

Traditional Holdings Project Community Update

February 12, 2020

Project Overview

This project supports the LNIB in more comprehensive Land Code implementation

- Goal → documenting and understanding the history of issues around traditional holdings on LNIB community lands, and how the membership is thinking about these issues today
- Goal → understanding the Nle?kepmx/LNIB protocols and principles used in the past to make decisions, and considering how they could be used/adapted to decision-making processes today.

Work to date:

- Historical research focused on understanding the history of specific lands issues related to traditional lands on LNIB reserves
- Research

What We Learned



Past Efforts

- Formal/Informal meetings
- Consultations with DIA/Reports
- Interviewing witnesses/Affidavits
- Hearings/Forums/BCRs
- Petitions
- Technical review/Survey
- Legal Review
- Visit the Land
- Elders/Lands Committee

LNIB has tried many processes in the past to resolve our land issues.

Some of what was tried included:

- Formal and informal meetings (bringing membership together, transparency in the process, working with families and communities);
- Consultations with DIA (Indian Affairs) and other experts who did research and wrote reports;
- Interviewing witnesses and signing affidavits or statements;
- Hearings/forums around BCRs;
- Petitions (membership recognition of some interests);
- Technical review/survey;
- Legal review both for members and LNIB;
- Visits to the land by C&C and members;
- Different committees like Elders Committee and Lands Committee.

LNIB tried many processes that, for different reasons, did not work.



1990s Process

1990s CP Application Process:

- CP Application
- Evidence
- Land Committee
- Chief & Council
- BCR
- Minister Approval

In the 1990s we got the closest to developing an effective LNIB system

We want to recognize all of the hard work that the community put into developing that process. Some components of that system were: CP application form and process, members could submit evidence (primarily documentation but also oral evidence); formation of a Lands Committee made up of members working with Lands Manager to review applications and bring forward issues to Chief & Council; Band meetings where C&C considered applications; if more research was required this would be the next step; if the CP application was approved, it would be recommended for BCR, which then was signed recognizing the land interest. This then might require a land survey and approval by the Minister.

LNIB did a lot of work in the 1990s under this process and the membership was able to resolve some issues. It was a complicated time though because at the same time we had issues like the Billboard signs on IR 2, the proposed Casino and a ratification vote that was being prepared. LNIB was looking to economic development, which gave urgency, real or perceived, to settling the issues.

The process was good and did include some of LNIB's protocols, but could not go far enough because land was still managed by DIA (Indian Affairs) – if LNIB made decisions, the Minister needed to approve them. Under Land Code, LNIB is in a different situation.



Protocols & Principles

- Nte?kepmx Dispute Resolution
- Grandmother Teachings
- Wrapping Our Ways Around Them
- Indigenous Laws
- LNIB Cultural Heritage Policy
- Other LNIB projects - TUS

Being in Land Code, we have both an opportunity and a challenge.

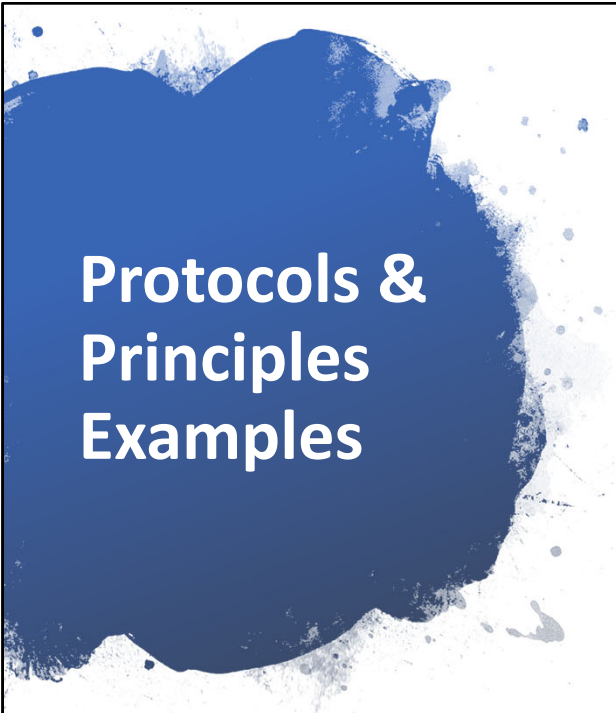
Decisions about LNIB reserve lands ultimately lie with LNIB. LNIB can design a process that emphasizes the what members have always felt is important. One of the things we asked was how did we make decisions in the past? How did we resolve disputes? We also wanted to know more about how things came to be the way they are today.

A lot of research was conducted this year

Looking at protocols and principles around land and at the lands files to understand the history of the issues and to see if and where we tried to bring these principles into play. First we looked at what early anthropologists wrote (Teit 1900). Then we looked at other types of documents:

- Nte?kepmx Dispute Resolution Process (NNTC 2009) describing a governance system;
- Academic work like Beatrice Anderson's thesis that described Grandmother Teachings;
- Child and Families work like Wrapping Our Ways Around Them (Walkem);
- Indigenous Laws and how LNIB held them up (e.g.: water governance and biosolids);
- The work on LNIB's Cultural Heritage Policy;

and most importantly, we looked back at what the community has told us time and again through various projects.



