



Aboriginal Affairs and
Northern Development Canada

Affaires autochtones et
Développement du Nord Canada

RESERVE LAND AND ENVIRONMENT MANAGEMENT MANUAL

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A decorative graphic on the right side of the cover, consisting of overlapping, semi-transparent, curved shapes in shades of blue and purple, creating a sense of movement and depth.

Canada

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GLOSSARY OF TERMS

Band Council Resolution (BCR): The authority mechanism by which the elected representatives on a band council authorize an action.

Band/First Nation: A body of Indians as defined under the *Indian Act* and declared to be a Band by the Governor General in Council for the purposes of the *Act*. The term First Nation is often used in place of Band.

First Nation Land Manager: A duly-appointed First Nation Land Manager or any First Nation staff member who performs land management functions on behalf of a First Nation.

AANDC: Acronym for Aboriginal Affairs and Northern Development Canada. Also commonly referred to in legal documents as the Department of Indian Affairs and Northern Development (DIAND).

AANDC Regional Office (AANDC Region): Aboriginal Affairs and Northern Development Canada has established offices in each region of Canada in order to better serve First Nations. AANDC Regional Offices play an important advisory role to First Nations participating in the RLEMP.

AANDC Headquarters (AANDC HQ): Aboriginal Affairs and Northern Development Canada Headquarters are located in Gatineau, Québec. The role of HQ is to administer the funding for the Reserve Land and Environment Management Program, as well as to develop policies and processes in order to successfully operate the program.

Indian Act: Federal legislation that sets out certain Federal Government powers and responsibilities toward First Nations and their reserved lands. The first *Indian Act* was passed in 1876, but has undergone numerous amendments, revisions and re-enactments. The Department of Indian Affairs and Northern Development administers the *Act*.

Professional Land Management Certification Program (PLMCP): A Post Secondary credit program provided by an accredited educational institution and a technical training component which provides certification in land and environmental management.

Reserve: A tract of land, the legal title to which is vested in Her Majesty that has been set apart for the use and benefit of a band.

RLEMP: Acronym for the “Reserve Land and Environment Management Program”. The RLEMP is a comprehensive program that enables First Nations to manage a broader scope of land and environmental management on reserve, through a Professional Land Management Certification Program and modernized funding formula.

1. INTRODUCTION

Land management funding programs are being modernized to meet the emerging needs of First Nations in Canada. As the volume of activity on reserve lands increases, the activities involved in performing land management functions are also becoming more sophisticated with increased economic potential and commercial development. Funding levels under these land management programs have limited the ability of First Nations, as well as Federal Government departments, to capitalize on this economic potential.

Aboriginal Affairs and Northern Development Canada (AANDC) and First Nation communities must therefore develop, maintain and modernize existing land management expertise in order to keep pace with the diverse and complex forms of land use, while maintaining compliance with emerging environmental regimes.

After an evaluation of existing land management programs in 2002, AANDC established working groups to design a new and more comprehensive land management program to better meet both AANDC and First Nation land management objectives. This resulted in the new Reserve Land and Environmental Management Program (RLEMP).

Building on the experiences and best practices of the previous Regional Land Administration Program (RLAP) and the 53/60 delegated authority program, the RLEMP has been designed to focus on modern management practices, and to enable First Nation communities to develop and sustain land, natural resources and environmental management expertise.

Funding to First Nations under the RLEMP improves upon the RLAP and 53/60 program funding calculations. The RLEMP formula is based on a number of factors, including the volume of land transactions, band population and reserve area, as well as land use, environmental and compliance activities. Many First Nations will receive an increase to their current land management funding levels under this new funding formula.

The RLEMP also includes a professional development training program that will better prepare First Nations for their new roles and responsibilities under a broader scope of land, resources and environmental management. The training program has both post secondary and technical training components, including general courses on legal systems, natural resources management and environmental studies, as well as specific training on the technical elements of managing land under the *Indian Act*.

The transfer of decision-making responsibility for land management to First Nations and the sustainable use of land and resources on reserve are priorities for AANDC. The RLEMP supports this effort through improved funding, a professional development training program, and an expansion of the scope of land management responsibilities for First Nations.

2. PURPOSE

The purpose of this manual is to provide a detailed overview of the Reserve Land and Environment Management Program (RLEMP), including information on key functions, levels of responsibility, roles and responsibilities, as well as details on the funding formula.

An RLEMP Toolkit has also been designed to accompany this manual, complete with checklists, specific guidelines and templates to assist First Nations in assuming land management responsibilities under this new program. The guidelines contained within this toolkit should not be considered exhaustive, however, as there may be more than one course of action that can be taken to achieve a desired result. There may be a need to look beyond these guidelines for appropriate resolution of issues that may arise.

