communities, First Nations and various stakeholders and interest groups.

Elder Ed Wood spoke on the importance of the principle of sharing in resource management planning. We are able to live because the earth shares its natural resources with us. In turn, it is our responsibility to share with each another. When Europeans arrived in the traditional territories of his people, his people shared resources with the fur traders and signed treaties with the Crown that enabled the new people to settle on their lands.

The generosity shown by Aboriginal peoples and Nations has not been matched in the history of their relationship with the rest of Canada. Over the last century, Aboriginal peoples have been excluded from sharing in Manitoba's prosperity. Aboriginal children received deficient education at residential schools, Aboriginal people have been living in deficient housing and Aboriginal people are now struggling with many health issues. In spite of this, they remain willing to share.

Many Aboriginal people continue to live in ways that are tied to natural resources. Traditionally, rather than seeing themselves as individuals at the centre of Creation, Aboriginal people understood that their relationships with the plants and animals around them and Mother Earth were sacred and that all living things should be

treated with respect. Today, Aboriginal peoples recognize the need to continue this respectful practice. Non-Aboriginal people in Canada, however, have typically taken a different and dangerous approach, one that manipulates nature to serve human interests and that attempts to control the natural world and the human beings who are part of that world.

The Broad Area Planning Process reflects a new attitude towards resource management and an opportunity for a new relationship with nature, one in which both Aboriginal and non-Aboriginal people can be stewards of the land, take care of it and be responsible in their use.

Supplemental materials for this presentation are included as Appendix XI to this document.

SASKATCHEWAN ENVIRONMENT AND AGENCY CHIEFS TRIBAL COUNCIL (ACTC) PARTNERSHIPS, SASKATCHEWAN

Presenter: Jack Kinnear, Acting Director, Aboriginal Affairs, Saskatchewan Environment

Saskatchewan Environment has three partnerships with Agency Chiefs Tribal Council (ACTC), the Agency Chiefs Tribal Council is made up of three Cree First Nations - Pelican Lake, Witchekan and Big River First Nations.

These agreements include:

- ACTC Forest Fire Protection Services, a jointly funded forest fire protection agreement
- ACTC Wood Supply Agreement, to work cooperatively to explore the availability of long term supply of saw timber for the Agency Chiefs Tribal Council
- ACTC Renewable Resources and Environment Management Partnership Agreement, to work cooperatively on resource and environment issues.

An overview of the Agency Chiefs Tribal Council (ACTC) and why they believe partnerships are useful. Some of the successes and, more importantly, some of the difficulties and how the relationship is established allow First Nations and the Department to collaborate and share ideas.

WEST REGION TRIBAL COUNCIL CO-MANAGEMENT AGREEMENT Presenters: Blair McTavish, Director, Sustainable Resource Management Section, Manitoba Conservation and Harvey Nepinak, Resources Office, West Region Tribal Council

The West Regional Tribal Council Co-Management Agreement is intended to address the sustainability of Dauphin Lake fishery. A joint Manitoba-West Region Tribal Council (WRTC) committee was formed and has been meeting regularly since May 2000. WRTC represents eight First Nations signatory to Treaties 2 and 4. A Memorandum of Understanding (MOU) was signed in November 2000. In March 2000, Conservation Closure was enacted for Dauphin Lake and all in-flowing tributaries. In the 2000 spawning season, Manitoba Conservation agreed to limit enforcement –and created a resource office to coordinate activities. WRTC actions

have also included buying back 15 of the 30 commercial licenses for WRTC, completing a creel census to determine recreational harvest and reducing commercial harvest from 30,000 pounds to 22,500 pounds.

For Manitoba Conservation, successes in the WRTC Co-Management Agreement process have included an improved working relationship with First Nations, better understanding of First Nation issues and the creation of opportunities in other resource sectors. Problems have been encountered in relationship to the slow process; that the Agreement involves the Treaty Office but not necessarily First Nation communities; the need to respect Treaty (NRTA) rights and lack of financial and human resources; socio-economic issues entwined with resource management issues; and the lack of a management plan to date.

The agreement has been strengthened by the shared objective of the Province and WRTC. Both partners want to ensure the long term sustainability of Dauphin Lake for future generations.

Harvey Nepinak of the WRTC Resources Office noted that, since the WRTC and the Province began work on the Co-Management Agreement, it has been clear that bringing together treaty rights with the Natural Resources Transfer Act brings up very sensitive issues. Many First Nations community members have found it hard to understand what the NRTA means for them. When he consulted with Elders about how to begin the process of co-management, they reminded him that it was important to negotiate as equals with the provincial government.

From WRTC's perspective, the greatest challenge in the agreement has been funding, which has not kept pace with the evolving needs of the First Nations communities involved in the agreement. First Nations people in the region served by WRTC are placing more demand on fishing, forestry and wildlife resources than they ever have before. More flexible funding, more efficient processes for resource co-management and increased participation from the private sector (including financial support) will enhance the Agreement's effectiveness.

Supplemental materials from this presentation are included as Appendix XII to this document.

SESSION 5 QUESTIONS AND ANSWERS

Question: Explain for us the climate that precipitated the broad area planning – and what would be your advice on one thing you need to succeed in this area (Sharon Rew, Ontario Ministry of Natural Resources)?

Bill Anderson (Project Coordinator, Wapanong Makaygum Okimawin): The Broad Area Planning initiative arose out of the Sustainable Resource Implementation project and I was not involved with that project. One piece of advice that I would give is that you need to establish credibility. We had Phil Fontaine as chair and Ed Wood on board. You need people such as Phil and Ed who believe in the project.

Ron Missyabit: I would say it also helps to have a government champion to help you move forward with the initiative.

SESSION 6. METIS ISSUES

RESPONSE TO THE POWLEY DECISION Presenter: Neil Reddekopp, Assistant Deputy Minister of Land and Resource Issues, Alberta Aboriginal Affairs and Northern Development

Although the *Powley* decision dealt with matters of tremendous general importance throughout Canada and involved an analysis of broad questions related to the issue of Métis Aboriginal rights, the ultimate determination in the case was the fate of a single prosecution of two members of a northern Ontario community. The response of Canada's five western provinces to the decision will depend upon the application of the analysis in the *Powley* decision to the varying historical and constitutional development of the several jurisdictions, as well as the current state of relations between the Crown and the Métis in each province.

The five jurisdictions have responded in five different ways. None of these responses, ranging from the outright denial of the relevance of the *Powley* decision to the interim agreement to allow all persons affiliated with the Métis Nation to practice subsistence harvesting, have been free from controversy. However, four provincial approaches share one characteristic – the Crown response has heightened rather than lessened tensions between the Crown and Métis. The fifth response, the one adopted in Alberta, has had the opposite effect. The Crown and the Métis Nation have reached an interim arrangement, provoking controversy and opposition from opponents of the agreement, both inside and outside government.

The presentation included a discussion of the reasons the Alberta approach was adopted and how provisions of the agreement are thought to be in accordance with the *Powley* decision. Opposition to the Alberta approach and the current state of debate on the next steps to take regarding the issue of Métis harvesting were also discussed.

RESPONSE TO THE POWLEY DECISION, SASKATCHEWAN Presenter: Jack Kinnear, Acting Director, Aboriginal Affairs, Saskatchewan Environment

In regards, to Powley, since the decision Ontario, Manitoba, Alberta, B.C. and Saskatchewan have taken different approaches to the decision. Each province has some unique circumstances that bring about these different approaches. The interim policy in place in Saskatchewan reflects that province's unique challenges in Saskatchewan. The province is having some difficulty resolving issues raised by the Powley Decision with the Metis Nation-Saskatchewan. Two current court cases will attempt to define Metis community and membership in the community. A decision is expected on July 15 in the case *R. vs. Laviolette*. The case *R. vs. Norton and Samuelson* has been decided and has some interesting results.

SESSION 6 QUESTIONS AND ANSWERS

Question: Neil talked a bit about objections from the Fish and Game Association, I am wondering where First Nations were coming from in this regarding Powley?

Neil Reddekopp (Assistant Deputy Minister of Land and Resource Issues, Alberta Aboriginal Affairs and Northern Development): We heard from one First Nation who stated that we should not have decided not to consult with them. We interpreted Powley in terms of a non-hierarchical order of rights. We did not see First Nation Treaty, then Métis and so on as having more rights than others. We saw these rights as shared and justified our decision to not consult First Nations by the fact that we do not consult with non-Aboriginal Albertans on issues pertaining to demands of law. We make it a government decision. The right is shared and we do not consult on a policy decision relating to obeying the law.