Protocols & Principles Examples

- Traditional justice system (Chief, Watchmen, Captains)
- Respect, Responsibility, Relationships, Generosity, Sharing, Connections, Humility, Family, Youth/Elders, Stewardship, Resolution
- Take care of the land and the land takes care of you

Here are a few of the principles we found consistently described in the documents we reviewed:

Ultimately we learned things like the importance of family, taking care of the land, using the land in the best way possible, asking permission from each other, working together as families and as a community to make decisions, being transparent and open, meeting and talking together about our issues so that everyone has the chance to share what they know and understand, and involving family and membership in decisions. In the past, we met at places on the land and talked about issues and reached decisions where we could. This changed over time, we started meeting at the Chief's house then the Indian Agent's office, then the Band Hall, but the principles remained. We met, we talked about the issues, and we tried to resolve them.

Almost from the time the first reserve was set up, we had land issues and we had threats to our protocols and principles, and to our way of resolving disputes ourselves. It worked in the past, it worked back beyond the time we can remember today. We did a historic timeline, looking back at all the things that happened to us over the centuries – the threats to our title and rights, the interference of government officials, the change in our culture and way of making a living. These concepts were also heard from the membership.



What We Heard from the Community

- Land ownership
- Central role of families
- Ways of showing ownership and connection
- Transparency and trust
- Sustainability

Members told us we needed to understand some important things about the land, and that these things should be reflected in any new decision-making processes:

- LNIB members are **landowners** of their traditional holdings. This is an important relationship – or connection – between people and the land, and between members. We see this reflected in LNIB protocols and principles
- There are **different ways of showing ownership** or connection to land. These may look different for different landowners, depending on when and how they acquired their lands. One very important way to prove ownership of land is to have the support of members who know the history of that land.
- **Families** – and their internal decision-making processes – should play an important role in work to resolve traditional holdings.
- Members want a **transparent** allotment process where everyone can participate equally. Members should have a chance to know when an allotment has been requested, and have their say. Decision-making processes should also be transparent. Membership trust in a process will be essential to its success.
- **Sustainability** is on the minds of the membership – in different ways:
 - Individuals and Families with traditional holdings want to be able to sustain their presence on their lands through the certainty of registration
 - Members have a responsibility to care for the land by making decisions that respect the water, the land, the plants and animals, and each other. Making sure proposed uses are suitable (environmental and cultural sustainability)
 - The sustainability of a thriving community – and the management of LNIB community lands for the benefit of all members – is a priority. This is difficult when the size of the reserve lands is inadequate for the growing population.



Challenges

- Fatigue with the process
- Trust Issues
- Disagreements
- Impacts of membership changes
- Updating surveys
- Complicated estates

We also heard from members:

- Members are frustrated with how long this process is taking. The issues are complex, and efforts have been made before, without satisfactory outcomes.
- Some members are uncomfortable with the uncertainty that a new process to address traditional holdings might bring. They are worried about their future on the land and that of their children and grandchildren.
- Despite the challenges that lie ahead, many members are eager to resolve unregistered traditional holdings and look toward the future.
- Some of the challenges we heard about are more straightforward, like a need for updated surveys, a more robust record-keeping system for lands documents, a "streamlined" process for registering uncontested holdings, and additional work to untangle complicated estate cases.
- Other challenges are more complex and will take good faith work by membership and LNIB to determine how to approach them if traditional holdings are to be resolved and registered. Many of these have to do with complicated, historical disagreements between and within families, and between families and LNIB. Hopefully, some of the historical research we have done through this project can help the membership to understand the history of these issues better, and work toward resolutions.

Moving Forward Together

- Learning from the past
- Guidance from protocols and principles
- Understanding the community's wants and needs today
- Making recommendations for a fair and transparent process

- Taking what we've learned over the past year – through research and from the membership – to think about what a fair, transparent, community-driven approach could look like.
- What has the best chance of success? We know what's been tried in the past. Good efforts have been made. The major challenge was that LNIB did not have control over the land – that is different today.
- Land Code is a new opportunity to try again – to set the membership up for success. There will still be challenges, of course, but now LNIB has the option to work through these challenges in ways that make sense to the membership. Guided by Nle?kepmx/LNIB principles and protocols.
- We are thinking about the recommendations we will be making in the final report. We're thinking about them at a few different levels:
 - Overarching recommendation to commit to regular membership review of the process, and to refer to principles and protocols when evaluating how the process is going, and agreeing to work together in an open way – for as long as it takes – to get it right
 - Big picture recommendations...
 - Specific recommendations for guiding an allotment law...
- Working with the Lands Dept to develop Next Steps for this process.

