

# FNLMA REPLACEMENT



# Spirit and Intent of the Framework Agreement

## Framework Agreement on First Nation Land Management

### *49. ENACTMENTS BY THE PARTIES*

*49.1 Canada agrees that the federal legislation that it recommends to Parliament will be consistent with and will ratify this Agreement.*

*49.2 In the event of an inconsistency or conflict between the federal legislation and any other federal enactment, the federal legislation will prevail to the extent of the inconsistency or conflict.*

# The FNLMA

- **First Nations Land Management Act**
- **S.C. 1999, c. 24**
- Assented to 1999-06-17
- *An Act providing for the ratification and the bringing into effect of the Framework Agreement on First Nation Land Management*

# FNLMA Misalignment

- The FNLMA describes authorities of the Surveyor General of Canada regarding surveys in (6.01(b) of the FNLMA - Not in FA
- FNLMA has provided a broader and more general definition of an interest in land than the FA.
- 2018 amendments to the Framework Agreement lists examples environmental law-making powers; Not in FNLMA
- No mention of the Lands Advisory Board in FNLMA
- Other problems fixed in earlier FA Amendments

# Why is Incomplete Text and Misalignment a Problem?

1. Many believe FNLMA is the Operative Document
2. Potential for legal challenge regarding different interpretations between the FA and FNLMA
3. Misleading impression that the FNLMA is the complete text of what First Nations and Canada agreed to and are implementing

# Why is Incomplete Text and Misalignment a Problem?

4. Misleading impression that First Nations will become governed by the FNLMA
5. Misleading impression that Canada has “created, limited or granted” FN Inherent Rights
6. Unnecessary time consuming and costly 2 step process when amendments to the *Framework Agreement* are agreed to by First Nations and Canada.

- Canada's Legislative Drafting Process – Cabinet Confidence
  - Neither First Nations nor the LAB are privy to final legislative wording
  - Limited Federal understanding of the Framework Agreement

# LAB/RC Efforts

2017

- Minister's Working Group Proposal (MWG)
- Rationale and Draft legislation Provided

2018

- ISC Engagement
- Follow up with MWG

2019

- LAB Resolution
- Scout Communications
- Letters to PM, incoming Ministers, Opposition Parties, Operational First Nations and AFN
- Meetings with ISC Senior Management, Minister of Justice Office, MP Anthony Rota

2020

- Meeting with NRCAN and ECCC
- Planning meetings with:
  - Minister Miller
  - Vancouver Island MPs
  - Minister Lametti
  - Perry Bellegard
- Op Ed



## Support Efforts

- Staff/LAB follow up with Operational First Nations
  - Assist with MP Meetings
  - Provide Background Documents
  - If MP is Liberal – Request that they speak with Minister Miller
  - If MP opposition – Request support for replacement legislation
- LAB Directors/MP meetings
- Robert, Austin, Bill McCue and Chief Leah George are seeking/conducting meetings with Ministers

## Outcome

- Renewed focus on the Framework Agreement
- Less Misinformation, no unnecessary repetition or divergent language
- Quicker, more respectful and direct way to negotiate amendments

THANK YOU

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