Question: Is there a problem with Aboriginal hunting rights outside treaty area as a result of this (Charles Post, Ontario Ministry of Natural Resources)?

Neil Reddekopp (Assistant Deputy Minister of Land and Resource Issues, Alberta Aboriginal Affairs and Northern Development): This is where Alberta and the three Prairie provinces, as designated through the Natural Resource Transfer Agreements, differ from Ontario. Harvesting rights are extended over the entire Province and are not treaty specific, so there are no treaty rights considered in this regard.

Question: The Alberta Métis Association has vigorous procedures to qualify people. Could you go into that to some degree?

Neil Reddekopp (Assistant Deputy Minister of Land and Resource Issues, Alberta Aboriginal Affairs and Northern Development): It is a genealogy test that is required. A direct link to a person who received scrip in one of the scrip commissions is required. By vigorous, I was speaking on the amount and type of documentation required from government or a religious organization.

Closing Remarks

On behalf of Premier Gary Doer, and Oscar Lathlin, Rob Altemeyer, MLA for Wolsely Ward in Winnipeg, thanked the Aboriginal Elders who were part of the conference proceedings and commended Ron Missyabit and all the other conference committee members for putting on such a fine conference. He also thanked delegates (especially out-of-town guests) for their participation. It was a privilege for him to be part of the government team and he felt that the conference was invaluable because it brought together several different worlds that previously did not have the opportunity to interact or learn from one another. We need this kind of interaction and learning to addressing the issues at hand. These issues encompass both traditions and environmental issues and cultural, social and economic issues. Our collective ability to listen to each other and learn from each other about our priorities is crucial to the process of integrating Aboriginal People in Natural Resource Management.

Mr. Altermeyer's closing remarks were followed by a closing prayer from Elder Leslie Nelson.

Conclusion

The 3rd Annual Inter-Jurisdictional Conference on Aboriginal Involvement in Natural Resource Management, Integrating Aboriginal People in Resource Management provided natural resource managers and Aboriginal partners with a forum in which to share their best practices, successes and challenges. In evaluation forms submitted to the conference organizations, the majority of participant respondents reported that the Conference had met or exceeded their expectations. Future events, respondents suggested, should include more opportunities for interaction and debate, such as longer workshops or breakout sessions. Respondents also called for more participation from Aboriginal community members.

APPENDIX I CONFERENCE AGENDA

Conference Agenda

June 22 Wednesday

7:00 AM - 8:15 AM	Breakfast
8:30 AM - 9:00 AM	Conference Opening
9:00 AM - 12:30 PM	Session 1: Consultation Strategies, Legal Aspects &
	Best Practices
12:30 PM - 1:30 PM	Keynote Speech by Justice Murray Sinclair
1:45 PM - 2:45 PM	Lunch
3:00 PM - 3:30 PM	Address by Minister Eric Robinson
3:30 PM - 5:00 PM	Session 2: Aboriginal Participation in Natural
	Resource Management
5:30 PM	Dinner

June 23 Thursday

7:00 AM - 8:15 AM	Breakfast
8:30 AM - 9:00 AM	Recap of Previous Day's Presentations
9:00 AM – 10:00 AM	Keynote Speech by Ron Spence, Natural Resource Land Use Planning Coordinator, Nisichawayasich
10:00 AM - 10:30 AM	Break
10:30 AM - 12:15 PM	Session 3: Aboriginal Involvement in Forest
	Management Planning
12:15 PM – 1:15 PM	Lunch
1:30 PM - 3:00 PM	Session 4: Community Capacity Building
3:00 PM - 3:30 PM	Break
3:30 PM - 5:00 PM	Session 5: Broad Area Planning & Co-management
	Agreements
6:00 PM – 10:30 PM	Feast, hosted by the University of Manitoba's Aboriginal Student Association

June 24 Friday

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7:00 AM - 8:15 AM Breakfast
8:30 AM - 9:00 AM Recap of Previous Day's Presentations
9:00 AM - 10:00 AM Session 6: Metis Issues
10:00 AM - 10:30 AM Break
10:30 AM - 12:00 AM Closing
12:30 PM - 1:45 PM Lunch
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APPENDIX II

WELCOMING REMARKS
THE HONOURABLE STAN STRUTHERS
MINISTER OF CONSERVATION, PROVINCE OF MANITOBA

INTEGRATING ABORIGINAL PEOPLE IN NATURAL RESOURCE MANAGEMENT CONFERENCE



The Honourable Stan Struthers Minster of Conservation Province of Manitoba

On behalf of the Department of Conservation, I would like to welcome you to the 3^d Bi-Annual Inter-Jurisdictional Conference on Natural Resource Management.

The theme of this year's conference is "Integrating Aboriginal People in Natural Resource Management."

The purpose of this conference is to bring together natural resource managers from across this country to share their experiences working with Aboriginal people and governments. It is an opportunity to share best practices based on the success and challenges of the past.

This government realized that for too long decisions affecting Aboriginal people have been made without their input, without benefit of the wisdom and traditional knowledge they have to share. This is particularly true when it comes to issues of land use and care. Aboriginal people have an affinity with the land, a respect and history that is often acknowledged yet sometimes ignored. This is why today we are working hard to build strong government to government relationships with Aboriginal people so that we may share and learn from each other's best practises and wisdom.

What is working and what is not? What can we learn from history? What have we learned? How can we implement what we've learned?

Over the course of this conference these and many other questions and issues will be discussed. In the end, we will be one step closer to ensuring best practises that will benefit all.

As Minister of Manitoba Conservation, I welcome you to share your experiences and enjoy the conference!

Sincerely,

Stan Struthers Minister of Conservation

APPENDIX III PRESENTERS' BIOGRAPHIES

Please note that this section includes biographies only for those presenters whose biographies were provided to the conference planners.

Rob Altemeyer

Rob Altemeyer was elected to the Manitoba Legislature on June 3, 2003. As a former Special Assistant to Energy Minister Tim Sale and long-time community activist, Rob brings an essential combination of political experience and community awareness to his role as MLA for Wolseley. Born and raised in Winnipeg, Rob was offered an academic-athletic scholarship while pursuing his B.A. (Advanced) in Anthropology. After two successful years of playing college baseball in North Dakota, he returned to finish his B.A. at the University of Manitoba, where he then stayed to complete a Masters of Natural Resource Management. Rob's extensive involvement in social justice and environmental causes began while attending university. Throughout the 1990s he played a key role in bringing recycling programs to the University of Manitoba, where he served as its first Waste Prevention Coordinator. Also while a student, Rob co-founded the Global Change Game, an internationally recognized world issues education organization that has toured extensively across Canada and more recently Europe. Rob continues to serve as a volunteer for the Global Change Game, and each year he also volunteers as the composting coordinator for the Winnipeg Folk Festival. Long active in the fair trade, peace and anti-globalization movements, Rob served a two-year term as the first Youth Representative on the national board of the Council of Canadians. The youngest of thirty-five NDP MLAs, Rob was elected Vice Chair of Caucus by his colleagues and also serves as Chair of the Urban Caucus. He has been appointed to a wide range of government initiatives, covering such diverse topics as climate change, inner city housing, and e-government. He Rob is honoured to be a voice at the Legislature for the diverse and dynamic neighbourhoods of West Broadway, Wolseley, Spence and the West End. Rob lives in the Wolseley constituency with his wife Phoebe, a classroom educator with a local social services agency. In July 2004, they celebrated the arrival of their first child, Oliver Brighton Altemeyer.

Rene Barker

Rene Barker is a Hollow Water First Nation member whom has established his own business White Owl Language Services consulting in Forestry, Native Language and Land matters. Rene created White Owl Language Services to create employment for himself, First Nation's and Community members when ever possible. Rene is currently in the employ of the Manitoba Model Forest as a Community Programs Officer. Mr. Barker speaks fluent Ojibwe which is an asset for him in many meetings and dealings in is current position with the MBMF. Mr. Barker has the task to assist in various community projects that include many committees in the MBMF area. Mr. Barker is the Chairman for the Traditional Area Advisory Committees (TAAC) in Hollow Water and Black River First Nations. Many projects Rene is involved with include Elders, Youth, Chiefs, Mayors, Councilors, and community members in the MBMF region. Mr. Barker is working with these community to increase global awareness of sustainable development and the importance to work together to conserve natural resources

Ramona Bird-Billy

Ramona Bird-Billy has previously worked with her home community, the Peguis First Nation, as an Environmental Liaison Officer. She had then advanced to work with the Dakota Ojibway Tribal Council as an Environmental Coordinator for the 9 membership First Nations. In 2001, Ramona had joined the Province of Manitoba as a Policy Analyst for the Aboriginal Relations Branch of Manitoba Conservation. Recently she accepted the position of an Agreements Coordinator and has moved to Manitoba Aboriginal and Northern Affairs.

