

WESTERN
CANADA
COMMERCIAL
ARBITRATION
SOCIETY

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OUTLINE

- Aboriginal context in Alberta
- Current Government of Alberta approach
- First Nations Consultation Policy
- Future Initiatives
- Questions and dialogue

Demographics - Aboriginal Population

Aboriginal

- 3rd largest Aboriginal population in Canada
- 6% of Alberta's population in 2006
- Increasing faster than non-Aboriginal population, urbanized and youthful

First Nations

- 115,436 (December 2012)
- On-reserve/crown land (62%) ; Off-reserve (38%)
- 140 reserves; 812,771 hectares

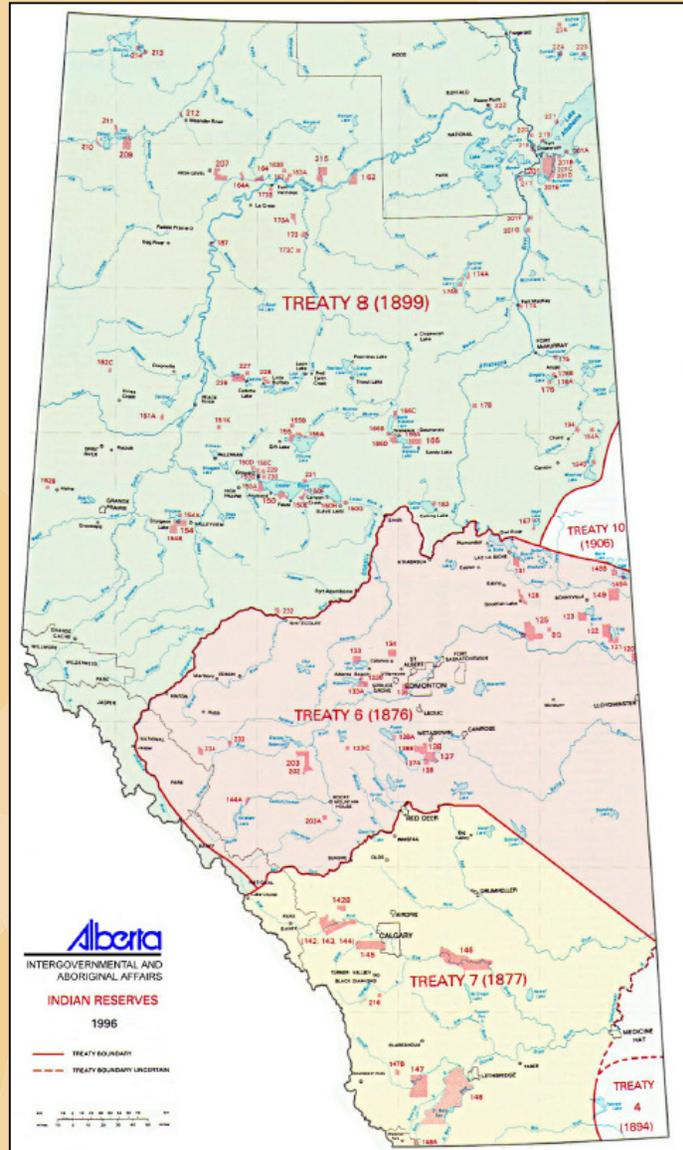
Métis

- Largest Métis population in Canada (85,500)
- Most Métis reside in urban areas
- Only Métis land base in Canada - 8 Métis Settlements: 4,858 (2012)