3. PROGRAM OBJECTIVES

The objectives of the RLEMP are to:

- strengthen First Nation governance and improve accountability;
- deliver an integrated training approach with skills development and institutional support;
- increase the involvement of First Nations in the full scope of land and environmental management activities on reserve;
- provide opportunities for alignment with First Nations Land Management (FNLM) Regime, treaty processes and self-government;
- establish linkages between funding, scope of activities and results, as well as financial sustainability; and
- increase the involvement of First Nations in the core functions of community land use planning, environmental and compliance management.

4. KEY FUNCTIONS

The RLEMP is focused on enabling First Nations to become involved in a broader spectrum of activities pursuant to the *Indian Act*. These include:

- **Community Land use Planning** - integrating the goals of sustainable development, sound governance and economic viability, and promotion of safe, healthy, and secure environments.
- **Management of Reserve Land and Natural Resources** - involves activities associated with transactions, and registration and approval processes for reserve lands registered in the Indian Land Registry, pursuant to sections of the *Indian Act*.
- **Environmental Management** - involves identifying and assessing the environmental implications of land use policies, addressing potential issues, and adopting sound environmental practices.
- **Compliance with Policy and Legislative Frameworks** - includes conforming to the regulations and enforceable provisions of the *Indian Act*, other federal legislation(s), along with applicable AANDC policies.

These key functions are an integral part of land and environmental management on reserve, and are interdependently linked. Effective land management provides the base for virtually all activity on reserve, including effective programs in housing, infrastructure, environmental management, community health, education, economic development and additions to reserve lands.

5. ENTRY PROCESS

In order to enter into the RLEMP, a First Nation will need to:

- formally request participation in RLEMP through written notice to AANDC Region;
- meet entry criteria requirements (this is for both new participants and current Regional Land Administration Program (RLAP) and 53/60 First Nations; (see *Approval Criteria Checklist RLEMP Toolkit Appendix A3*)
- submit a Band Council Resolution (BCR) (see *RLEMP Toolkit Appendix A6*)
- agree to accept a level of responsibility (Training and Development, Operational or Delegated Authority) for the program's key functions and related activities;(See RLEMP Toolkit Part D)
- accept all of the Terms and Conditions in the Workplan for the program chosen (Training and Development, Operational, or Delegated Authority Level Workplan); (see *RLEMP Toolkit Appendix A8, A9, A10*)
- agree to hire a Land Manager (or equivalent) , if they do not already have one, within two months of the date of the letter of acceptance into the program;
- agree to have their Land Manager acquire land management skills through successful completion of the Professional Development Program¹;

- agree to progress to the Operational Level within two years, accepting the roles and responsibilities associated with that level; and
- agree that, in order to enter at, or progress to, Delegated Authority Level, they must have Delegated Land Management Authority under section 53 and section 60 of the *Indian Act* through Ministerial letter and Order in Council.

First Nations with 53/60 Delegated Authority must enter the program at the Delegated Authority Level and have their First Nation Land Manager become certified within two years.

¹ The Professional Development Program includes Post Secondary training and technical training in land and environmental management. First Nation Land Managers must successfully complete this training, while being supported by AANDC Region (or other qualified organization) in order to obtain certification in land and environmental management.

Overview of Entry Process

It is estimated that the entry process will require two to three months (on average) to complete. There is a nine-step entry process to be completed jointly by individual First Nations and AANDC Regions, as follows:

1. Region presents RLEMP to Chief and Council (upon request only).
2. First Nation expresses written interest in RLEMP participation.
3. Region acknowledges expression of interest.
4. AANDC Region determines eligibility and acknowledges acceptance or refusal for RLEMP participation.
5. First Nation assesses community needs and identifies human resources requirements.
6. First Nation submits a BCR for RLEMP entry.
7. First Nation formally enters RLEMP.
8. Indian Land Registry registers Band Council Resolution.
9. First Nation completes Training and Development Level Workplan (or Operational or Delegated Authority Level Workplan, as applicable).

Each of these steps is discussed in further detail below. The Entry Process Table (*RLEMP Toolkit Appendix A1*) details the activities within each of the entry process steps and indicates who is responsible for each of the activities, the requirements, templates available, and timeframes for completion.

****Note:** These steps are a guideline to reach the overall objective of formal entry into RLEMP. Several of these steps may take place simultaneously and therefore may not necessarily be completed in the subsequent order.

*See PART A of RLEMP Toolkit for
Entry Process Tools and Templates*

Step 1: Region presents program to Chiefs and Councils

This step will only be completed upon request. It is intended to help ensure that First Nations are able to confidently and accurately make informed decisions regarding the program.

This would involve regional representatives either travelling to individual communities to make a formal presentation about the program, or presenting the program to regional gatherings of Chiefs and Councils.