Dan Bulloch

Forest Development Analyst with the Sustainable Forestry Unit for the Government of Manitoba. (The Sustainable Forestry Unit was established based on a recommendation from the Premier's Economic Advisory Committee.) For the past two years, as a member of the Sustainable Forestry Unit, Dan has been working with Aboriginal organizations and communities to help identify business, employment and training opportunities in the forest sector. Dan has a Masters of Natural Resources Management degree from the University of Manitoba and has worked for Manitoba Conservation since 1987.

Carmen Calihoo

Carmen Callihoo is the Aboriginal Specialist, for the Environmental Conservation Branch, Canadian Wildlife Service and started work in Prairie and Northern Regions' Edmonton office this past November. Her newly created position will provide Canadian Wildlife Service with much needed capacity for the engagement of Aboriginal peoples in a number of program areas including species at risk and migratory bird management. Prior to joining Environment Canada, Carmen was an Environment Officer for Indian and Northern Affairs Canada (INAC). Carmen was also the first Aboriginal woman to become a Conservation Officer with the Province of Alberta (2000). She also worked seasonally with Alberta Fish and Wildlife which included relocating Black Bears in Northern Alberta, and for Parks Canada Agency in Waterton Lakes, Lake Louise, Kootenay, Yoho and Elk Island National Parks. 1998 - she was the 'Rock wall Warden' where she patrolled the backcountry in the famed Rock wall District in Kootenay National Park via horseback. completed her Bachelor of Science Degree specializing in Environmental Science at the University of Lethbridge and attained her Renewable Resource Management Diploma and Conservation Enforcement Certificate at Lethbridge Community College.

Mary Gordon

Mary Gordon began her career with the Ministry of Natural Resources (MNR) in 1988 as a communications specialist with the former Northeastern Region in Sudbury. She has rotated through a series of interesting and challenging assignments in public consultation, team-building, change management, team management; land claims negotiations, project management, training, information management, conflict resolution and facilitation. A former newspaper publisher and CBC Radio producer and manager, Mary came to MNR with a strong interest in the traditions of public service, and a commitment to clear and open information. Her interest in MNR grew out of her previous work on stories such as the creation of large wilderness parks (Wabakimi, Temagami), the Class EA for Timber

Management, Strategic Land Use Planning, and forest management on the Black Bay Peninsula. She has worked in many northern Ontario communities, and is now settled in the ministry's main office in Peterborough, Ontario. Priorities for the Native Affairs Unit include interpretation of legal precedents, consultation with ministry programs as legislation and policy are developed, economic development for First Nations, capacity-building for Treaty organizations in GIS and Traditional Ecological Knowledge, negotiations support on land claims and resource agreements, liaison with other ministries and agencies, Aboriginal Awareness training, relationships with Provincial Treaty Organizations, and support to the field.

Jack Kinnear

Jack Kinnear holds a diploma in Renewable Resources Technology, Saskatchewan Institute of Applied Arts and Sciences. He graduated in 1971, along with a number of people now working in the resource field in Manitoba. He has worked for Saskatchewan Environment for the last 33 years, of which 25 years was spent with the Fish and Wildlife Branch in a variety of positions. In 1996, he was assigned to work in the Aboriginal Affairs area. He enjoys his work and challenges. Jack was born and raised in Saskatchewan and now lives in the town of Lumsden, located north of Regina in the scenic Qu'Appelle Valley. His hobbies include hunting, fishing, cross country-skiing and training retrievers.

Oscar Lathlin

In 1990, Oscar Lathlin was elected as the New Democratic Party Member of the Legislature for the constituency of The Pas. He was re-elected in the 1995, 1999, and 2003 general elections. While in Opposition, Mr. Lathlin held several critic portfolios, including: Natural Resources, Northern Affairs, Native Affairs, and The Development Fund. Mr. Lathlin was also appointed on two separate occasions to represent the NDP on Manitoba's Constitutional Task Force. With an NDP return to government in Manitoba<u>on October 5th</u>, <u>1999</u>, Mr. Lathlin was appointed to Cabinet as the Minister of Conservation. The new department combined the former environment, natural resources and energy and petroleum departments into the Department of Conservation. He also served on the government's Treasury Board from 1999 to 2001 and as Chair of the Manitoba Round Table and The Aboriginal Resource Council. In September 2002, he was appointed Minister of Aboriginal and Northern Affairs and Minister responsible for The Development Fund. The Premier reaffirmed Mr. Lathlin's appointment as Aboriginal and Northern Affairs Minister in 2003. He is also Co-Chair of the Aboriginal Justice Implementation Committee of Cabinet and Vice Chair of the Aboriginal Issues Committee of Cabinet. As a Chief of the Opaskwayak Cree Nation, Mr. Lathlin has served as Board Member of the Manitoba Keewatinowi Okimakanak and the Assembly of Manitoba Chiefs and on various committees of the Assembly of First Nations. As well, Mr. Lathlin has served as a member of the Policy Advisory Committee of the Brandon University Native Teacher Education Program. Mr. Lathlin was born and raised at Opaskwayak Cree Nation in The Pas in Northern Manitoba. In 1966 and 1967 he attended Margaret Barbour Collegiate Institute but, left his community in order to finish high school at Frontier Collegiate in Cranberry Portage, where he graduated in 1969. Subsequent to his graduation, he returned to The Pas where he was employed by The Pas Band as a Band Manager. Later on he worked for the Federal Government

in various senior management roles. In 1979, Oscar became Executive Director of Swampy Cree Tribal Council and in 1985 he was elected Chief of The Pas Band.

Heather Leonoff

Heather Leonoff has a Masters degree in law obtained in 1979. She worked in private practice before moving to government in 1998. She is presently the Director of the Constitutional Law Branch for the Province of Manitoba. She has provided advice to government on numerous issues involving consultation including the design and implementation of the consultation done in respect of the Wuskwatim Hydro Electric Project.

Rebecca McKay

Rebecca McKay is a member of Fisher River Cree Nation. In order to seek a Bachelor of Science in Forestry degree, Rebecca attended the University of British Columbia in Vancouver. Rebecca has worked with the federal government and the Province of Manitoba, as well as in northern British Columbia and Saskatchewan with First Nation companies. She worked with the National Aboriginal Forestry Association in Ottawa after which she held an internship with the Canadian International Development Agency in Guatemala. Rebecca currently works with the Province of Manitoba – Conservation, in the Sustainable Forestry Unit.

Frank Miklas

Frank Miklas is currently working for the Ministry of Natural Resources, Native Affairs Unit out of Thunder Bay. Frank has worked for the MNR for the past 3 years primarily as the Senior Forest Management Planner in the northwest region. Frank spent some of this time developing the Aboriginal Involvement section of the revised forest management planning manual. Prior to this, Frank spent 11 years in British Columbia with the Ministry of Forests. During this time in BC, he had extensive (and at times, intensive) involvement in negotiating and consulting with various Aboriginal communities at the district level. He is a registered professional forester in Ontario and has worked in forestry for the past 20 years. Frank has three active children and has been happily married for 15 years. He spends his spare time either doing home improvement projects or shuttling his children to an array of sporting events.

Noo-Si-Sim Singers Youth Group

Noo-si-sim, translated into English this means "my grandchild". Taylor Wilson, 10 years old, and twins, Terron and Avery Wilson, 8 years old, are from the Fisher River Cree Nation. They are the grandchildren of David and Mary Crate. Their grandparents have raised them understanding, respecting and living the values, traditions, and culture of their people, the Anishinaabe, and they are dedicated to singing and honouring grandparents Noo-si-sim have been practicing and performing songs for the past three years. Their performances include Mother of Red Nations gatherings, Fisher River "Earthkeepers" Youth Gathering 2004, P.R.I.D.E. 2004 conference, and other various community conferences.

