TREATY 8 FIRST NATIONS OF ALBERTA

FIRST NATIONS CONSULTATION POLICY

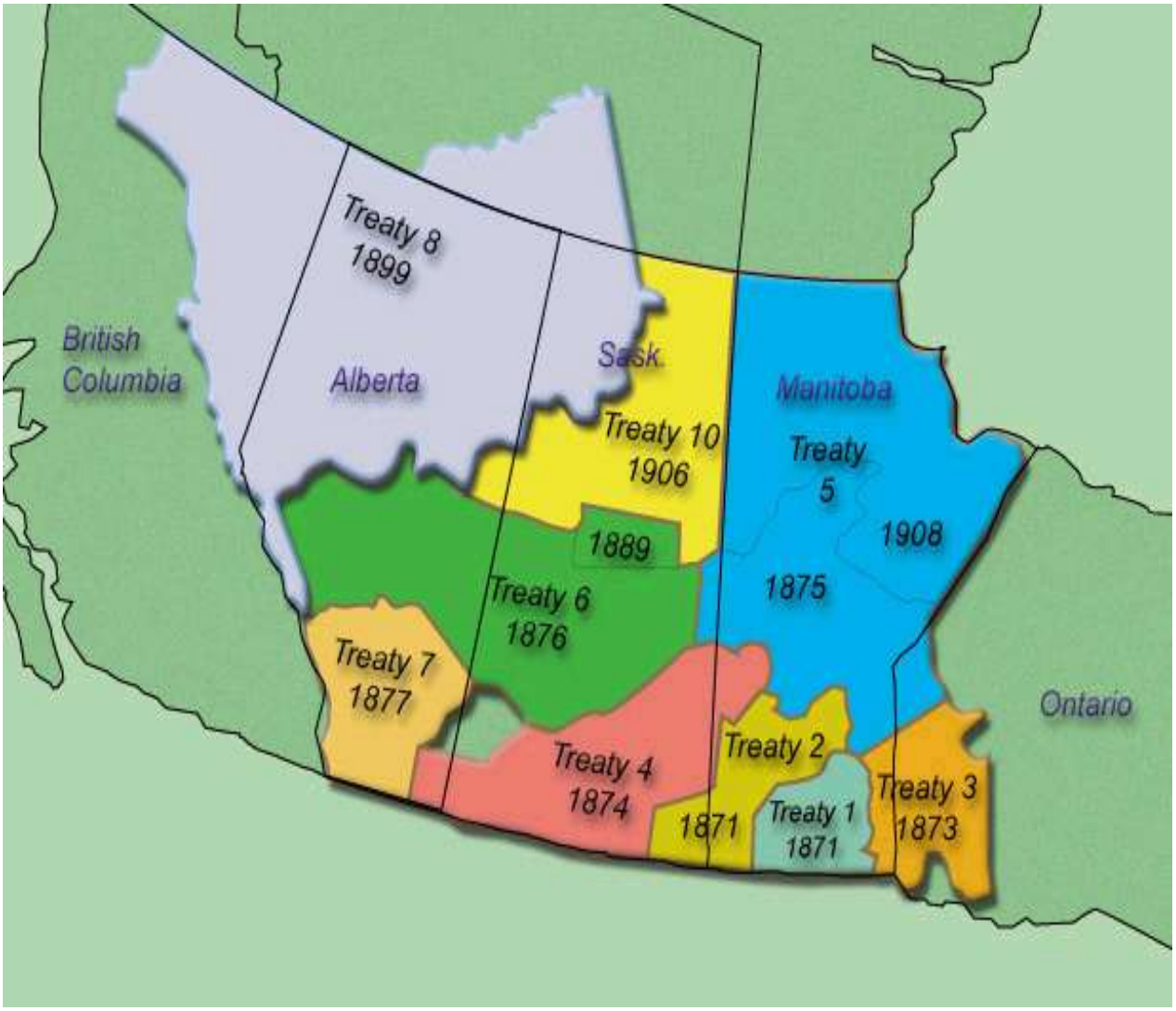
(MARCH 7, 2005)

FIRST NATIONS CONSULTATION GUIDELINES FRAMEWORK

(JUNE 27, 2005)

Prepared by: Livelihood Department of the Treaty 8 First Nations of Alberta

Treaty 8 Territories



Made-in-Treaty 8 Consultation Policy

The collaborative actions and efforts of the Chiefs Consultation Policy Committee and the Consultation Technical Team resulted in the development of 'made-in-Treaty 8' Consultation Policy by March 2005. A few months ahead of the Government of Alberta's Consultation Policy release in May 2005.

