

**SUMMARY OF:
FRAMEWORK AGREEMENT ON FIRST NATIONS LAND
MANAGEMENT**

Treaty One First Nations – Naawi Oodena lands (Treaty One Lands)

The Framework Agreement on First Nation Land Management was signed by the Minister of Indian Affairs and Northern Development and 13 First Nations on February 12, 1996.

The Treaty One Joint Reserve Land Code

A Treaty One Joint Reserve Land Code, drafted by each of the 7 Treaty One First Nation communities, will be the basic land law of the Treaty One Lands and will replace the land management provisions of the *Indian Act*.

While each of the 7 Treaty One First Nations will have its own Treaty One Joint Reserve Land Code, all of these land codes will be uniform, meaning they will all be the same. The Framework Agreement on First Nation Land Management requires each Treaty One First Nation to have their own separate joint reserve land code with uniform provisions.

Four of the seven Treaty One First Nations (Peguis, Roseau River, Sagkeeng, and Sandy Bay) must hold a community referendum to vote to approve the Treaty One Joint Reserve Land Code and the Individual Agreement and the Treaty One Joint Reserve Land Code will only apply to the Treaty One Lands and not to any other reserve lands of any of the Treaty One First Nations.

Three of the Seven Treaty One First Nations (Long Plain, Brokenhead and Swan Lake) have existing land codes in place and will amend their existing land codes to attach the Treaty One Joint Reserve Land Code as a schedule, to their existing land code. These three Treaty One First Nations already have an existing Individual Agreement in place and will amend their Individual Agreement to include the Treaty One Lands. Again, the Treaty One Joint Reserve Land Code will only apply to the Treaty One Lands and not to any other reserve lands of any of the Treaty One First Nations.

The Minister of Indigenous Services Canada will no longer be involved in the management of the Treaty One Lands. The Treaty One First Nation Joint Reserve Land Code does not have to be approved by the Minister.

The Treaty One Joint Reserve Land Code of each Treaty One First Nation is drafted by each First Nation and provides for following matters:

- Identifies the reserve lands to be jointly managed by the Treaty One First Nations
- Sets out the general rules and procedures for the joint use and occupation of these lands by the Treaty One First Nations and members, and others,

- Provides financial accountability for revenues from the lands (except oil and gas revenues, which continue under federal law),
- Provides the procedures for making and publishing Treaty One First Nation land laws,
- Provides conflict of interest rules,
- Provides a community process to develop rules and procedures applicable to land on the breakdown of a marriage,
- Identifies a dispute resolution process,
- Sets out procedures by which the Treaty One First Nations can grant interests in land or acquire lands for community purposes,
- Allows the delegation of land management responsibilities,
- Sets out the procedure for amending the Treaty One First Nation Land Codes.

Legal Status and Powers of Treaty One First Nations

The Framework Agreement provides the Treaty One First Nations with all the legal status and powers needed to manage and govern the Treaty One Lands and resources.

While the Treaty One First Nations will not be able to sell their land, they will be able to lease or develop their lands and resources, subject to any limits imposed by Treaty One laws, the Governance and Management Agreement and the Treaty One Joint Reserve Land Codes.

Law-Making Powers

The Treaty One First Nations jointly managing their Treaty One lands under the Treaty One Joint Reserve Land Codes will have the power to make laws in respect of the development, conservation, protection, management, use and possession of the Treaty One Lands.

Treaty One Joint Reserve Land Codes do not authorize laws relating to the taxation of real or personal property. Such laws must be made separately pursuant to section 83 of the *Indian Act* or pursuant to the First Nations Fiscal Management Act.

The Treaty One First Nations can continue to make by-laws under section 81 of the *Indian Act*.

Land Management

The Framework Agreement provides the Treaty One First Nations with all the powers of an owner in relation to its Treaty One Lands, except for control over title or the power to sell it.

Treaty One First Nations can manage land and resources, as well as revenues from the land and resources, in accordance with the Treaty One Joint Reserve Land Codes and the Governance and Management Agreement.

Third Party Interests

Interests in the Treaty One Lands held by third parties, or by Canada, will continue in effect according to their terms and conditions under the Treaty One Joint Reserve Land Codes. No new interests or licences may be acquired or granted except in accordance with the Treaty One Joint Reserve Land Codes.

First Nation Expropriation

The First Nation will have the power to acquire lands for community purposes upon payment of fair compensation to those whose interests are affected.

Accountability

The Treaty One Joint Reserve Land Code will make provision for a First Nation to report to its members and to be accountable for its management of lands, resources and revenues.

Marriage Breakdown

The Treaty One First Nations are able to deal with the rights of spouses to interests in the Treaty One Lands if there is a marriage break down.

Registration of Interests

Canada will maintain a First Nations Land Register to record all documents respecting interests in the reserve lands.

Protection of First Nation Land

Protecting and preserving the quantity and quality of existing First Nation lands is a fundamental principle of the Framework Agreement. Some aspects of this principle are summarized below.

Taxation and Seizure under Legal Process

The current exemption of reserve lands, and personal property situated on-reserve, will continue under the relevant provisions of the *Indian Act*.

Environmental Protection

The Treaty One First Nation will have the power to make environmental laws.

Further agreements are expected between the Treaty One First Nations and Canada for funding these laws and for harmonization with other provincial and federal environmental laws.

Voluntary Exchange of Lands

The Treaty One First Nations may decide that it is advantageous to exchange some of its Treaty One Lands for other lands. Provision can be made in it's the Treaty One Joint Reserve Land Code for a procedure to negotiate and approve such exchanges. The Governance and Management Agreement of the Treaty One First Nations must also be adhered to for any voluntary land exchange.

No Provincial Expropriation

Under the Framework Agreement there can be no expropriation of First Nation land by a provincial or municipal government or agency.

Restricted Federal Expropriation

Canada's power to expropriate First Nation land is restricted. That power can only be exercised with Cabinet approval and only when the expropriation is justified and necessary for a federal public purpose that serves the national interest. Compensation must include provision for equivalent lands so that the land base of the Treaty One First Nations is not diminished.

Enforcement

The Treaty One First Nations will have full power to enforce its land and environmental laws and may enter into further agreements with other jurisdictions to assist in such enforcement.

The Treaty One First Nations can appoint its own Justice of the Peace to try offences created under the Treaty One Joint Reserve Land Code or a Treaty One First Nation law, and can appoint its own prosecutor.

Treaty One First Nation laws may make provision for search and seizure, fines, imprisonment, restitution, community service or alternate means for achieving compliance with its laws.

Continuing Federal Responsibility

Canada will remain liable for and will indemnify the Treaty One First Nation for losses suffered as a result of any act or omission by Canada, or its agents, that occurred before the Joint Reserve Land Code comes into effect. After that date, the Treaty One First Nations are responsible for their own acts or omissions in managing their Treaty One Lands.

Dispute Resolution

The Treaty One First Nations will establish its own processes for dealing with disputes in relation to its Treaty One Lands and resources. These can include mediation, neutral evaluation and arbitration. In the case of a disagreement between the Treaty One First Nations and Canada on the meaning or implementation of the Framework Agreement, there are provisions in the Framework Agreement to resolve the dispute outside the courts.

Lands Advisory Board

A Lands Advisory Board is in place to assist the First Nations in implementing a land management regimes, including developing model land codes, laws, documents, agreements and management systems.