Step 2: Expression of interest in RLEMP

To start the entry process, a First Nation approaches its AANDC Region to inquire about the program and to express an interest in participating. The expression of interest must be received in a written format (e.g., e-mail, letter to AANDC Region).

If any First Nation later decides not to participate in the program, they will be able to opt out at any step of the process.

Step 3: Region acknowledges expression of interest

The region will acknowledge receipt of an expression of interest from the First Nation by sending out an “Acknowledgement Letter for Expression of Interest in RLEMP Participation” (see *RLEMP Toolkit Appendix A2*). The region will also send out the RLEMP Communication Package explaining the program requirements.

Step 4: Determination of eligibility

The region in consultation with AANDC Headquarters will complete the “Approval Criteria Checklist for RLEMP Entry” (*RLEMP Toolkit Appendix A3*) in assessing the First Nation’s eligibility for entry.

If the First Nation is eligible, the AANDC Region will send the “Confirmation Letter of Approval for RLEMP Entry” (*RLEMP Toolkit Appendix A4*) advising the First Nation that they have met the eligibility requirements, and that it will be necessary to develop a Training and Development Level Workplan (*RLEMP Toolkit Appendix A8*) together with AANDC Region. At the same time, the region will attach the template “BCR Requesting Entry into RLEMP” (*RLEMP Toolkit Appendix A6*) for the First Nation.

If a First Nation is seeking entry at the Operational Level, they will need to have their First Nation Land Manager certified in land and environmental management and have their Lands Office approved by AANDC Region. If eligible to enter at this level, the First Nation would complete an Operational Level Workplan (*RLEMP Toolkit Appendix A9*).

For 53/60 First Nations who must enter RLEMP at the Delegated Authority Level, they would need to complete a Delegated Authority Level Workplan (*RLEMP Toolkit Appendix A10*).

If a First Nation is ineligible for RLEMP, the region will send the 'Refusal Letter for Program Entry' (*RLEMP Toolkit Appendix A5*). It is important that this decision be made and communicated early so that any issues can be assessed for possible resolution, and to enable possible reconsideration for program entry.

Step 5: Assess community needs and identify human resources Requirements

All First Nations joining the RLEMP at the Training and Development Level will be required to commit to training a Land Manager, unless their Land Manager has already obtained their certification in land and environmental management. First Nation Land Managers requiring training will need to attend the Professional Land Management Certification Program (Post Secondary training and technical training) in order to obtain their certification. First Nations must identify the appropriate resources required and commit to ensuring that their Land Manager will acquire the necessary training under the Professional Land Management Certification Program.

First Nations entering at the Delegated Authority Level must have their Land Manager obtain certification in lands and environmental management. The First Nation's Lands Office must also be approved by AANDC Region within two years of RLEMP entry.

Step 6: Submit a Band Council Resolution (BCR) for RLEMP entry

There are some eligibility requirements for entering and operating under RLEMP. (See RLEMP Appendix A3 – Approval Criteria Checklist for RLEMP Entry) If a First Nation determines that they officially want to enter RLEMP, they must prepare a BCR confirming participation and submit it to the AANDC Region. This signals the intent of the First Nation to participate in the program under the agreed Terms and Conditions contained in the Workplan (Training and Development, Operational or Delegated Authority Level Workplan, as applicable).

The Regional Office will subsequently acknowledge receipt of the BCR to the First Nation (*RLEMP Toolkit Appendix A11*).

Step 7: First Nation formally enters RLEMP

Upon confirmation of acceptance into the program, Region will complete an Application for Registration from the Indian Land Registry System pending file. The regional office subsequently forwards the Band Council Resolution together with the Application for Registration to the Indian Lands Registry in Headquarters to formally complete the RLEMP entry process.

Step 8: Registration of Band Council Resolution.

Upon receipt, the Indian Lands Registry registers the Band Council Resolution, and sends confirmation of registration to the AANDC Region. The region, in turn, will send a copy of the confirmation of registration to the First Nation.

Step 9: Develop Level of Authority Workplan

The First Nation and AANDC Region will jointly develop a Workplan for participating in the program [Training and Development Level (*RLEMP Toolkit Appendix A8*), Operational Level (*RLEMP Toolkit Appendix A9*) or Delegated Authority Level (*RLEMP Toolkit Appendix A10*), as applicable]. They will then determine how the First Nation wishes to perform or obtain its land management services, and decide what development support will be required during the two years leading up to transition to Operational Level. In the event the First Nation has 53/60 Delegated Land Management Authority, a Delegated Authority Level Workplan would be developed.

To assist Regional Staff and to promote consistency, a standard Level of Authority Workplan template is provided. The community level targets contained in the Workplan will be used to conduct a year-end review/debrief with each First Nation. The draft budget available to each First Nation will be estimated using the RLEMP Funding Formula (see *RLEMP Toolkit Appendix B1*).

