

# Protecting & Respecting Indigenous Rights

Presentation on behalf of Swan  
River First Nation

April 21, 2022

# Overview

- Treaty No. 8
- Consultation: Principles & Common Challenges
- Looking Ahead



# Treaty No. 8

- Established a Nation-to-Nation relationship based on reciprocity and respect
- Protects Indigenous parties' right to hunt, fish and trap
- Not limited to written English treaty document – includes oral understandings and promises
- Indigenous parties continue to hold authority and stewardship responsibilities pursuant to natural laws

# Treaty No. 8

- The Crown's treaty promises were intended to protect Indigenous parties' way of life as a whole
- The Province's power to “take up” lands must be exercised in a way that upholds the promises and protections in the Treaty
- The Province has a positive obligation to protect Treaty rights, including by assessing the cumulative impacts of resource development

# Consultation

- Indigenous Peoples' rights are protected under section 35 of the *Constitution Act, 1982*
- Section 35 rights include:
  - **Aboriginal Rights** - inherent rights flowing from continued use and occupation of land prior to and since European contact
  - **Treaty rights** – rights guaranteed pursuant to Crown-Indigenous treaties



# Consultation

Before making decisions that could affect Aboriginal or Treaty rights, the Crown must:

- consult with the First Nation on a flexible, iterative basis
- seek to understand and address the First Nation's concerns
- take steps attempt to minimize or avoid adverse effects
- be prepared to make changes in light of information received during consultation

# Consultation

- First Nations have the right to be consulted through representatives of their choice
- To be meaningful, consultation must include the possibility of accommodation
- Consultation is not just an opportunity for the First Nation to “blow off steam”

# Consultation

- The Crown may delegate aspects of consultation to project proponents
- Ultimate legal responsibility for consultation rests with the Crown
- Where consultation is inadequate permits and authorizations may be suspended or quashed



# Consultation

Common challenges:

- Capacity funding
- Volume of referrals
- Cumulative impacts
- Inadequacies in engagement process

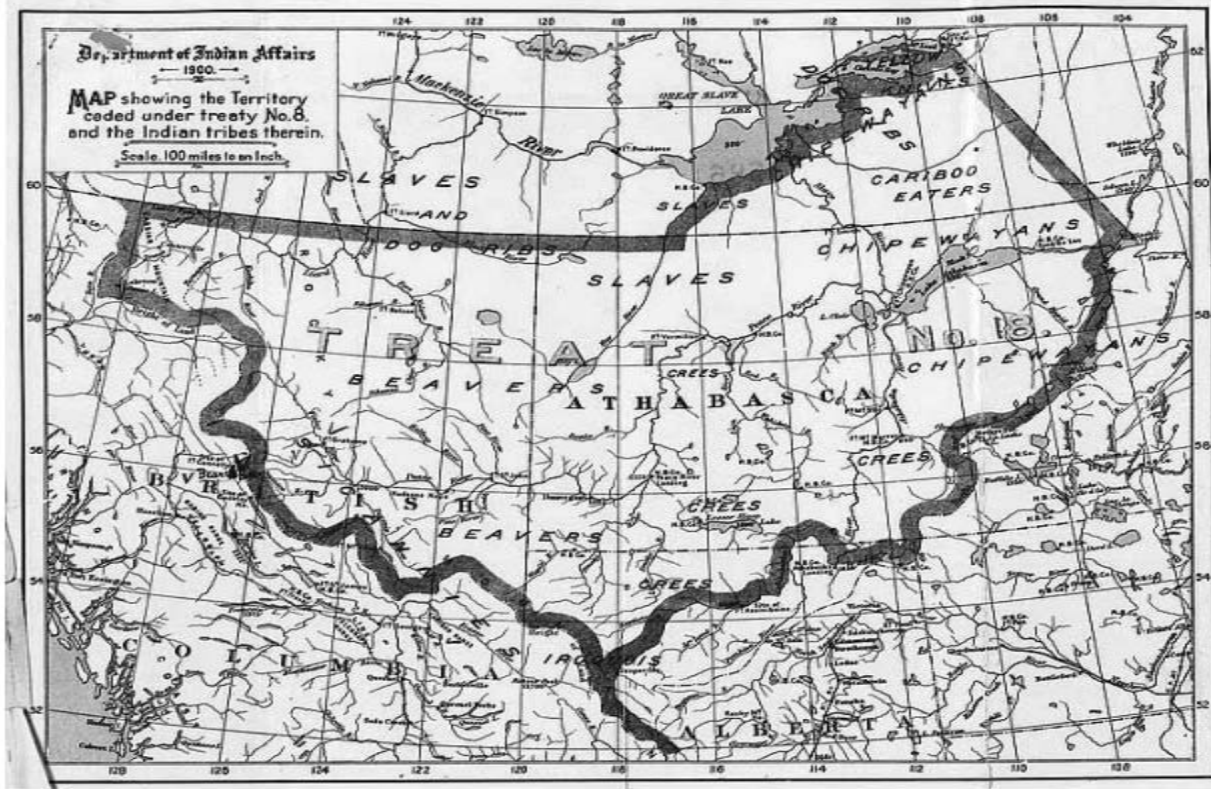
# Looking Ahead

- Revitalization of Indigenous laws and governance
- Renewal of Treaty relationship
- Consent-based decision making
- *United Nations Declaration on the Rights of Indigenous Peoples*



# Swan River First Nation

## Traditional Territory of Swan River First Nation As Agreed To At the Signing of Treaty 8-1899





# Swan River First Nation

- History
- Sovereignty and self determination
- Livelihood and lifestyle
- Consultation and Engagement

# Swan River First Nation

- Forest Planning
- Words – Balance, Sustainability, Compatibility, Integrated, Healthy
- Move from aspirational documents and soft promises to commitments and actions
- Forest Management Plans/General Development Plans/Forest Harvest Plans
- Plan Development Teams
- *VOITS*

# Swan River First Nation

- VOITS
  - Harvest Systems
  - Water
  - Vegetation Management
  - Wildlife
  - Riparian
  - Compaction
  - Access management
  - Indigenous Knowledge
  - First Nation VOIT
  - Working Group
  - ROC
- Birch Strategy
- Structure Retention
- Herbicide
- Buffers



# Swan River First Nation

- SRFN Capacity and Engagement Agreements
- SRFN Consultation Process
- Site Visit Process

# Swan River First Nation

## Questions?