Inuit

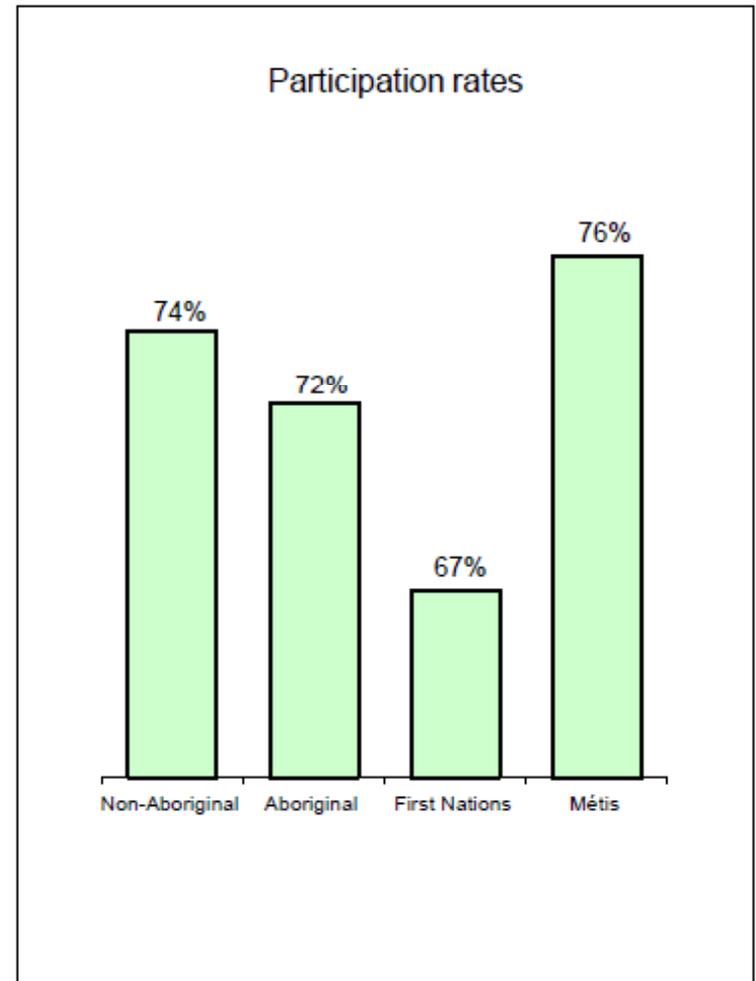
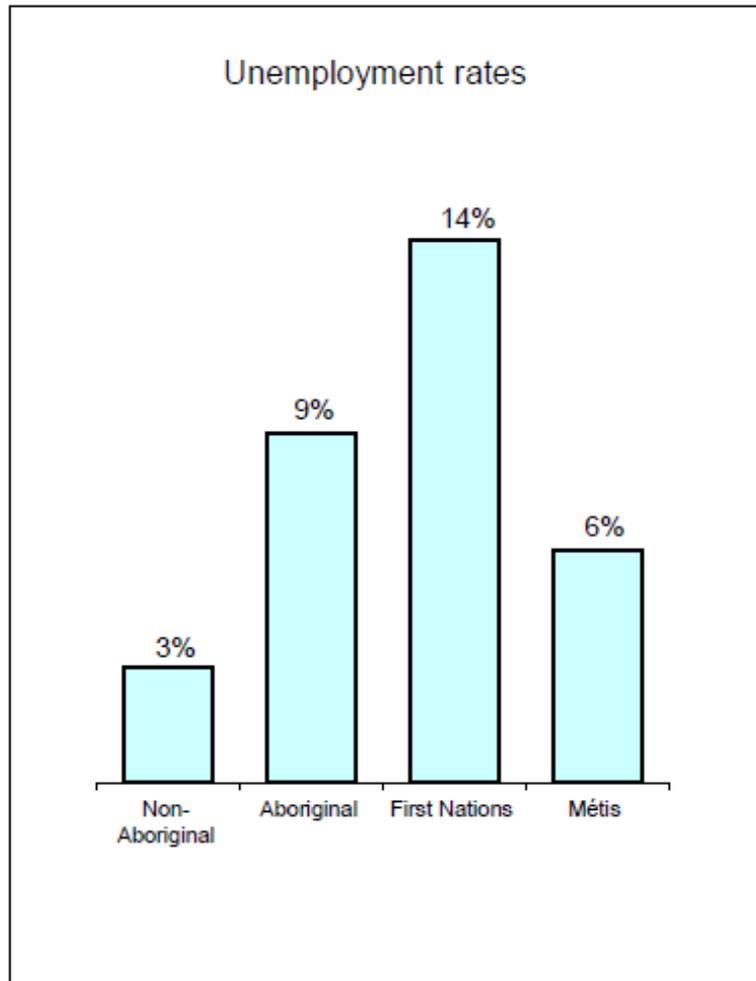
- 1,605 - less than 1% of total Aboriginal population
- Primarily in Edmonton and Calgary

Treaties and First Nation Language Groups in Alberta



- Cree
- Dene
- Stoney/Sioux
- Blackfoot

Aboriginal Employment and Economic Participation



Data Source: 2006 Census of Canada, Statistics Canada (The 2011 figures will be available in May 2013)

Current Alberta Priorities

- Strong relationships
- Economic opportunities
- Education
- Métis Settlements Long-term Arrangement
- First Nations and Métis Consultation
- Aboriginal Women
- Urban Aboriginal People

Current First Nations, Métis and Inuit Priorities

- Revenue Sharing
- Interpretation of Treaty Rights
- Government-to-Government relationship
- Economic Development and Workforce Opportunities
- Educational Success
- Community Well-Being

Alberta's Duty to Consult

- Alberta's has a legal duty to consult First Nations when Crown decisions may adversely impact their continued exercise of constitutionally protected Treaty rights.
- Alberta's duty to consult is grounded in the honour of the Crown and reflected in legal precedent.