6. LEVELS OF RESPONSIBILITY

The RLEMP includes three levels of responsibility: Training and Development, Operational, and Delegated Authority. These levels of responsibility are based on:

- the activities to be performed by the First Nation Land Manager and/or Regional Staff at each level;
- land management competency assets (knowledge, skills and abilities) for the First Nation Land Manager (see *RLEMP Toolkit Appendix A12*);
- the amount and complexity of land management activity for the First Nation; and
- the experience requirements for the First Nation Land Manager at each level (i.e., for First Nations that already have 53/60 Delegated Authority).

First Nations entering the program begin at the Training and Development level, and upon successful completion of the Professional Land Management Certification Program, progress to the Operational Level. A First Nation is expected to progress from the Developmental to the Operational Level within two years. First Nations that currently have authority under sections 53 and 60 of the *Indian Act* will enter the RLEMP at the Delegated Authority Level. First Nations operating at the Operational or Delegated Authority levels within RLEMP are expected to assume more of the total scope of land management responsibility than those at the Training and Development Level.

Training and Development Level

First Nations at this level will partner with the AANDC Region in the administration of land management services required under the *Indian Act* and will follow applicable legislation, departmental policies, systems and operational guidelines to manage on-reserve activities.

The First Nation Land Manager will attend the Professional Land Management Certification Program (PLMCP), which includes Post Secondary training and technical training, in order to obtain certification in land and environmental management. During this time, the First Nation Land Manager will be supported by AANDC Region. Together, the First Nation Land Manager and AANDC Region will establish and maintain land data records in order to prepare the First Nation for eventual progression to the Operational Level.

The First Nation Land Manager will:

- Draft simple, straightforward land instruments such as Band Council Resolution (BCR) allotments and transfers;
- Negotiate and draft leases and permits;
- Confirm survey requirements are met;
- Ensure appraisals are conducted as necessary;
- Enter transaction particulars in NetLands;
- Prepare reports; and
- Manage environmental management processes and compliance-related activities associated with these land and natural resources transactions.

Operational Level

At this level, AANDC Region no longer has primary responsibility for RLEMP key functions, but retain the approval function for all transactions.

First Nations will be expected to perform all of the land management activities without the continued assistance of AANDC Region, and will have primary responsibility for the RLEMP key functions of land and natural resources transactions, environmental management, compliance management and community land use planning. They will follow applicable legislation, departmental policies, systems and operational guidelines to manage on-reserve activities.

At this level, the First Nation Land Manager has been certified in land and environmental management by the National Aboriginal Land Managers Association (NALMA), and their Lands Office has been approved by AANDC Region. They will be accountable for results achieved through land and environmental management activities and for reporting on these results.

The First Nation will continue to maintain a Lands Office with complete land data records. They will be responsible for all land management activities up to the point of Ministerial consent, including:

- Prepare land management instruments;
- Confirm that survey requirements are met;
- Ensure appraisals are conducted as necessary;
- Enter the transaction particulars in NetLands;
- Prepare reports and have them approved;
- Manage environmental management processes associated with each of the RLEMP key functions;
- Conduct compliance-related activities associated with each of the RLEMP key functions;
- Complete the registration requirements checklist;
- Forward completed registration packages to AANDC Region;
- Receive registration particulars from AANDC Region; and
- Send the executed documents to proponents.

The First Nation Land Manager will be responsible for providing information to members and third parties about the status of their lands and issues related to the granting, transfer, or alienation of interests in those lands. They will also represent the First Nation and AANDC in negotiations with third parties and other federal agencies, and provide AANDC with input and advice about the views of First Nations regarding the management of their lands under the *Indian Act*.

First Nations in the RLEMP will liaise with AANDC, band members and third parties to try to resolve issues relating to the management of their lands under the *Act*. In addition, they will inspect reserve boundaries and lease and permit sites to identify encroachments or violations of the terms of a lease or permit and advise AANDC promptly of any violations. They could also conduct other site specific functions such as supporting or assisting survey work, resource inventories, environmental audits, or supporting AANDC in relation to designations.

First Nation Land Managers will act as the liaison for land surveys, and will monitor compliance with non-site related terms such as insurance and payment of rent. They will also carry out specific Crown obligations under the leases and permits by conducting rent reviews and appraisals.

Delegated Authority Level

At this level, RLEMP First Nations will be expected to perform all of the Operational Level activities, as well as have Sections 53/60 Delegated Land Management Authority. Section 53 is the vehicle through which the Minister can delegate authority to First Nations for the administration of designated lands. Section 60 is the means by which the Governor in Council may authorize bands to manage reserve land activities, which may include the following under the *Indian Act*: approval of band allotments, approval of transfers, time extensions for disposition of reserve lands, permits, approval of transfers of land by personal representative, and/or transactions affecting designated lands, permits, leases or licences issued under *Indian Mining Regulations, Indian Reserve Waste Disposal Regulations, Indian Timber Regulations, and Indian Timber Harvesting Regulations*.