This policy was consequently made available to all the member First Nations of the Treaty 8 First Nations of Alberta and the Aboriginal Affairs and Northern Development Minister.

TREATY 8 FIRST NATIONS OF ALBERTA

CHIEFS CONSULTATION POLICY COMMITTEE
MARCH 7, 2005
SLAVE LAKE, ALBERTA

MOTION: MOVED BY: CHIEF BERNIE MENEEN
SECONDED BY: CHIEF ROLAND TWINN

RE: TREATY 8 FIRST NATIONS' CONSULTATION POLICY

THAT the Chiefs Committee on Consultation adopts Draft 3 of the Treaty 8 Consultation Policy and that it be tabled with Minister Calahasen immediately.

DISPOSITION: CARRIED UNANIMOUS

TREATY 8 FIRST NATIONS OF ALBERTA CONSULTATION POLICY

TREATY 8 POLICY AND PRINCIPLES

PREAMBLE:

The Chiefs and Leaders entered, under their natural law, into Treaty # 8 on the basis of peace and friendship had no basis, capacity, or intention to cede or surrender any of the lands now known as the Treaty 8 Territory within the province of Alberta.

The peoples of Treaty 8 (Alberta) and their respective First Nations governments have never relinquished their role and responsibility as Stewards of these lands.

Treaty 8 First Nations in Alberta and their peoples assert their right to engage in their respective livelihoods collectively over the entire Territory affirmed from the Royal Proclamation of 1763, Treaty 8, the Constitution Act, 1982 and jurisprudence and, will determine their specific interests through internal protocols.

Treaty 8 First Nations in Alberta and their peoples assert that any activity on Crown lands in the Treaty 8 Territory including all regulatory matters require consultation in terms of their impact on Treaty and Aboriginal Rights as affirmed in the Constitution Act, 1982 and their other interests affirmed in jurisprudence.

Treaty 8 First Nations in Alberta and their peoples assert that consultation with their duly authorized officials and bodies is beneficial to their respective First Nations and Alberta.

Treaty 8 First Nations in Alberta and their peoples assert that it is their desire to create greater certainty of environmentally sound and sustainable resource development through a consultation process that is satisfactory to their governments, Alberta.

POLICY STATEMENT:

It is the policy of Treaty 8 First Nations in Alberta and their peoples that:

1. Alberta has the legal duty to consult with Treaty 8 First Nations in Alberta governments where any development on Crown land may impact the asserted rights or interests of Treaty 8 First Nations in Alberta arising from the legal duty that arises whenever the Crown knows or has constructive knowledge of an Aboriginal right or title, and is considering conduct that might adversely affect it.

2. Appropriate mutually acceptable consultation processes with Treaty 8 First Nations in Alberta, well defined with mutually acceptable timelines, need be developed in a timely fashion through the formation of a joint "Consultation Guidelines Table".

3. Through consultation, Alberta must assess in a mutually agreed regime the potential impact of Crown-sanctioned activities on Treaty 8 Territory with respect to Treaty 8 First Nations in Alberta asserted rights and interests to avoid or minimize such impacts and, where necessary provide other appropriate remedies as is consistent with the laws of Canada.

CONSULTATION PRINCIPLES:

1. Consultation between Alberta and Treaty 8 First Nations in Alberta and their peoples must be meaningful and in good faith.

2. Consultation between Alberta and Treaty 8 First Nations in Alberta and their peoples to insure informed decision making shall occur at the strategic planning stage prior to any form of disposition such as licensing or the granting of permits.

3. The Government of Alberta is responsible for managing the consultation process with respect to Treaty 8 (Alberta) Territories and, in some cases, due to federal law; the federal government will be engaged.

4. Consultation is required between Treaty 8 First Nations (Alberta) Governments and the Government of Alberta with respect to Treaty 8 Territories in Alberta and, where appropriate on specific projects, the project proponent.

5. All parties are expected to provide all available relevant information, with adequate time and capacity to review.

6. The Government of Alberta must make good faith efforts to amend applicable legislative and regulatory timelines to accommodate any meaningful consultation process.