Lorraine Rekmans

Lorraine Rekmans is the Executive Director of the National Aboriginal Forestry Association (NAFA). Prior to her November 2003 appointment as Executive Director, she served as NAFA's Policy Analyst and Communications Officer. Lorraine has a professional background in journalism and communications. She has worked the past 10 years in forestry. She is Ojibway and a member of the Serpent River First Nation on the north shore of Lake Huron. She was born and raised in Elliot Lake, Ontario where her father worked as a miner. Lorraine is a strong and vocal advocate for Aboriginal rights and volunteers much of her time working on a wide variety of social and environmental issues.

Neil Reddekopp

Neil Reddekopp has been involved, in both public and private practice, in the research, negotiation and litigation of Aboriginal land and resource issues in Alberta since 1978. He has worked with the Indian Claims Commission, and has provided advice to the federal government, First Nations and other Aboriginal organizations in Ontario and Labrador. He is currently the Assistant Deputy Minister of Land and Resource Issues for Alberta Aboriginal Affairs and Northern Development. In this capacity, he is responsible for the Province's participation in treaty land entitlement and other specific claims, the management of Aboriginal litigation and the leadership by Aboriginal Affairs and Northern Development of the development and implementation of a policy respecting Aboriginal consultation with regard to development of Crown resources. He was also a member of the team that handled Alberta's intervention in the *Haida* and *Taku River* cases in the Supreme Court of Canada and in *Mikisew v Copps* case in both the Federal Court of Appeal and the Supreme Court of Canada.

Eric Robinson

Eric Robinson (Ka-Kee-Nee Pewonee Okimow) is a member of the Cree Nation -Cross Lake First Nation, also known as Pimicikamak Cree Nation - in Northern Manitoba. Eric Robinson became a member of the Manitoba Legislature in 1993 after successfully winning the by-election in Rupertsland. He was re-elected in the 1995, 1999 and 2003 general elections. Eric served as the NDP critic for Aboriginal and Northern Affairs. After the 1999 election, Eric was appointed the Minister of Aboriginal and Northern Affairs and Minister charged with the Administration of the Communities Economic Development Fund. On September 25, 2002, Eric was appointed Minister of Culture, Heritage and Tourism and the Minister responsible for Sport and Recreation. Prior to becoming a member of the Manitoba Legislative Assembly in 1993, Eric worked in many ways to improve the quality of life for all Manitobans. From January 1981 to the summer of 1982 Eric was Grand Councillor of the Four Nations Confederacy of Manitoba. During his term, Eric was appointed co-chair of the National Indian Brotherhood and Assembly of First Nations Political Policy Committee. Eric's communications expertise is extensive and includes work in radio as a broadcaster and producer for the CBC and private broadcasting corporations. He was founder of the Native Media Network and is a published author. Eric has also acted as a facilitator and master of ceremonies for many traditional and cultural events. Eric played a key role in the Aboriginal Justice Inquiry and the creation of the Aboriginal Justice Implementation Commission. He also has been instrumental in the creation of the new Northern Development Strategy. His other community activities include serving as a board member of the Ma-Mow-We-Tak Friendship Centre, Aboriginal Court Worker Program and the John Howard Society. Eric has also been a volunteer for aboriginal spiritual programs at both provincial and federal penal institutions as well as a facilitator and mediator for Offender/Victim Reconciliation in federal institutions. Eric and his wife Cathy have one daughter, Shaneen.

Murray Sinclair

Mizhanay Gheezihk (The One Who Speaks of Pictures in the Sky), is a member of the Fish Clan, a member of the Three Fires Society, and a Third Degree Member of the Midewiwin (Grand Medicine) Society of the Ojibway Nation. Justice Sinclair was raised by his grandparents on what was then St. Peter's Reserve, north of Selkirk, Manitoba. After graduating high school, Justice Sinclair studying several disciplines at both the Universities of Manitoba and Winnipeg and engaged in diverse work experiences including time as Executive Assist to the Attorney General Howard Pawley. In 1979, he graduated from Law School at the University of Manitoba and was called to the Bar in 1980. In the course of his legal practice he worked primarily in the field of Civil and Criminal Litigation, Aboriginal Law and appeared as counsel in cases involve Treaty and Aboriginal rights. He also taught in the Department of Native Studies and the Natural Resource Institute as well serving as a mentor for many students in the Faculty of Law. His broad interests also led him to be legal counsel for the Manitoba Human Rights Commission, ad he appeared in the Supreme Court of Canada on its behalf. In 1988, Justice Sinclair was appointed Associate Chief Judge of the provincial court and named co-commissioner of the Aboriginal Justice Inquiry. This three year study, including almost three hundred recommendations, is still having an impact on the justice system. During this same time he presided in court daily, including monthly circuit court sittings in remote communities in the Province. He continued some teaching a the University of Manitoba and was invited to lecture at Cambridge University as well as the Universities of Calgary, Saskatchewan, Toronto and Windsor and to numerous professional organizations, including the Canadian Association of Provincial Court Judges and the National Judicial Institute. Justice Sinclair's responsibilities on the Court were expanded considerably when he was appointed to direct the very complex Pediatric Cardiac Surgery Inquest at the Health Science Centre. In 2001, the Federal Government appointed Justice Sinclair from the Provincial Court to the Superior Court in Manitoba, the Court of Queen's Bench. This new appointment offers opportunities for him to have even more impact on the justice system in Canada through written judgments that are more widely reported, carry substantial weight, and can be precedent setting. Justice Sinclair is the first judge of Aboriginal descent in Manitoba, and the second in Canada. In 1994 he was honoured with the National Aboriginal Achievement Award. He has received numerous other community achievements awards, as well as Honourary Doctorates. All the while he has maintained a strong connection to his tribal traditions and regularly attends traditional and ceremonial gatherings held throughout Canada and the United States.

Deborah Smith

Deborah Smith was raised at the Brokenhead Ojibway Nation. She completed her bachelor of Education Degree in 2001 and has since returned to home to help build her community. Deborah is currently employed with the First Nation in the capacity of Employment & Training. Over the past 3 years, Deborah has worked hands on with the Brokenhead Ojibway Nation Forestry Management Team as the project manager. During this time she has worked alongside government and industry to further create and develop partnerships that provide relevant work experience in the area of Forestry Management. Deborah has enjoyed her experiences working with the "Bush Crew" and has a strong sense of respect for the young men that have contributed to the ongoing success of the Brokenhead Ojibway Nation's Forestry Management Initiatives.

Steve Topping

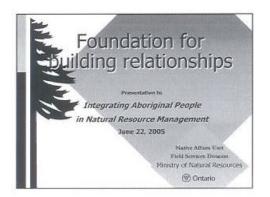
Steve Topping has been employed with the Province of Manitoba since 1996 and has been Executive Director of the Infrastructure and Operations Division of Manitoba Water Stewardship since 2004. Prior to moving to Manitoba, Steve was employed in the irrigation industry in southern Alberta for 16 years. Steve is a graduate of the University of Guelph with an Engineering degree specializing in Water Resources and Environmental Management.

Graham Vance Bio

Graham has been with Ministry of Natural Resources (MNR) for 21 years. Living near Peterborough, Ontario since 1998, he has been a Policy Officer and acted as Manager in the Native Affairs Unit of MNR, and worked in the Corporate Policy Secretariat of the Ministry of Northern Development and Mines on secondment. Previously, he lived in Thunder Bay, Ontario for 11 years working in various roles including Native Liaison Officer at the district and regional levels. For the past 9 years, among his other responsibilities, he has been the lead negotiator for MNR on the "trapping files". Graham is married with four children and has a B.A. in English.

APPENDIX IV

FOUNDATION FOR BUILDING RELATIONSHIPS Ministry of Natural Resources, Ontario



"I think we've got it"

- · Aboriginal Relations 101: the Crown perspective
- One piece of comprehensive training One piece of comprehensive training program almost complete
 One-day, entry-level, survey course
 History – lecture format, exercises
 Law – seminar format, discussions
 Relationship-building

- - Discussion

 - WorkshopCase studies

But first - the background

- · Years of demand Aboriginal Awareness
- · Identified as Corporate priority annually
- · Limited success in meeting demand
- · Some efforts backfired
- · Others failed to get approval

Last-ditch effort: January/01

- · Training & Transfer Project
- · Learning Needs Analysis
- · Program needs beyond training
- · Corporate commitment
- · Advisory committee

Bottom line: Know your own history

- · Cross-cultural training has its place, good to do
- · Understanding the law is critical
- Land/resource managers need more than this to understand how we got here
- · Historical relationship critical to today's success
- · Many lessons learned

History opened our eyes

- · Division of powers = rivalries, squabbles
- 1857: "An act to encourage the gradual civilization of Indians"
- · Ontario: conservation vs. rights
- · Constitution Act, 1982: from indirect relationships to direct

Lesson 1: Analyze the need

- · What do you really mean by that?
- · Weighting priorities
- · Careful with the use of language
- · Tailor the surveys, ask specific questions
- Test assumptions

Lesson 2: **Aboriginal Awareness**

- · What does this mean?
- · Cultural awareness?
- · Political awareness?
- Sensitivity training?
- · Intersection of mandates?