Impacts based on RLEMP Level of Responsibility

For First Nation Land Manager

- increased involvement in the full scope of land and environmental management activities;
- receives training and support to acquire skills, knowledge and experience; and
- must complete the Professional Land Management Certification Program (Post Secondary and Technical training), to progress to Operational Level within two years.

For First Nation Council

- increased involvement in the full scope of land and environmental management activities;
- will be accountable for results achieved through land and environmental management activities;
- will receive increased funding based on scope of land and environmental management activity and results achieved;
- increased control of compliance activities and processes, and accountability for reporting on these; and
- must continue to fulfil responsibilities as per Terms and Conditions of Reserve Land and Environment Management Program Guidelines (Appendix A13) and funding arrangement if First Nation Land Manager departs and/or while a new one is being trained.

For AANDC Region

- decreased involvement in the full scope of land and environmental management activities on reserve;
- role change (supporting to advisory);
- ensure transactions have been registered in Indian Land Registry by end of calendar year for funding purposes;
- required to assist First Nations with the validation process for land and natural resource transactions;
- will conduct assessments of the First Nation's Lands Office to determine if the First Nation is ready for an increased level of land management responsibility;
- responsible for approval of the First Nation Lands Offices; and
- will maintain a list of approved First Nation Lands Offices.

For AANDC HQ

- responsible for providing adequate tools to First Nations (including access to the ILRS);
- responsible for development of necessary program policy;
- responsible for determining the level of funding to be provided to First Nations for their land and environmental management, and for allocating this funding;
- responsible for ensuring training requirements under the Professional Land Management Certification Program are defined;
- work in partnership with NALMA to develop the best possible learning options for First Nation Land Managers; and
- responsible for determining priority of candidates for Professional Land Management Certification Program based on a First Nation's position on the waiting list, the First Nation's level of program entry into RLEMP, and on the assessment of candidates.

*See the RLEMP Toolkit Part D for further details
on the RLEMP Levels of Responsibility.*

7. PROGRESSION CRITERIA

An important feature of the RLEMP is that a First Nation Land Manager assumes his/her new responsibilities as he/she progresses through the program, not all at once.

First Nations will enter the RLEMP at the Training and Development Level (with the exception of 53/60 First Nations) and must progress to the Operational Level within two years (with possible extension for special circumstances).

First Nations with 53/60 Delegated Authority must enter at the Delegated Authority Level. The First Nation Land Manager must obtain certification in land and environmental management. The First Nation Lands Office must also be approved by AANDC Region.

In order to progress through the RLEMP, a First Nation Council will:

- do a self-assessment to determine if they meet the minimum criteria;
- make a formal request to AANDC Region;
- ensure their Land Manager has been certified in land and environmental management by NALMA;
- have their Lands Office approved by AANDC Region;
- obtain AANDC Region's approval for progression; and
- accept level of responsibility for key functions and related activities.

To progress to the Operational Level of RLEMP from the Training and Development Level, a First Nation must retain a Land Manager that is certified in lands and environment management, and must agree to:

- assume primary responsibility for all RLEMP key functions (lands and natural resources transactions, community land use planning, environmental management and compliance management) and related activities;
- accept the roles and responsibilities associated with that level of responsibility;
- carry out RLEMP's key functions and perform the related land and environmental management activities;
- successfully complete the Professional Land Management Certification Program (Post Secondary training and Technical training) in land and environmental management while being supported by AANDC Region.
- Under normal circumstances, AANDC Region will provide support during this period²;
- establish and maintain an approved Lands Office with complete land data records;
- jointly develop, with AANDC Region, an Operational Level Workplan and sign the Workplan accepting all of its Terms and Conditions;
- be funded at the Operational Level based on the annual RLEMP funding formula calculations;
- continue to meet all of the RLEMP entry requirements;
- obtain AANDC Region's approval for progression to Operational Level; and
- disburse funds received from RLEMP for land and environmental services only.

See RLEMP Toolkit Appendix C1 for Progression to Operational Level Checklist.

² Note: In some exceptional cases, this support could be provided by a certified First Nation Land Manager rather than AANDC Regional Staff. The proposed First Nation support would need to meet with AANDC Region to seek approval for this arrangement.

A First Nation can progress to the Delegated Authority Level from the Operational Level if they have a successful vote from their membership and obtain authority under section 53 Delegated Land Management Authority of the *Indian Act* by way of a letter from the Minister and under section 60 of the *Indian Act* by way of an Order in Council.