7. Consultation on any activity that involve a number of provincial departments or other orders of government should be integrated as required and organized according to sub-regional integrated resource management planning principles.

CONSULTATION POLICY PRINCIPLES ACKNOWLEDGEMENT:

1. The autonomy of each Treaty 8 First Nation in Alberta must be acknowledged and assured in terms of non-interference with their specific agreements, discussions, and negotiations with Alberta and industry.

2. This policy must acknowledged by Alberta through an appropriate instrument that will assure Treaty 8 First Nations in Alberta that the Government of Alberta affirms, amend or interpret its consultation policy to reflect the Treaty 8 First Nations in Alberta policy in a legally acceptable manner.

3. The Government of Alberta must acknowledge its responsibility to provide the necessary resources to assure the meaningful participation of the Treaty 8 First Nations in Alberta in the consultation process.

Treaty No. 8's Lifespan

environmentally sound and sustainable resource development through meaningful 'consultation processes'.

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TREATY 8 FIRST NATIONS OF ALBERTA

FIRST NATIONS

CONSULTATION GUIDELINES FRAMEWORK

June 27, 2005

TREATY 8 FIRST NATIONS OF ALBERTA

ANNUAL GENERAL MEETING
JUNE 28, 2005
EXECUTIVE ROYAL INN WEST EDMONTON
EDMONTON, ALBERTA

MOTION: **MOVED BY:** **CHIEF ARTHUR NOSKEY**
SECONDED BY: **CHIEF RICHARD KAPPO**

RE: FIRST NATIONS CONSULTATION GUIDELINES FRAMEWORK

THAT THE TREATY 8 CONSULTATION TECHNICAL TEAM OF THE CHIEFS CONSULTATION POLICY COMMITTEE OF TREATY 8 HEREBY REQUEST THAT THE CHIEFS OF TREATY 8 APPROVE THE DRAFT CONSULTATION GUIDELINES FRAMEWORK DATED JUNE 27, 2005 AS A BASIS FOR CONTINUANCE OF DISCUSSIONS WITH THE GOVERNMENT OF ALBERTA TO WORK TOWARDS ESTABLISHING A MUTUALLY ACCEPTABLE SET OF LAND MANAGEMENT AND RESOURCE DEVELOPMENT CONSULTATION GUIDELINES.

DISPOSITION: **CARRIED UNANIMOUS**

TREATY 8 FIRST NATIONS OF ALBERTA (T8FNA)

CONSULTATION GUIDELINES FRAMEWORK

1. BASIC PRINCIPLES

The Treaty 8 First Nations of Alberta (T8FNA) Chiefs Consultation Policy Committee (CCPC) and Technical Advisory Group in facilitating the member First Nations interests is bringing forward to the Joint Alberta-Treaty 8 Working Table a Framework that captures the broadest possibilities in achieving honourable, lawful and meaningful consultation with industry and governments with respect to land and resource development in Treaty 8 (Alberta).

1.1 It is an objective of this Framework that meaningful and economically beneficial agreements with industry and governments from land and resource development in Treaty 8 (Alberta) continue and are significantly enhanced with respect to our member First Nations.

1.2 The T8FNA asserts that it is guided in its work by the fact that our efforts within this initiative is First Nation driven and all work must proceed without prejudice to the current and planned efforts of the member First Nations individually and collectively with respect to land and resource development.

1.3 All work undertaken must assure that Treaty and Aboriginal Rights of the member First Nations and their peoples are not abrogated or derogated.

1.4 Appropriate means must be advocated and realized to assure the sustainability of development is maintained through sound means of environmental protection to which member First Nations have involvement and participation including the protection of their traditional use of the lands within the meaning of the law.

1.5 A government to government relationship must be preserved by assuring dialogue is centred around reaching accommodation of a Guideline Framework that represents the interests of the Treaty 8 (Alberta) First Nations and is used to inform Alberta (and Canada and Industry at the appropriate times) in order that they design their governmental instruments to achieve a harmony of interest.

1.6 The Treaty 8 First Nations of Alberta assert that the Crown has an obligation to consult with Treaty 8 First Nations under circumstances where;

1.6.1 the Treaty 8 First Nation asserts livelihood interests within Treaty 8 lands;

1.6.2 the First Nation is seriously pursuing resolution of their claims regarding livelihood interests; and

1.6.3 the Treaty 8 First Nation has presented information to demonstrate, on a prima facie basis, that such a livelihood interest are likely to exist.