Lesson 3: Pay the piper

- · Who's demanding this?
- · Who needs it?
- Cash = commitment
- · Governance: steering, advisory, work
- · Regular reporting, check direction

Lesson 4: Bite-size pieces

- Think big, conceptual, long-term
- · Get agreement on priorities
- · Think foundation, future
- . Start from the inside; know yourself first

Lesson 5: Test, test, test

- Build testing ethic into process
 Develop good selection criteria for test subjects, evaluators
- Develop separate facilitation process techniques
- Pay for it
- · Use it for marketing

Changing relationships

- · Discussions with Aboriginal communities freighted with the weight of the past
- . Knowing how we got here helps
- Next steps critical:
 Foundation: Aboriginal perspective
- Foundation: Legal perspectives
 Detailed relationship-building, best g case studies, techniques

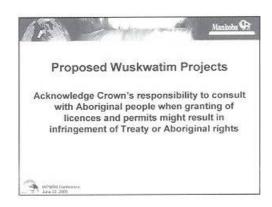
Now that I've told you this story-

- Thomas King's Massey Lectures CBC
- Once you know your history, you can't unlearn it
- Unleashes understanding, respect, patience, forward-thinking, mutuality
- You can no longer say you didn't know

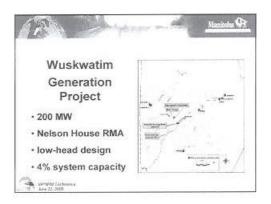
APPENDIX V

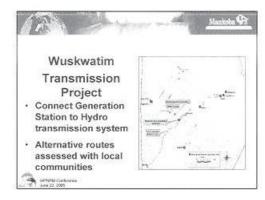
CROWN CONSULTATION WITH MANITOBA FIRST NATIONS
AND NORTHERN AFFAIRS COMMUNITIES ON THE
PROPOSED WUSKWATIM GENERATION AND
TRANSMISSION PROJECTS

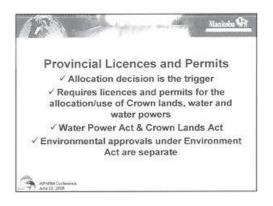








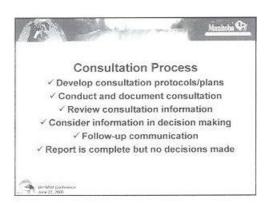




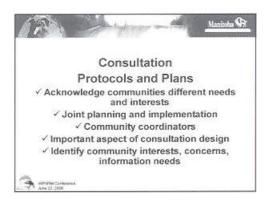




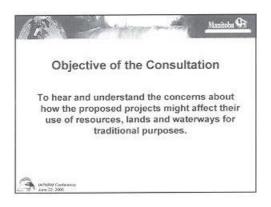




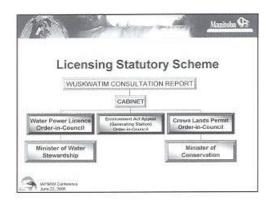
















APPENDIX VI

ABORIGINAL CONSULTATION ON RESOURCE DEVELOPMENT
Aboriginal Affairs and Northern Development, Alberta

Aboriginal Consultation on Resource Development

June 2005 Land and Resource Issues Abonginal Affairs and Northern Development

What are we doing?

Developing policy on consultation with Aboriginal communities for land and resource management

What are we doing?

- Seeking a practical approach
- Avoiding a rights based legal approach while ensuring our risks are managed effectively

What are we doing?

- Primary focus:
 Land and resource management
- Secondary focus:

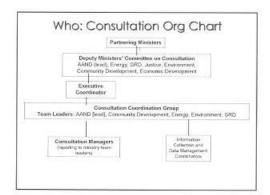
 Regulatory and legislative amendments

Why?

- Growing conflict between resource developers and Aboriginal people
 Court decisions shaping new law and creating obligations on governments outside Alberta

Why?

- To move forward now, rather than wait for court decisions



What We've Done 3 PERIODS: 1. September 2003 - April 2004 2. May – October 2004 3. December 2004 – May 2005

What We've Done Period 1: Sept '03 - Feb '04

- Approved principles
 Draft Guidelines
 Bilateral meetings
 5 Trilateral workshops
 Industry and First Nation workbooks
 "What You Told Us" document
 Elder's workshop
 Internal consideration
 May 14 proposed policy

What We Heard Period 1: Sept 2003 - April 2004

- Timelines are too short.
 First Nations capacity is an issue.
 Sharing the benefits of development is an issue.
 When should the government be involved? Not very often. Not on specific projects.
 There is a real need for Education and cross-cultural awareness.
- Industry wants clarity and defined "goalposts".

Changes In The Second Draft May 14, 2004

- · Broad high level policy paper
- Nested Guidelines
- First Nation specific Metis will
- 3 year policy review & continuing dialogue
- 2 types of consultation:
- General consultation & relationship building
- Project specific

What We've Done Period 2: May to October, 2004

- · Attended meetings with Industry associations and companies
- · Attended meetings with First Nations, tribal Councils and Treaty 8 Chiefs-
- Minister Calahasen attending key meetings

What We Heard Period 2: May to October, 2004

Policy implementation was the focus for both First Nations and industry

What We Heard Period 2: May to October 2004

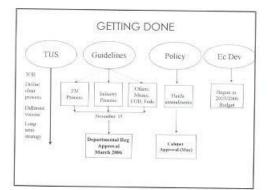
- Industry and First Nations want to be involved in the development of Guidelines
- Timing of the introduction of policy & guidelines is important
- First Nations and some industry want
 Alberta to acknowledge a legal duty to
 consult
- First Nation capacity to be consulted continues to be an issue
- Dialogue has been open and valuable

What We've Done September to December 2004

- Last round of dialogue concluded (on Policy paper)
- Comments were reviewed and proposed policy amended
- Cabinet documents prepared and signed by Ministers
- Requested to wait until after election

What We've Done Period 3: December 2004 to May 2005

- Industry ready to work on Guidelines
- Engaging First Nations has been difficult but some recent success
- Update and "Haida-ize" Policy
- Approval process up to May 16, 2005 approval by Cablnet



CONSULTATION CAPACITY BUILDING

- Identified as issue early in process
- Funding of \$2,000,000 in 03/04
- Funding of \$4,000,000 in 04/05
- Funding of \$4,000,000 in 05/06

CONSULTATION CAPACITY BUILDING

Funding provided to:

- Five First Nations and four Tribal Councils in 03/04
- 15 First Nations, six Tribal Councils and one treaty Organization in 04/05
- 13 First Nations, four Tribal Councils and one Treaty Organization so far in 05/06

CONSULTATION CAPACITY BUILDING

Types of funding available

- Short term technical assistance
- Training for in-house capacity
- Participation in guideline process
- Individual projects on a case by case basis

APPENDIX VII

INVOLVEMENT OF ABORIGINAL PEOPLES IN SPECIES AT RISK MANAGEMENT – APPROACH IN PRAIRIE PROVINCES Fisheries and Oceans Canada & Environment Canada

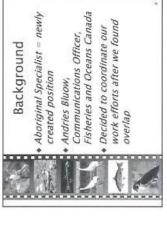




















Policies re: Metis Harvest =

evolving

· Provincial and Federal

Considerations • 178 First Nations/9 Treaties & 810 Reserves Capacity Building with First Nations on Reserve

Lands



Critical Habitat

"Critical habitat: the

necessary for ... a habitat that is



as the species' critical listed wildlife species and that is identified

habitat "



Considerations

 Presently non-existent or minimal participation of Aboriginal Governments in species at risk management efforts in Prairie Provinces



Challenges Difficulties such as: • restricted access to aboriginal lands, • distributed representation of Aboriginal people, and, • differing views on the role of aboriginal peoples in the governance of SARA • Aboriginal People dealing with ongoing issues