In addition, the First Nation must agree to:

- continue to retain a certified Land Manager;
- assume primary responsibility for all RLEMP key functions (lands and natural resources transactions, community land use planning, environmental management and compliance management) and related activities;
- have their Land Manager successfully complete the Professional Land Management Certification Program (Post Secondary training and Technical training) in land and environmental management while being supported by AANDC Region;
- maintain a Lands Office with complete land data records;
- have their Lands Office approved by AANDC Region;
- accept the roles and responsibilities associated with that level of responsibility;
- jointly develop, with AANDC Region, a Delegated Authority Level Workplan and sign the Workplan accepting all of its Terms and Conditions;
- be funded at the Delegated Authority Level based on the annual RLEMP funding formula calculations;
- continue to meet all of RLEMP entry requirements;
- expend the funds received from RLEMP for lands and environmental services only; and
- obtain AANDC Region's approval for progression to Delegated Authority Level.

*See RLEMP Toolkit Appendix C2 for Progression to
Delegated Authority Level Checklist.*

If a First Nation does not progress from the Training and Development Level to the Operational Level within the required time frame of two years, the following will occur:

- a) AANDC Region and the First Nation will need to develop a new Workplan;
- b) Arrangements may be made for supplementary training/coaching;
- c) Arrangements may be made for job shadowing with another First Nation or with AANDC Region;
- d) AANDC Region may perform some of the land management functions on a temporary basis; and
- e) The AANDC Region may roll back funding or cut funding entirely (program exit).

Impacts based on Progression within RLEMP

For First Nation Land Manager

- will need to assume increased responsibility for land and environment functions in order to progress to a higher level of responsibility;
- will need to leave the community to acquire the necessary training under the Professional Land Management Certification Program (approximately 16 weeks over a two year time frame) ;
- need to acquire land and environmental management certification under the Professional Land Management Certification Program; and
- First Nations under the existing RLAP or 53/60 programs entering the program may need immediate training for their Land Manager.

For the First Nation

- receive increased funding based on assuming an increased level of responsibility for land and environmental management activities;
- require approval of their Lands Office by AANDC Region, and certification of their Land Manager under the Professional Land Management Certification Program;
- there will be impacts if they fail to fulfil the Terms and Conditions of the program (i.e., may need additional supplemental training, region may need to take on more responsibility for some or all of the key functions, etc.); and
- will continue to be responsible for Operational Level activities (or Delegated Authority Level activities, as applicable) if their Land Manager departs and while another Land Manager is being trained.

For AANDC Region

- increased workload in the short term;
- change in role (support to advisory);
- recommend First Nations for entry into RLEMP;
- recommend First Nations for progression to Operational Level or Delegated Authority Level (53/60 First Nations must enter at the Delegated Authority Level);
- may require training on various elements of the program and on program implementation;
- as First Nations progress within the program, there will be a reduction in workload for regional staff as First Nations take on more of the land and environment management activities;
- will need to resume responsibility for land and environmental management for RLAP and 53/60 First Nations who choose not to enter RLEMP;
- will complete First Nation Lands Office approvals to determine a First Nation's readiness for an increased level of land management responsibility and guidance to First Nations for progression within RLEMP;
- responsible for the approval of First Nation Lands Offices; and
- will maintain lists of approved First Nation Lands Offices.

For AANDC HQ

- will need to ensure roles and responsibilities are clearly defined for each level of responsibility;
- will need to determine the priority of candidates for the Professional Land Management Certification Program based on a First Nation's position on the waiting list, on their level of program entry, and on the assessment of candidates;
- will need to determine funding requirements for RLEMP program level and/or for First Nation progression.
- provide information sessions/training sessions to AANDC Regions on RLEMP.

*See PART C of RLEMP Toolkit for
RLEMP Progression Tools and Templates.*

8. ROLES AND RESPONSIBILITIES

The roles and responsibilities for First Nations, AANDC Regions and AANDC Headquarters have been defined below by the activities to be undertaken at each RLEMP level and for each type of funded land transaction. In addition, there is a list of common process requirements that apply to all lands transaction types. Part D of the RLEMP Toolkit contains the process requirements for the lands transactions applicable under RLEMP.

Training and Development Level

Entry into RLEMP is voluntary. First Nations will enter the program at the Training and Development Level, and open a Lands Office. They will also be required to develop and maintain adequate land data records. The First Nation Land Manager will work to develop knowledge, skills, and experience, will participate in the Professional Land Management Certification Program, and will receive support by AANDC Region.

Upon completion of the Professional Land Management Certification Program, and as the First Nation Land Manager acquires more skills, he or she will begin to:

- negotiate and draft leases;
- negotiate and draft permits;
- draft straightforward land instruments, such as BCR allotments and individual land holding transactions;
- prepare the following reports for any transaction type and forward them to the region:
 - Land Transaction Information Report
 - Land Inspection Report
 - Transaction Checklist
 - Locatee Consent (if applicable)
- confirm survey requirements are met;
- ensure appraisals are conducted as necessary;
- enter transactions into NetLands; and
- manage environmental management processes and compliance related activities associated with land and natural resources transactions.