2. BASIC CONSULTATION GUIDELINE ELEMENTS

2.1 Acknowledgment of Rights

There must be express acknowledgement by the Crown in right of Alberta and third parties that Treaty 8 First Nations (Alberta) have legally identified and adjudicated and, constitutionally protected rights and interests. Alberta and all relevant third parties must honour and protect the First Nations' rights as the starting point of consultation and overriding goal of the guidelines of the consultation process.

2.2 Provision of Information

First Nations must be provided with all relevant information concerning a proposed decision in a timely manner. They must be fully informed, not just about the details of the proposed decision or action, but about its potential impact on them i.e. what it will mean for the First Nations' lands, peoples, rights, title, traditional use and existing relationships and activities.

The Crown in right of Alberta and third parties have a positive duty to gather and assemble the necessary information and provide it to the First Nations. This will often require commissioning independent studies and/or providing the First Nations with the resources and capacity to undertake the necessary analysis. This must be done at the earliest possible stage.

The information must extend beyond the specific decision or proposal to examine broader, cumulative impacts. Impacts cannot be considered in isolation, but only in the context of ongoing and multiple and cumulative pre-existing impacts already experienced by the First Nations.

The provision of information is only the first critical step in the consultation process. On its own, it cannot satisfy even the most minimal consultation requirement. First Nations must also have an opportunity to respond, be heard, and express their consent.

2.3 Capacity-building

The First Nations must be provided with the time and resources to enable them to participate effectively for consultation to be meaningful. This requires funding for the hiring of the necessary in-house personnel and external expertise. The First Nations require sufficient resources to enable them to process and respond to applications, to conduct their own analysis, and to engage in meaningful discussions with the Crown and third parties.

Capacity support funding is also required to enable the First Nations to participate and ensure that lands and resources are managed so that resource development is carried out in a sustainable manner including a primary responsibility of preserving healthy lands, resources and ecosystems for present and future generations.

Further, capacity support funding is also required to enable the First Nations to participate in achieving meaningful economic participation with respect to their "livelihood" interests in land and resources.

2.4 Two-way Process

Consultation with the First Nations must be a two-way process. This is beyond the mere provision of information or the communication of decisions after-the-fact. The First Nations must be given an opportunity to express their interests and concerns and have them addressed in a meaningful way.

Problems or concerns identified by the First Nations must be specifically responded to. Suggestions offered by the First Nations cannot be ignored; they must be adopted, or valid reasons for rejection provided.

2.5 Avoiding Impacts

The first goal of consultation must be to avoid impacts on the First Nations' rights and interests. The onus is on the Crown (and third parties, if any) to ensure that all reasonable alternatives that do not negatively impact on Treaty and aboriginal rights have been considered.

2.6 Minimizing Unavoidable Impacts

If some degree of impact is unavoidable, the goal of consultation is to ensure that every possible effort is made to minimize the impact on the First Nations. Again, the onus is on the Crown and third parties to examine all reasonable alternatives and to adopt the approach that impacts on the First Nations as little as possible. By definition, the First Nations must be directly involved in this process.

2.7 Priority of First Nations' Interests

Minimizing impacts requires that the First Nations' interests be given first priority in relation to the Crown's objectives and the interests of third parties. First Nations priority is required by fiduciary principles. The fiduciary relationship requires that Crown not allow the interests of a third party, or its own interests, to trump its overriding obligations to the First Nations.

2.8 Fair Compensation

Even where impacts are minimized to the greatest extent possible, the First Nations must be provided with compensation for impacts that remain. Consultation is necessary to determine the level and form of compensation.

2.9 First Nations Involvement and Benefit-Sharing

Part of the process of ensuring adequate priority, minimal impact and fair compensation is to ensure that the First Nations are actively involved in decision-making, in the ongoing control and management of projects, and that they share in economic and other benefits. This includes ensuring employment opportunities for First Nations members, as well as revenue-sharing or comparable long term benefits for the First Nations involved. The First Nations must also remain active in any monitoring of the project, to ensure that the requirements of consultation, priority, minimal impact and fair compensation are met on an ongoing basis.

2.10 Dispute Resolution Processes

Dispute resolution processes (DRP) which are mutually determined for resolving conflicts rather than adversarial approaches must be developed and adopted.