Involving Aboriginal People



Strategies for Involving Aboriginal People in Species at Risk Management

- Aboriginal Awareness Sessions for Government Staff
- Speaking w/ communities & governments, especially in Priority areas
- Approaching existing organizations, e.g. FNTSAC in Alberta

Strategies for Involving Aboriginal People in Species at Risk Management

- Funding Initiatives available
 e.g. Capacity Building and Critical Habiat Initiative & Aboriginal Inland Habitat Program
 - * Assisting Aboriginal Proposals



Strategies for Involving Aboriginal People in Species at Risk Management

SARA Pathfinders

- Capacity Building & Critical Habitat Proposals for 2005/6:
 - Pathfinder positions; Habitat Inventories on Priority Reserve Lands



For more information, contact:

Increase awareness of conservation...and issues in communities



 assist in participating in the development and finalizations of recovery strategies and action plans. work directly with communities and organizations to help capacity

APPENDIX VIII

ABORIGINAL INVOLVEMENT IN FOREST MANAGEMENT PLANNING Ministry of Natural Resources, Ontario



Aboriginal Involvement in Forest Management Planning

Ontario's Approach

Aboriginal Involvement in Forest Management Planning

- · Key Concepts
 - Forest Management Units are basis for planning
 - All opportunities are extended to Aboriginal communities in or adjacent to the management unit
 - Aboriginal according to Section 35 of Constitution Act, 1982 – includes Indian, Inuit or Metis people of Canada

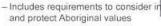


Ontario Context

- · 47 Management Units
 - Six (6) Management Units started planning process using new requirements
 - Six (6) others are just beginning the planning process
- Approximately 90 First Nation communities will be provided opportunities over the next five (5) years

Aboriginal Involvement

- Forest Management Planning Manua
 - New in 2004
 - Includes opportunities for direct involvement of communities in plan development



- Encourages participation

Aboriginal Involvement

- · Opportunities
 - Planning Team
 - Local Citizens Committee
 - Consultation Approach + [Default approach for consultation]
 - Aboriginal Values
 - Aboriginal Background Information Report
 - Provide, verify and update social and economic information for community
 - Report on the Protection of Identified Aboriginal Values

Aboriginal Involvement

- Planning Team
 - -Each community "in or adjacent to management unit" provided opportunity to participate on planning team



Aboriginal Involvement

- Local Citizens Committee
 - Range and balance of interests
 - Opportunity for an Aboriginal representative



Aboriginal Involvement

- · Consultation Approach
 - Developed with each community
 - Developed by MNR, plan author and community
 - Tailored to meet the needs of community, for example, it will describe:
 - Specifics for consultation for each stage of planning process
 Role of representative on planning team

 - · Approach for Aboriginal values mapping
 - · Involvement in development of prescriptions to protect
 - Includes provisions for plan development and implementation

Aboriginal Involvement

- · Default Consultation Process
 - If no customized approach or approach not complete
 - Opportunities at each stage of the planning process
 - Requirements for notices, information centres, etc.
 - Requests for community involvement in the development of review of specific products

Aboriginal Involvement

- Aboriginal Values
 - Maps produced to identify locations of features or values that are used by, or of importance to, the communities
 - Encourage the involvement of communities
 - Confidentiality respected
 - Communities invited to participate in the development of prescriptions to protect values

Aboriginal Involvement

- · Aboriginal Background Information Report
 - For each community, it summarizes:
 - · Past and current resource use (e.g. hunting, fishing, trapping and gathering)
 - · Recent forest management related concerns
 - · Aboriginal values map
 - · Summary of negotiations between Ministry of Natural Resources and communities

Aboriginal Involvement

- · Social and Economic Description
 - Each Aboriginal community's demographic profile to be included
 - Encourage communities to provide, verify and/or update information

Aboriginal Involvement

- Report on the Protection of Identified Aboriginal Values
 - Documents how Aboriginal interests and values, that may be affected by proposed operations, have been addressed

Aboriginal Involvement in Forest Management Planning

- Summary
 - New manual, new requirements
 - Approach intended to encourage participation and better address needs of communities
 - Specific products produced that summarizes the consideration of Aboriginal interests
 - Looking forward to learning and adapting requirements based on our implementation experiences

APPENDIX IX

SOUTHERN HARDWOOD DEVELOPMENT PROJECT Manitoba Conservation & First Nation Limited Partnership



IOG Survey

- Participation in forestry is key to many First Nations' sustainable socio-economic
- Canadian forest industry: \$74 billion, 361,000 jobs
- Status Indians are 2.3% of Canadian Population; unemployment rate 19.1%

First Nations & Forestry in

- Manitoba

 Third largest First Nations population in Canada
- 104,099 First Nations people, 2/3 on reserve
- Unallocated Crown timber opportunities
- Desire to expand forest industry

Provincial Priorities

development

(from: Next Steps Priorities for Sustaining Manitoba's Forests)

Increase access to forest resources for Aboriginal communities for traditional & economic development activities

Support Aboriginal employment & economic development in the forest sector

Increase capacity of Aboriginal communities, organizations and individuals to participate in and carry-out sustainable forest management

THE WELL AND THE

Sustainable Forestry Unit

OUR MANDATE:

- Encouraging Aboriginal forestry developments
- Increasing value-added processing in the forest sector (including timber and non-timber forest products)
- Fostering interaction between primary and secondary industry

F irst Nations L imited P artnership

机焊焊性。制度



FNLP was formed in 2000 to work with Tembec on a softwood sawmill

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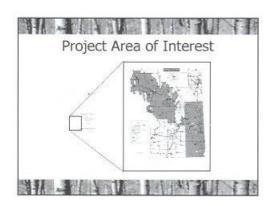
Consortium of 11 First Nations from Interlake and East Side of Lake Winnipeg







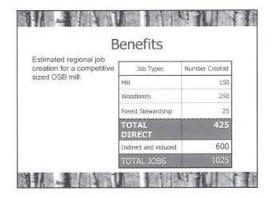








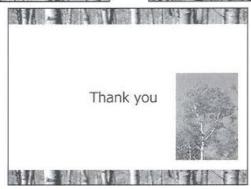






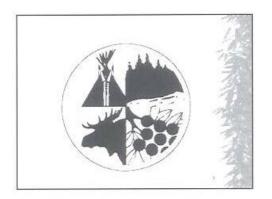






APPENDIX X

IOG STUDY
FIRST NATIONS – FOREST INDUSTRY RELATIONSHIPS:
THE LEGAL AND POLICY CONTEXT
National Aboriginal Forestry Association



National Aboriginal Forestry Association

IOG study – First Nations – Forest Industry Relationships; the Legal and Policy Context (NAFA, FNFP, FPAC)

Presentation to: Integrating Aboriginal People in Natural Resource Management Conference University of Manitoba June 2005 Lorraine Rekmans, NAFA

Who is NAFA?

NAFA is a First Nation controlled, nonprofit association that was incorporated in 1991 after a symposium held in Vancouver where more that 400 delegates called for a national organization to promote forestry as a necessary condition for,

- -Aboriginal economic development,
- -the repair of environmental degradation
- and the restoration of cultural, community and spiritual health for Aboriginal people across the country.



What does NAFA do?

NAFA works to promote and support increased Aboriginal involvement in forest management and related commercial opportunities, while staying committed to holistic or multiple use forestry, to build sustainable Aboriginal communities,



The Study

- ·Background Research
- *Update of 1998 study
- *BC component of the study was released last year and repeated in the 2005 national report
- -75 confidential interviews with First Nations, FN Companies, TCs, forest sector companies, provincial and federal officials, academics and FN and industry association



The Report

- *Section I; Statistical Overview
- *Section II: General national contextual factors
- ·Section III: Analysis of provincial and territorial context (except Nunavut)
- *Section IV: Outline charts on policy, programs, industry practices
- *Conclusions and recommendations



Links with other research

UBC study focusing on business partnerships

IOG study focusing on legal, policy, political context for these partnerships



National Overview

- *Cdn forest industry + \$74 billion, 361k jobs
- +0.25% of Cdn forest is Aboriginal land
- Aboriginal people harvest 7 million m3 (4.1% of total)
- *1500 FN business in forestry, 17,000 jobs (incomplete survey INAC)
- Status Indians comprise 2.3% of total Cdn populations, with 19.1% unemployment rate (27.6% on reserve)

Contextual Factors

- Legal developments (Haida, Bernard, Mikisew)
- International Agreements, Rio, Statement of Forest Principles, CBD, Kyoto)
- National initiatives (FNFP, CCFM C&I, FNLMA, NES)
- · Markets (Softwood)
- · Boreal Forest Initiative
- Industry trends (Corporate Social Responsibility, SFM Standards)
- . FN Governance (Aggregation, Ec. Dev. Corps)