Operational Level

Progression to the Operational Level of RLEMP is mandatory after two years at the Training and Development Level. The First Nation Land Manager will have received certification in land and environmental management, indicating that he or she has the skills, knowledge and experience required to provide the land and environmental management services associated with this level of responsibility.

The First Nation Land Manager will assume responsibility for RLEMP key functions (environmental management, land and natural resources transactions, compliance management and community land use planning).

At the Operational Level, AANDC Region will no longer have primary responsibility for RLEMP key functions, but retain the approval function for all transactions. The First Nation is responsible for accomplishing all land and environmental management tasks and activities linked to the land transactions, up to the point of Ministerial consent. The First Nation Land Manager will also:

- confirm survey requirements are met;
- ensure appraisals are conducted as necessary;
- enter the transaction particulars in NetLands;
- prepare the following reports for any transaction type and forward them to the region:
 - Land Transaction Information Report
 - Land Inspection Report
 - Transaction Checklist
 - Locatee Consent (if applicable)
- manage environmental management processes associated with each of the RLEMP key functions;
- conduct compliance related activities associated with each of the RLEMP key functions;
- complete registration requirements checklist;
- forward completed registration packages to AANDC Region;
- receive registration particulars from AANDC Region and send the executed documents to proponents;
- ensure that their Lands Office has been approved by AANDC Region; and
- ensure that their First Nation continues to maintain a Lands Office with complete land data records.

Delegated Authority Level

When a 53/60 First Nation chooses to join the RLEMP, it must enter the program at the Delegated Authority Level. When a First Nation that is already participating in RLEMP obtains 53/60 Delegated Land Management Authority, they progress to the RLEMP Delegated Authority Level.

The First Nation Land Manager will need to be certified under the Professional Land Management Certification Program. Current 53/60 First Nations will have two years from date of entry into the RLEMP to have their Land Manager certified.

The First Nation Lands Office must be approved by the AANDC Region. Current 53/60 First Nations will have two years from date of entry to have their Lands Office approved.

The First Nation will assume primary responsibility for RLEMP key functions and will perform all of the Operational Level roles and responsibilities and land and environmental management activities. The First Nation Land Manager will also:

- prepare and approve land transactions identified within their delegated authority;
- carry out specified Crown obligations under a lease or permit;
- receive registration particulars from Indian Lands Registry or AANDC Region and send the executed documents to proponents.

*See D of RLEMP Toolkit for more information on
Roles and Responsibilities and Templates.*

9. PROFESSIONAL LAND MANAGEMENT CERTIFICATION PROGRAM

The RLEMP includes a training program that will better prepare First Nations for their new roles and responsibilities under a broader scope of land, resources and environmental management.

Land managers will need to acquire new competencies and knowledge to effectively manage the roles and responsibilities assigned to them under RLEMP. To meet this need, the program includes an innovative training component designed to build relevant skills and expertise.

AANDC, the National Aboriginal Land Managers Association (NALMA) and the University of Saskatchewan have collaborated to design and deliver the Professional Land Management Certification Program (PLMCP). AANDC Regions play an advisory role in supporting First Nations participating in the PLMCP training.

The training program includes both technical and academic elements. The technical training focuses on practical aspects of managing land under the *Indian Act* and related policies, while the academic component focuses on topics such as legal systems, natural resources management and environmental studies.

The University of Saskatchewan has designed and is currently offering the academic curriculum, while NALMA in partnership with AANDC has developed and is currently delivering the technical training. RLEMP students will also learn how to incorporate traditional knowledge and customs into their professional activities.

Upon successful completion of the Professional Land Management Certification Program training, First Nation Land Managers will receive a certificate from the University of Saskatchewan to confirm their successful completion of degree credit courses in land and environmental management and a certification from NALMA to confirm their successful completion of the Technical training.

10. FUNDING

The RLEMP funding formula is designed to improve linkages between land, natural resources and environmental management activities on reserve and their funding levels.

At the Training and Development Level, First Nations receive 80 percent of base funding since the AANDC Region continues to have significant responsibility for land and environmental management activities while the First Nation is at this level.

A First Nation receives 100 percent base funding at the Operational Level, as they are performing all functions required under the program and have assumed the additional land management responsibilities.

At the Delegated Authority Level, a First Nation receives 100 percent base funding plus an additional 15 percent for assuming the responsibility to sign land instruments on behalf of the Crown in accordance with the First Nation's Delegated Authority pursuant to Sections 53/60.