2.11 Mitigation, Accommodation and Compensation (MAC) Plan

All efforts to minimize impacts and ensure fair compensation must be set out in a detailed Mitigation, Accommodation and Compensation (MAC) Plan. The MAC Plan must lay out specific commitments in the way of mitigation, accommodation and compensation measures (such as, for example, steps to reduce impacts on wildlife movement and habitat, and commitments to environmental restoration, community enhancement, and employment and job-training).

The MAC Plan will be binding on both the Crown and third parties. The Crown, as fiduciary, has the duty to supervise and enforce compliance with its terms.

2.12 Timing and Consequences

Consultation for the purpose of avoiding and minimizing impacts and accommodating the rights and interests of Treaty 8 First Nations must be completed prior to the decision being made, the action carried out or the authorized activity taking place. Otherwise, the decision can be invalidated.

The duty does not end there. Mitigation and accommodation measures must continue for the duration of the authorized activity; otherwise, both the decision and any action taken pursuant to it are subject to invalidation, and both the Crown and third parties are potentially liable for damages. This could include an accounting of profits.

3. REQUIREMENTS FOR INDUSTRY

Based on the above guidelines, Treaty 8 First Nations (Alberta) will insist on the following terms in their relations with industry:

3.1. A clear written acknowledgment by the company of the Treaty and unextinguished Aboriginal rights of Treaty 8 First Nations.

3.2. Detailed information not only on the specific project proposed, but on the company's short-, medium- and long-range plans in the area. All proposals must be analyzed in relation to existing development, both by the company concerned and others.

3.3. All company documentation must expressly identify the rights and interests of Treaty 8 First Nations. This includes all information provided to shareholders, purchasers, lenders, governments and members of the public. This will put all interested persons on notice that the company's interests are encumbered by the rights and interests of the First Nations. Failure to do so will render the company liable as a constructive trustee.

3.4. Specific commitments to ensure that the affected First Nations are compensated for impacts and losses from the project, and that they share fully in its benefits. This will normally be done through the MAC Plan. These commitments will include but not be limited to matters such as revenue sharing or comparable long term benefits, employment opportunities, capacity funding, trappers' compensation, community enhancement and environmental restoration.

3.5. A written commitment not to proceed with a project until the consultation process and necessary accommodations are complete. This includes the design and implementation of the MAC Plan.

3.6. The company must also acknowledge that its obligations continue for the duration of the project, and must agree to comply with the appropriate DRP if disputes arise as to compliance with the Plan.

4. THREE PHASES OF CONSULTATION

Treaty 8 First Nations in Alberta see the elements of consultation as breaking down into three phases:

4.1 Pre-consultation

This is the information stage, where the Crown and third parties gather and assemble all relevant information and provide it to the First Nations. This includes project-specific information, as well as information regarding impacts on First Nations, including cumulative and multiple impacts. As well as being provided with objective and comprehensive information, First Nations must be given the time and resources to enable them to properly analyze and process it.

4.2 Public Regulatory Processes

In many cases, a given project or decision will be subject to public regulatory processes (such as National Energy Board or Alberta Energy and Utilities Board hearings). These processes do not represent First Nations consultation, since they are not directed to First Nations' issues, interests and concerns. They cannot substitute for a First Nations-specific consultation process.

The First Nations are entitled to take part in these processes, just like other stakeholders and interested parties. However, whether they do so is entirely up to them and this decision is strictly "without prejudice": a decision by Treaty 8 First Nations to participate in an existing public process cannot be seen as adequate First Nations consultation, nor can a refusal to take part be seen as an attempt to frustrate the consultation process.

4.3 First Nations-Specific Processes

First Nations-specific consultation involves both direct, two-way consultation between First Nations and the Crown; and three-way consultation with First Nations, the Crown and industry. This phase of consultation always involves a positive duty to accommodate the First Nations' unique rights, interests and concerns. The outcome must meet all legal justification factors, including priority, mitigation and compensation. Where impacts cannot be avoided entirely, the Crown and First Nations must agree on the necessary mitigation, accommodation and compensation measures. Any third parties will then be brought in to work out the details of implementing these measures through a Mitigation, Accommodation and Compensation (MAC) Plan. The requirements of Phase 3 consultation are ongoing. First Nations-specific consultation must continue for the duration of the project or activity, as a condition of its ongoing validity. Both the Crown and third parties are bound by their parallel fiduciary obligations to ensure that all legal requirements continue to be met.