Provincial / Territorial analyses include:

- ■Available stats
- ■Overview of treaty, lands, rights, legal context
- ■Analysis of market conditions
- ■General level of FN participation, partnerships
- ■Key elements of Provincial/Territorial Policy Framework: Aboriginal, forest, consultation policies; new legislation; program overview; new initiatives, etc.
- ■Federal initiatives in the region
- ■General FN, industry impressions of progress (data limitations, limited indicators)

Charts outlining the following:

- ■Provincial policy tools available (and pros and cons of each approach)
- ■Potential targets for program funding (and pros and cons)
- ■Compendium of forest company practices to promote FN participation

Conclusions

Increased Aboriginal participation in the forest sector can help achieve multiple objectives for First Nations:

- Economic
- Social
- Ecological

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SOCIAL OBJECTIVES

- ■skills development
- ■youth opportunities
- sense of empowerment and selfreliance
- ■respect for FN spiritual values around forests
- ■mutual understanding between FNs & others

H 2

ECOLOGICAL OBJECTIVES

- ■respect for traditional ecological values and knowledge
- ■respect for the needs of First Nations forest users
- shift to a more ecosystem-based approach to forestry

.

Increasing FN participation in the forest sector requires concerted efforts to simultaneously build both First Nations' participation and capacity.

■Neither element is sufficient on its own.

1

Greater FN Involvement

- Gaining land title (TLEs, treaties)
- Gaining forest management licenses
- Stake in forest management planning
- Developing wholly-owned businesses
- Pursuing Joint Ventures

Everything cannot be accomplished at once, gradualism can lead to results



Effective participation in the industry requires developing capacity.

- **■**financial
- ■business
- ■technical
- ■managerial capacity
- ■individuals' employment skills

(8



Generally, there has been considerable progress in FN-forest industry relationships over the past decade (data, indicators):

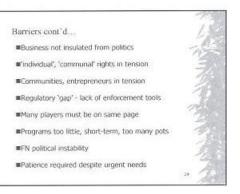
- ■less confrontation
- ■more conversation
- more mutual respect
- more business cooperation
- ■growing common ground
- ■general guarded optimism

Mounting Pressures #Growing FN land base #Legal rulings- Deigamucka, Marshall, Hakka, Powley... #International commitments #Canadian Boreal Initiative #National Forest Strategy 2003-2008 #CCFM Criteria and Indicators #Certification Standards #Corporate Social Responsibility #First Nation Governance advances

Strategic Investment

Some companies are beginning to see positive First Nations relations as potential competitive advantages, and are strategically positioning themselves as 'preferred partners' in the long-term.





Resolving land, treaty, and rights issues is key to stabilizing the environment for industry's growth and a greater FN role.

- ■Partnerships can't be built on disagreement
- ■Government immobilized by legal uncertainty
- ■FN leaders focussed on politics not business
- ■Industry dragged into FN govt disputes
- ■Industry reluctant to partner if 'threatened'
- ■Interim measures also required

4

Overcoming barriers requires political will by all – feds, provs, FNs, industry

- ■but: existing commitments to unions, licensees have to be accommodated
- fed/prov issues: Provinces can achieve a lot, but do not face the political pressures
- ■FN forestry not high enough a priority in the federal government

Aggregated FN bodies - TCs, PTOs, etc can play a major role in building partnerships and pushing FN goals.

- ■Ongoing debate Many FNs distrustful of TC paradigm
- ■But many examples of success: Carrier-Sekani, Meadow Lake, West Region, North Shore, and the Grand Council of the Crees
- ■TCs need to keep strongly connected to FNs

21

FNs increasingly focussing on job quality as well as quantity

- ■Not just silviculture, harvesting, hauling
- but also tenure, mill jobs, valueadded businesses, forestry, business management

There is no agreement as to the viability and success of joint venture models or other forms of business partnerships.

- ■Some models appear promising e.g. tripartite JVs with industry, FN dev corps, non-Aboriginal local investors
- ■Many failures this is nature of business
- ■More info on best practices and lessons learned required

There appear to be two distinct policy contexts

- ■The 'North' and the 'South'
- ■Different strategies required, different lessons learned and best practices relevant





THE SOUTH Constraints in Southern regions across Provinces; Smaller FN proportion of population - kess 'dout' AAC and licenses 'tied-up'; few greenfields Historically contentious FN-industry relations Limited skills and capacity in some FNs Industry downturn Big disagreements about rights, kand, treaties Mill jobs in decline, unionized, skill-intensive

Heavy use of forest can affect FN forest values

RECOMMENDATIONS Fed and P/T govts should put greater priority on FN forestry (SK has good models) #Forestry the chief hope for many FNs' ec dev #Cross-govt strategy required: #Overcome Fed/prov 'silo mentality' #Prov by prov analysis of opportunities, barriers #Cross-province strategies for 'North' and 'South' #Better ec dev pgm coordination (INAC, FNFP, HRSDC, ABC, WED, FedNor, CEDQ, ACDA) #Ongoing commitment by Ministers, senior officials

A long-term FN capacity development strategy must be developed

Focus on financial, technical, managerial, business capacity

Also skills development at all levels of industry

Multi-party process: FNs, govts, industry, training centres, banking institutions



FINAL CONCLUSIONS

Like forest stewardship, building effective and cooperative Aboriginal-industry relations is a long-term

■Patience, trust, commitment is

Honest communication is moving things along slowly but surely.

venture.

required.



Pursue aggregation
Support capacity building, (training, skills, professional development)

Support First Nations in planning
Consultation policies helpful (capacity is a must)
Support value added pursuits

Adapt funding models, loan guarantees, other incentives

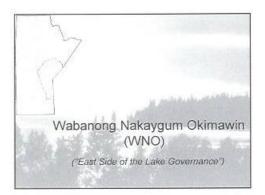
Address FN regulatory gap (on reserve success leads to successful ventures off reserve)

Improve data collection and support research



APPENDIX XI

WABANONG NAKAYGUM OKIMAWIN (WNO): EAST SIDE OF THE LAKE GOVERNANCE Wabanong Nakaygum Okimawin



East Side Planning Initiative:

> Broad Area Plan

defined as:

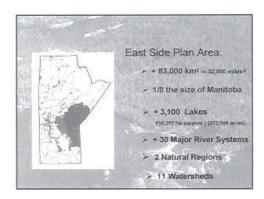
"Integrated and coordinated planning that is based on the sustainability of the ecosystem"

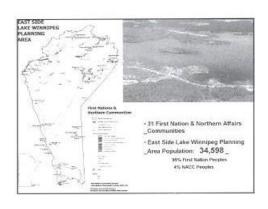
East Side Planning Initiative:

- > Broad Area Plan
- Intended to ensure that future land, resource and development decisions address the environmental, social, health, cultural and economic needs of the public, local communities, First Nations and various stakeholders and interest groups.

East Side Planning Initiative:

- > COSDI Report:
- · Openness and transparency
- Relevant, timely & available information
- · Traditional ecological knowledge (TEK)
- Aboriginal protocols development/agreement
- Capacity-building mechanisms to enable meaningful public participation





East Side Planning Initiative:

- > Phase 1: Elements of the Initiative
 - · Planning Area Boundary
 - Steps and Timing
 - Major Issues & Options
 - · Mechanisms to guide input & formulate the Plan

East Side Planning Initiative:

- > Phase 1: Major Issues
- · Aboriginal and Community Development
- Traditional Activities
- Protected Areas
- · Consultations on Land and Resource Allocations
- Existing Land Uses and New Development Proposals
- Forest Resources
- Transportation Issues
 Tourism and Recreation
- · Hydro Issues
- · Mining Issues

East Side Planning Initiative:

- > Phase 1: Other plan components
 - · A vision for the planning area
 - · Goals and objectives based on the needs of
 - · Ecosystem, land use and resource management principles and/or codes of practice based principles & codes of practice

East Side Planning Initiative:

- > Phase 1: Other plan components
 - A land use zone map with policies and guidelines/ for each zone
 - · Procedures for the regular review and amendment of the approved plan
 - · A glossary of significant resource allocations, licenses, permits and other allocations and the issuing body

East Side Planning Initiative:

- > Phase 1 Report
- Manitoba Conservation's Public Registry Network Public Registry File # 4718.00
- East Side Planning Initiative website http://www.gov.mb.ca/conservation/eastsideplan

