

Indigenous Rights in Forest Management

An Industry Perspective

Canadian Institute of Forestry
Rocky Mountain Section

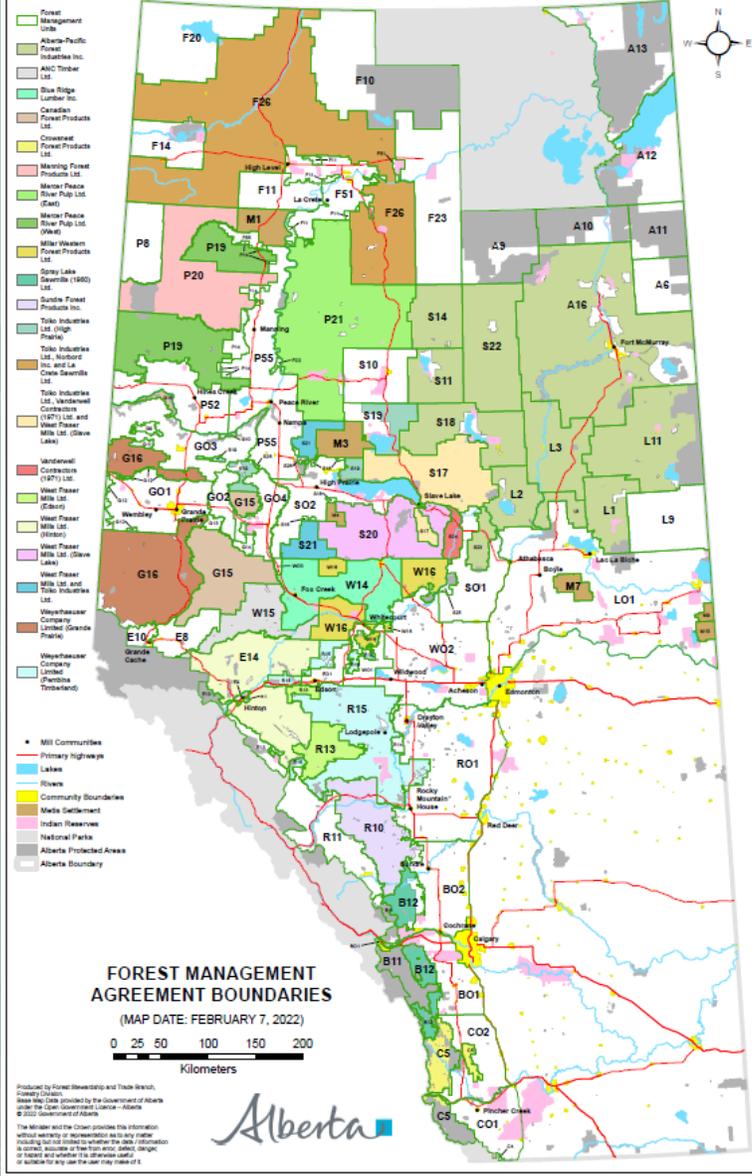
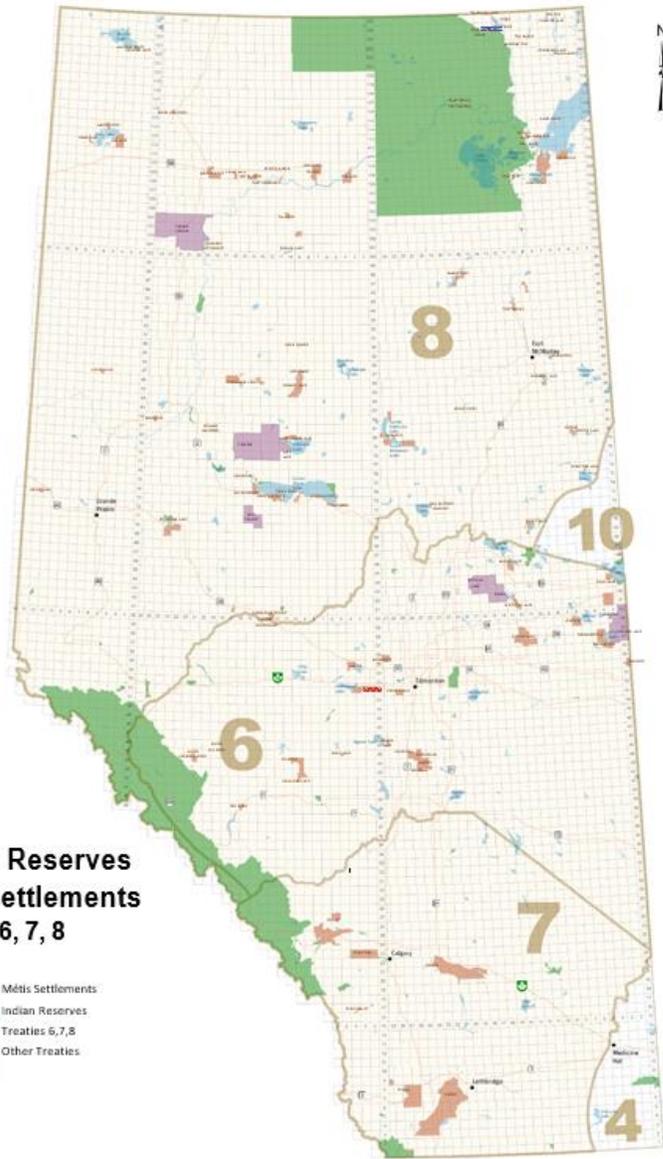
Chris Valaire RPF, CET, EP
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WHAT WE WILL COVER