5. APPLICATION

The First Nation Consultation Guideline Framework is presented as the basis to advise the Crown and third parties of the assertion and definition of engaging First Nations in Treaty 8 Alberta with respect to land and resources in the Treaty 8 Territory that rests within the borders of the Province of Alberta. It is provided as a basis to enter into government to government discussions to inform Alberta prior to Alberta finalizing its First Nations Consultation Guideline Framework.

It is anticipated that there will be areas of difference within the discussions and the expectation is that all parties will seek, in good faith, create solutions and create the appropriate instrument to foster harmony for all concerned.

It is further anticipated that the sectoral specifics that will be developed following the finalization of Alberta's instrument will also follow the process that has established the government to government joint table methodology utilized in the performance of these tasks.

APPENDIX 1

"Traditional Use"

The first fundamental question is what government has the legitimate prerogative or authority to define this term?

- The government of Alberta has included a narrow definition of "traditional use" in their First Nation Consultation policy, and this definition is reflected in their "straw dog";
- The Treaty relationship, within which terms such as "traditional use" must be defined, involves the federal Crown government, and a number of contemporary Treaty 8 First Nation Governments;
- The federal Crown government, by executive decision, has affirmed the right of First Nation peoples to govern those matters which are central to their collective identity and integral to their culture;
- Treaty 8 First Nations, in the exercise of their inherent right of self-determination, must define terms which are central to the collective identity of Treaty 8 peoples and integral to their culture.

The second fundamental question about the term, "traditional use," is what does it refer to?

- The government of Alberta has identified these "traditional use" practices in a site specific/use specific manner, and by general reference to limited sustenance hunting, trapping and fishing practices of First Nation peoples;
- The government of Alberta asserts that "traditional use" relationships are not "proprietary" and do not amount to an interest in the land or resources;
- The term "traditional use" is used by First Nation governments to refer to land and resource-use practices which are central to the identity and integral to the culture of Treaty 8 First Nation peoples;
- These land and resource-use practices reflect the spiritual, cultural, political, social and material relationships between Treaty 8 First Nation peoples, and the lands and resources within those areas identified within Treaty No. 8;
- The spiritual, cultural, political, social and material relationships between Treaty 8 peoples and these lands and resources, constitute their 'culture,' and are central aspects of the collective/individual identity of Treaty 8 peoples;
- Land and resource use practices are not static, or frozen in time. They evolve and change within First Nation cultures and societies.

The third fundamental question about the term, "traditional use", relates to how information related to "traditional use" practices can be collected, shared and used as a basis for meaningful consultation between First Nation governments and the government of Alberta? This question cannot be answered without consideration of the answer to the first two questions; before development of an understanding about Treaty relationships between the Crown and Treaty 8 First Nation governments; the nature of Crown and First Nation rights and interests arising from negotiation of Treaty No. 8, and the Crowns obligation to consult with First Nations which arise from these Treaty relationships.

APPENDIX 2

Treaty Relationships with the Crown & First Nation Interests in Treaty Lands

The Alberta Consultation Policy and draft Guidelines are focused on consultation related to "existing treaty or other constitutional rights." The word "existing" refers to those rights that have acknowledged to exist by the provincial Crown, or affirmed through Court decisions. The government of Alberta asserts that "existing treaty…rights" do not include any proprietary interest in lands and resources transferred to the province of Alberta under the provisions of the Natural Resources Transfer Act, (1930). This government assertion is based, generally, on the decision of the Supreme Court of Canada, in R. vs. Horseman, that it was the intent of the Crown to extinguish the Treaty right to hunt for commercial purpose through passage of the NRTA.

The Treaty 8 First Nations of Alberta assert that the Crown has an obligation to consult with Treaty 8 First Nations under circumstances where;

- the Treaty 8 First Nation asserts livelihood interests within Treaty 8 lands;
- the First Nation is seriously pursuing resolution of claims regarding livelihood interests; and
- the Treaty 8 First Nation has presented information to demonstrate, on a prima facie basis, that such livelihood interests are likely to exist.

A number of Treaty 8 First Nations have filed statements before the Courts, asserting that the federal Crown government has failed to fulfill Treaty commitments related to the livelihood interests affirmed by Treaty 8, and that the provincial Crown government has infringed, without justification, the Treaty livelihood rights of Treaty 8 peoples.