Phase 2:

- East Side Round Table included representation from:
 - Local First Nations communities
 - · Manitoba Metis Federation (MMF)
 - · Northern Communities drawn from the Northern Affairs Community Council (NACC)

Phase 2:

- East Side Round Table included representation from:
 - · Forestry, trapping, mining and tourism sectors
 - Non-Government social, recreational and environmental organizations

Phase 2:

- East Side Advisory Committee comprised of representatives from:
 - · Local government organizations
 - · Resource industries and related associations
 - Social, recreational and environmental nongovernmental organizations
 - · Tourism businesses and organizations

Phase 2:

- Objectives of the Community visits:
 - · Present information on ESPI
 - Elicit community feedback from the community sectors that included women, youth and elders regarding conservation, environmental issues, etc...
 - Exchange information to create greater awareness regarding the East Side Process

Phase 3:

- East Side First Nation Council (ESFNC):
 - Facilitate the development of Protocols of Agreement with FN Governments
 - Facilitate the development of Protocols of Agreement with Metis Governments
 - provide information, analyze community and individual submissions, and prepare final recommendations for the Broad Area Plan

Phase 3:

- East Side First Nation Council (ESFNC):
- Assume planning authority for land use and development in providing the Province with direction and advice on major, large scale land use developments or initiatives, until such time as the Broad Area Plan and the Protocols of Agreement have been concluded
- Commission research to establish a methodology for conducting Aboriginal and Treaty Rights & Traditional Lands Impact Assessments

Phase 3:

- Working Groups to:
 - Analyze existing information about specific areas of review
 - Consider the recommendations of the Status Report
 - · Consider public input

Phase 3:

- > Working Groups to:
 - Consider the adequacy of existing data and identify gaps
 - Prepare options and recommendations for consideration by the ESFNC for inclusion in the Broad Area Plan

Phase 3:

- Communications Working Group to:
 - · Maintain information flow
 - Ensure all parties have access to information and the process

Phase 3:

- Community Land Planning Working Group to:
 - Define the components of a Communitybased land use plans and develop a framework to encourage communities to undertake similar planning activities
 - Make recommendations regarding approaches that could be used as a resource to communities, during the community-based land use planning process

Phase 3:

- Community Land Planning Working Group to:
 - Recommend how Community-based land use plans can be linked to the Broad Area plan and other planning activities

Phase 3:

- > Transportation Working Group to:
 - Develop and identify options and make recommendations for the ESFNC on implementing the recommendations in the Status report on Transportation
 - Work with government and other partners to complete the Rice River Road extension
 - Foster a Transportation Study within the planning area



APPENDIX XII DAUPHIN LAKE CO-MANAGEMENT



NRTA - Paragraph 13

Many court cases considered the effect of paragraph 13 and similar clauses:

- "Indians have the right to hunt, trap, fish for food not commerce"
- · "Indian people can hunt any time of year"
- "Right applies to all Indian people in the province"

Sparrow Test

Supreme Court of Canada (1990) suggested 3 questions:

- 1. Is the limitation unreasonable?
- 2. Does the regulation impose undue hardship?
- 3. Does the regulation deny to the holder of the right their preferred means of exercising the right?

Consider four sub questions:

- Has the Aboriginal group in question been meaningfully consulted by the Crown?
- Has the treaty right been given adequate priority in relation to other rights?
- Has there been as little infringement as possible of the treaty right?
- Is fair compensation available in the event of expropriation?

Aboriginal Fishery Management

Priorities

- · Conservation of fish stocks.
- Constitutional obligation to Aboriginal peoples (domestic use).
- Sport and Commercial fishing are reduced prior to restricting Aboriginal food fishing, when fish population is at risk.

Provincial Co-management Overview

Selected species of fish and wildlife

 Nelson River Sturgeon Agreement 1992; Beverly and Kaminuriak Barren Ground Caribou Agreement 1982.

Integrated land and resource use planning

 Northern Flood Agreement communities, Split Lake (1992), Nelson House (1996), York Factory (1996), and Norway House (1997).

Provincial Co-management Overview

Manitoba Conservation proposed to implement new prototype co-management agreements with the First Nations:

- · West Region Tribal Council
- Opaskwayak Cree Nation

Dauphin Lake

Background:

- To address the sustainability of Dauphin Lake fishery a joint Manitoba-West Region Tribal Council (WRTC) committee was formed and has been meeting regularly since May 2000.
- WRTC represents eight First Nations signatory to Treaties 2 and 4.
- · Memorandum of Understanding (MOU) was signed Nov. 2000.

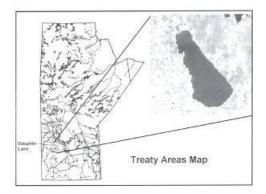
Dauphin Lake

Background:

- Located in Southwestern Manitoba
 Covers 200 Miles?
 Average Depth 7 feet

- 7 major tributaries
 Walleye, Northern Pike are the preferred species





Dauphin Lake

Background:

- · Walleye main Sport fish
- · Maximum sustainable yield 100,000 lbs for walleye
- Estimated harvest (mid 1990's):
 - 30 50,000 lbs for recreation
 - 30,000 lbs for commercial 5,000 lbs domestic



Dauphin Lake

Background:

- · Recreational Fishery:

 - Significant summer and winter sport fishing
 Local fish enhancement groups very active
 Best walleye fishing in southwestern MB.
- Commercial Fishing:

 - Winter fishing
 750 lb walfeye tolerance
 Maintained for fisheries management purposes

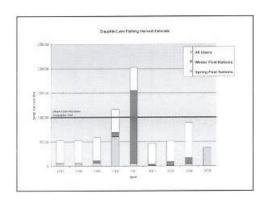


Dauphin Lake

Background:

- Domestic Harvest
 - Late 1980's First Nations increased spring harvesting
 Historical information indicates First Nation use.
 Local opposition to amount and methods of fishing (gill nets in-stream activity).



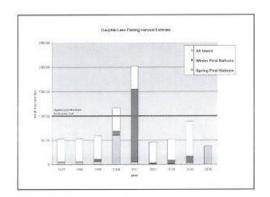


Conservation Closure

· March 2000; Conservation Closure enacted for Dauphin Lake and all in-flowing tributaries from:

April 1 to May 14th 1999 April 1 to May 12th 2000

- Manitoba Conservation agreed to limit enforcement in 2000 spawning season
- · Conservation Closure rescinded September 2000 as a sign of good faith
- · WRTC proposed a volunteer enforcement protocol

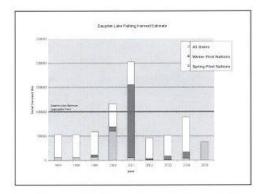


Conservation Closure

- March 1, 2002, Conservation Closure enacted for Dauphin Lake and all in-flowing tributaries:
 - All walleye 45-70cm must be released. This applies all year, to all users.
 - Walleye within the prohibited slot may only be harvested by First Nations people under the authority of a permit issued by Manitoba Conservation in consultation with WRTC.

Conservation Closure

- March 1 to and including May 10 all in-flowing tributaries to Dauphin Lake and parts of Dauphin Lake within 1 km of the mouths of in-flowing tributaries are closed to all fishing including dip netting.
- Remainder of Dauphin Lake remains open to all fishing with the above slot limit in effect.
- First Nation's people may harvest walleye within the slot under the authority of a permit.



Dauphin Lake

WRTC Resource Office:

Created a resource office to coordinate activities.

- Currently 4 staff positions
 Federal funding supported
 Provincial support.
- - Office space
 1 Staff position
 Financial support
 Other funding support individual initiatives.

Other actions

- · Buy-back 15 of the 30 commercial licenses for WRTC
- · Completed a creel census for to determine recreational harvest
- Reduced commercial harvest from 30,000 lbs to 22,500 lbs

Successes

- · Improved working relationship with First Nations
- · Better understanding of First Nation issues
- · Opportunities in other resource sectors
 - Forestry & Wildlife

Problems

- · Slow process
- · Agreement with Treaty office but not necessarily FN communities
- · Need to respect Treaty (NRTA) rights
- · Lack of financial and human resources
- · Socio-economic issues entwined with resource management issues
- · No management plan to date

Conclusion

- Province wants to ensure the long term sustainability of Dauphin Lake for future generations.
- · WRTC wants to ensure the long term sustainability of Dauphin Lake for future generations
- · Co-management process takes time & funding