- **Treaty Areas / Settlement Areas**
- **Indigenous Rights**
- **Consultation vs. Engagement**
- **Free, Prior and Informed Consent (FPIC)**
- **Historical Resources Act**
- **Forestry Certification**
- **Silviculture / Harvest Operations**
- **UNDRIP**
- **New Business Models**
- **Questions?**

First Nation Reserves and Métis Settlements with Treaties 6, 7, 8

- Major Cities
- Major Roads
- Lakes
- Parks
- Métis Settlements
- Indian Reserves
- Treaties 6, 7, 8
- Other Treaties



Forestry operations in Alberta are present in all 3 Treaty areas and adjacent to Metis Settlements

Treaty 6 – signed in 1876

Treaty 7 – signed in 1877

Treaty 8 – signed in 1899

Around 61 percent of Alberta is forested.

Indigenous Rights in Forestry

- Indigenous rights are protected under S.35 of the Constitution Act, 1982. This includes First Nations, Metis, and Inuit Peoples.
- Starting in 1701, in what was to eventually become Canada, the British Crown entered into treaties to encourage peaceful relations with First Nations and Metis Peoples.
- Other later treaties, such as the Numbered Treaties in Ontario, Prairies, as well as parts of the Northwest Territories (1871 to 1921), involved First Nations ceding or surrendering rights to the land in exchange for Treaty rights.
- While no two treaties are identical, examples of treaty rights across Canada included such things as reserve lands, animals, annual payments, ammunition, clothing, and rights to hunt & fish.
- Metis land claims came under provincial jurisdiction, so Settlements were negotiated differently with respective provinces.

Indigenous Rights in Forestry cont..

Alberta Agriculture and Forestry (AAF) requires Consultation where there could be a potential impact to traditional use activities on Treaty and Settlement lands.

The *Forests Act*, Timber Management Regulations, Planning Standard, and Operating Ground Rules (OGR's) are legislative obligations to forest companies. Indigenous consultation is involved with planning, harvesting, and silvicultural operations.

Indigenous organizations consult with the forest industry on:

- Detailed Forest Management Plans (DFMP)
- General Development Plan (GDP)
- Final Harvest Plan (FHP) / Annual Operating Plan (AOP)
- Fire Control Plan
- Herbicide Management Plan (If applicable)

Consultation

Consultation refers to the legal obligations of industry to meet and discuss Indigenous rights impact related to a forestry operation. Consultation consists of information sharing between industry and affected Indigenous Peoples and seeks to resolve potential adverse impacts to these interests.

Many First Nations and Metis across Alberta have formulated their own consultation process as they don't recognize provincial methods as they exist today.

VS.

Engagement

Engagement aims to build relationships with Indigenous Peoples by exchanging information in the absence of legal consultation obligations. The purpose of engagement is to build trust and create meaningful mutually beneficial relationships.

Examples include:

- Volume Supply Agreements (VSA)
- Contracting / Consulting
- Procurement of Goods and Services
- Community Investment
- Training and employment
- Some companies have pursued Canadian Council For Aboriginal Business (CCAB) registration as well.