Issues Raised Since 2005

- Issues with clarity and consistency.
- Unclear timelines and inadequate notification.
- Unpredictable fees charged to support First Nations consultation capacity.
- Need to define adverse impacts on Treaty rights and the level of consultation to mitigate them.

Policy Review Outcomes

The intended outcomes of the draft First Nations Consultation Policy are threefold:

- Respect for Treaty rights;
- Increased project certainty for proponents, First Nations and the province and,
- Optimizing economic opportunities from resource development for all parties.

Recent Overview of the Policy Review

- Discussion Paper Release, October 16, 2012.
- Leadership Meeting on the Discussion Paper, November 19, 2012.
- Multi-Party Meeting, February 1, 2013.
- Draft Policy and Guidelines Release, April 2, 2013.
- Multi-Party Technical Meetings, April 18-22, 2013.
- Multi-Party Leadership Meetings, April 29-30, 2013.

Starting Points of Released Draft Policy

- **Acknowledges Treaty Relationship**
 - Commitment to strengthening relationships.
 - Emphasizes role of section 35 of the Constitution Act, 1982.
 - Commitment to reconciling First Nations' Treaty rights with Alberta's mandate to manage Crown lands and resources for the benefit of all Albertans.
- **Acknowledges Alberta's Crown Duty to Consult**
 - Exists when a Crown decision may adversely impact a First Nation's continued exercise of constitutionally protected rights.
 - Grounded in the Honour of the Crown and reflected in legal precedent.

Policy Shift: Stronger Role for Government (The Consultation Office)

- **Present System**
 - Both First Nations and proponents claim that Alberta takes too small a part in consultation.
- **Revised Policy**
 - Alberta will consolidate responsibility for consultation in a single Consultation Office reporting to the Minister of Aboriginal Relations.
 - Alberta will increase its emphasis on regional and strategic consultations to establish a context within which project consultation can occur.

Policy Shift:

Consultation Process Matrix

- **Present Process**
 - Alberta's expectations of delegate performance are contained in department specific guidelines.
 - Both First Nations and proponents describe guidelines as unclear and their application is inconsistent.
- **Revised Process**
 - The draft Corporate Guidelines contains a Consultation Process Matrix that proposes a particular sequence and timeline for project consultations.
 - Operational Guidelines will be developed and will include sector-specific matrices and flow diagrams.

Policy Shift: Enhanced Capacity Funding

- **Present System**
 - Alberta supports a consultation contact in each First Nation through core levels of tiered funding.
 - First Nations often seek to recover their costs of participating in project consultations from the proponent.
- **Revised Policy**
 - Alberta will continue to support a consultation contact, as well as First Nations' consultation participation costs.
 - Alberta will raise the money required through a levy charged to resource development companies.

Policy Shift: Accommodation

- **Present Policy**
 - Accommodation not mentioned (2007 Guidelines do reference it.)
- **Revised Policy**
 - Alberta recognizes that the duty to consult may reveal a need to accommodate First Nations.
 - Avoiding, minimizing or mitigating adverse impacts identified as primary goals.

Policy Shift: Greater Transparency (Financial Disclosure)

- **Present Policy**
 - Financial agreements arising from the consultation process are not addressed.
- **Revised Policy**
 - Proponents required to disclose agreements that arise from the consultation process.
 - Alberta will regularly report aggregated information regarding these agreements.

Policy Shift:

Consultation Process Agreements

- **Present System**
 - Alberta requires adherence to the 2005 Consultation Policy and 2007 Guidelines.
 - First Nations require use of local protocols.
- **Revised Policy**
 - Option for Alberta and any First Nation to develop a Nation-specific consultation process agreement where agreement can be reached.

Consultation Next Steps

Feedback on the draft Policy and Guidelines received by May 17, 2013 will be considered during the finalization and release of a new Consultation Policy in June 2013.

Principles For Building Effective Relationships

- Treat aboriginal people as you would your neighbour.
- Work with the willing.
- Design and tailor programs or services with Aboriginal people not for them.
- Expect to work to earn trust and respect.
- Build programs on shared priorities.
- Agree to the metrics that will allow us to measure progress.



QUESTIONS/DISCUSSION