Some Treaty 8 First Nations have filed statement of claim with the Specific Claims Branch, of the Department of Indian and Northern Affairs. A number of these "specific claims" allege the federal Crown government has not fulfilled Treaty commitments to protect the "usual vocations of hunting, trapping and fishing," provide the Indian peoples with a fair share of lands and resources, and failed to provide them with instrumental support for conduct of livelihood practices.

The Treaty 8 First Nations of Alberta are collectively engaged in bilateral negotiations with the federal Crown government on the matter of Treaty-based governance. One aspect of these bilateral negotiations involves processes for developing a mutual understanding as to the nature and scope of Treaty livelihood rights and interests affirmed by the Crown during negotiation of Treaty 8. A representative of the provincial Ministry of Aboriginal Affairs participates, as an observer, in this bilateral process.

There is a large body of documents and affidavits, collected by the Treaty 8 First Nations, and by the Crown, to support ongoing review, analysis and resolution of claims related to the nature and scope of First Nation livelihood rights affirmed by Treaty No. 8 and the effect of the NRTA upon these livelihood rights. The provincial government and the federal government are aware of this body of information.

This body of information is sufficient to challenge the rebuttal presumption of the SCC, (R. vs. Horseman), that it was the intent of the federal Crown to extinguish the commercial interests of Treaty 8 Indians through passage of the NRTA.

R vs. Horseman was a majority decision of four of the seven-member panel. The very strong dissenting opinion, voiced on behalf of the three dissenting Justices of the Supreme Court, opined that;

- the provincial Crown had not presented any evidence in support of this argument;
- the federal government provided no information about the intent of the Crown;
- it would have been a serious breach of trust for the Crown to have unilaterally extinguished the Indian interest acknowledged to have been the fundamental basis for Indian agreement to the Treaty relationship.

The Treaty 8 First Nations have provided the federal government with information to demonstrate that it was the intent of the federal Crown to protect the livelihood interests of Treaty 8 Indians incident to passage of the NRTA, according to a policy, and in a manner similar to those used by the federal Crown within that portion of the Northwest Territories situated north of the provincial boundary. The Treaty 8 First Nations assert that these documented efforts of the federal Ministry of Interior, between 1923 and 1938, to establish a series of Special Reserves as a means of protecting the usual livelihood of identified Treaty 8 Indian Bands, demonstrate that these Treaty 8 Indian livelihood interests were taken seriously by the federal Crown, and that the federal Crown intended these interests be protected by the provisions of paragraph 1 and 2 of the NRTA.

These circumstances are sufficient to demonstrate that each of these Treaty 8 First Nations is seriously pursuing the resolution of claims related to the implementation of the Treaty 8 livelihood commitments. These circumstances provide a basis for demonstration of an obligation for Crown consultation with each of these Treaty 8 First Nations, prior to the resolution of these claims as a means of protecting the honour of the Crown. This obligation is applicable to both the federal Crown, which has the obligation to protect and safeguard these Treaty 8 livelihood interests, and upon the provincial Crown, which took administrative control of lands and resources within provincial boundaries subject to existing arrangements then being established under the provisions of Treaty 8.

We anticipate that a large portion of our ongoing discussions with the federal and provincial government representatives about the need for consultations will be focused on development of guidelines for consultations under these circumstances.

APPENDIX 3

NOTE: Example provided by Lesser Slave Lake Indian Regional Council

Dispute Resolution Processes

The five First Nations acknowledge that there may be times when they cannot agree to the recommendations put forward by CRCC respecting consultation (e.g. overlap issue, etc.) and agree that any disputes will be resolved according to the processes set out in this protocol.

The dispute resolution is as follows:

1.1 If a consensus cannot be reached between the Chiefs of the affected First Nation Chiefs or their representatives, then any one of the five First Nations may request that a third party mediator be retained and funded by the CRCC to assist them in resolving the dispute;

1.2 The mediator will attempt to mediate with the First Nations to achieve a mediated settlement to the dispute;

1.3 If there is no mediated settlement, the mediator will provide a brief recommendation to the CRCC;

1.4 The five First Nations will decide by majority vote how the dispute will be settled;

1.5 The mediation and any recommendations of the mediator shall be confidential to the parties to the Dispute unless the parties otherwise agree;

1.6 The costs of the mediator shall be borne in their entirety by the CRCC.