Free, Prior, and Informed Consent (FPIC)

Alberta forest companies have a duty to consult and accommodate with Indigenous Peoples when there is demonstrated impact to Treaty Rights and traditional land use from forestry operations.

Indigenous Peoples provide forest companies with information about historically sensitive, spiritual, and hunting areas. It is the forest company's responsibility to work with Indigenous Peoples to mitigate the impact of forestry operations on their Treaty rights and traditional land use.

This does not mean veto power. Collectively, this process is meant to be a respectful, meaningful, collaborative, and transparent where a solutions-focused approach is adopted by all parties on natural resource management decisions.

Historical Resources Act

Forest companies in Alberta are required to assess their areas of activity to ensure culturally significant areas are not disturbed by forestry operations. To date, the forest industry has identified thousands of culturally significant areas.

Through Alberta Culture, forest companies are attempting to identify these areas for all users of the forested landbase and provide this information so operational decisions can be planned for in a respectful and timely manner.

The *Historical Resources Act*, defines and offers regulatory protection to thousands of Indigenous traditional use sites throughout the province.

Typically, a forestry company would conduct a Historical Resources Overview (HRO) and depending on the outcome of that exercise, the project either:

- Proceeds as planned with notification to interested Indigenous stakeholders;
- An Historical Resources Impact Assessment (HRIA) is required which is a far more detailed and rigorous assessment of the area – this report and anticipated project footprint is submitted to Alberta Culture for approval before any operations can proceed.

Some common types of sites recorded include:

- Historic cabins and cabin remains;
- Cultural or historical community camp sites;
- Historic settlements and homesteads;
- Unregistered grave sites, burials and cemeteries;
- Ceremonial sites and spiritual sites;
- Ceremonial plant or mineral gathering sites;
- Historic trail features;
- Historic sites;
- Sweat, thirst and fasting lodges; and
- Oral history sites

Forestry Certification

Most major forestry companies in Alberta have pursued Sustainable Forestry Initiative (SFI) or Forest Stewardship Council (FSC) forestry certification for a variety of business and environmental stewardship reasons.

In Alberta, there is 35.2 million hectares that is forested landbase. Certified forest area has expanded from two million hectares in 2000 to just under 20 million hectares in 2009 and 21 million hectares today.

Although the forest certification systems can differ from one another, all are based on standards that reflect the current understanding of what sustainable forest management entails.

These certification systems involve:

- Ensure engagement with impacted Indigenous Peoples to make sure that their rights, knowledge and values are acknowledged and reflected in forest planning;
- independent third-party audits that assess a forest operation's planning, procedures, operations against predetermined standards;
- require annual surveillance audits and public disclosure of findings through audit reports; and
- Regulatory compliance audits compared to Alberta forestry legislation (FOMP)

Silviculture / Harvest Operations

- First Nations and Metis conduct site inspections, site assessments, and general operations monitoring. These are conducted on an on-going basis and these agreements for compensation are negotiated between the First Nation / Metis and the forestry company.
- In some cases, First Nations / Metis have their own inspection sheets that provided as due diligence and demonstration and proof of Consultation.

United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

On June 21st, 2021, the federal government adopted the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) Act.

The federal government has given itself a 2-year timeframe to create an implementation plan that respects provincial legislative jurisdiction. Alberta has recognized this Act but is waiting to see how the federal government deals with these obligations as it interacts with provincial forestry legislation.

Examples include road building in relation to the Fisheries Act, structure retention related to Migratory Birds Convention Act, or Caribou protection Plans under the Species at Risk Act (SARA).

The Alberta government has adopted some UNDRIP requirements:

- protocol agreements;
- the legal duty to consult;
- Métis Nation of Alberta – Framework Agreement

New Business Models

- Equity ownership in forestry operations
- Jointly managed landbase / tenure
- Selection harvest / seed tree retention
- Structure retention / agro forestry
- Biomass to biofuel facilities
- Inclusive procurement practices
- Jointly funded research projects (FRIAA)
- Indigenous consortiums
- Mentoring / training / employment opportunities

Links

<https://open.alberta.ca/publications/6713979>

The Government of Alberta's guidelines on consultation with First Nations on land and natural resource management - Open Government

The Government of Alberta's guidelines on consultation with Metis settlements on land and natural resource management 2016 - Open Government



Questions ?