Funding begins upon acceptance into the RLEMP. A First Nation will receive Training and Development Level funding for the next fiscal year following acceptance. Operational Level funding will be disbursed upon certification of the First Nation Land Manager by NALMA, and approval of the First Nation's Lands Office by the AANDC Region.

Funding at the Delegated Authority Level begins after a First Nation has acquired sections 53/60 Delegated Land Management Authority and has committed to having its Land Manager certified in land and environmental management within two years of RLEMP entry. The First Nation's Lands Office must also be approved by AANDC Region within two years of entry. In addition, the First Nation will be expected to perform all of the Operational Level activities for land and environmental management.

Funding Formula

The RLEMP funding formula takes the following factors into consideration:

- population base;
- land base;
- type, volume and complexity of land and natural resources interests (i.e., leases, permits, etc.);
- operational costs;
- environmental activities (i.e., environmental site assessments, audits, etc.);
- compliance activities; and
- RLEMP level of responsibility (Training and Development Level, Operational Level or Delegated Authority Level).

Not all transactions will form part of the funding formula. The transactions that will be funded are registered land and natural resources transactions resulting in an active interest/possession in land, more specifically identified under the following sections of the *Indian Act*.

| | |
|-------------------|--|
| section 18 (2) | Lands Used for the General Welfare of the Band |
| section 20 (1) | Band Allotment |
| section 24 | Transfer of Land |
| section 26 | Correction of Certificate of Possession, Certificate of Occupation or Location Tickets |
| section 28 (2) | Permits |
| section 49 | Administrative Transfer of Land |
| section 53 (1)(b) | Any other transaction affecting designated lands (e.g., lease) |
| section 58 (1)(b) | Lease uncultivated allotted reserve land for agricultural or grazing purposes or for any purpose that is for the benefit of the locatee |
| section 58 (1)(c) | Lease granted for the benefit of any Band for agricultural or grazing purposes, without the land being designated |
| section 58 (3) | Lease for the benefit of any Indian, at request of occupant, without the land being designated |
| section 58 (4) | Permits for the disposition of grass, fallen timber and non-metallic substances (e.g., sand, gravel, clay, etc) |
| Sub-leases | Sub-leases affecting an instrument executed under section 53(1) or section 58(3) - Permits, leases and licences issued under <i>Indian Mining Regulations, Indian Reserve Waste Disposal Regulations, Indian Timber Regulations and Indian Timber Harvesting Regulations</i> . |

Non-funded transactions are transactions that are not executed pursuant to the above-noted *Indian Act* sections and *Indian Act Regulations*, do not directly affect the interest in the land (i.e., assignment of a sub-lease, band mortgages, BCRs, etc.), or are expired interests or inactive possessions in land and natural resources transactions pursuant to the *Indian Act* sections identified above.

At the beginning of each fiscal year, AANDC Region will provide the First Nation with its anticipated funding allotment as calculated by AANDC Headquarters (see *RLEMP Toolkit Appendix B4*) for the next fiscal year based on the RLEMP Funding Formula (see *RLEMP Toolkit Appendix B1*). The First Nation will review its proposed funding. A finalized RLEMP Funding Formula will be attached to a Contribution Agreement to be signed by the First Nation.

*See PART B of RLEMP Toolkit for
Funding Formula and Templates.*

11. RLEMP PLANNING PACKAGE

There are additional funds available to those First Nations that wish to undertake activities based on the key functions of the RLEMP. It is important to note that the following are planning packages, and a First Nation participating in RLEMP is not required to perform any of these activities. The RLEMP planning package activities include the development of a Community Land Use Plan, Community Environmental Sustainability Plan and/or a Compliance Framework.

Community Land Use Plan

AANDC, in partnership with First Nations, has begun the development of its comprehensive community planning strategy to support First Nations in the development and implementation of community planning on reserve lands. Community land use planning is but one component of Comprehensive Community Planning.

Land use planning is a process for determining how the land base of a community will be used in the future. The process, which requires active community involvement, results in the development of a plan that consists of goals and objectives for the community, policies to describe how the objectives will be achieved, and maps to identify potential future land uses as well as other activities (i.e., utilities, environmental constraints, etc).

Planning is necessary to ensure the sustainability of safe, healthy, and secure environments. The process involves significant public and stakeholder participation. It integrates the goals of sustainable development, good governance and economic viability. It also strives to balance opportunities for economic development with stewardship and/or protection of a First Nation's land and resources.

It is a process that:

1. Results in the identification of future land uses, based on community needs and requirements (i.e., residential, commercial, industrial, agricultural, open space, etc.);
2. Provides for future compatibility between adjacent land uses (i.e., separation between residential and industrial activities, etc.);
3. Provides for sustainable management of natural resources (i.e., forestry, mining, agriculture, water, etc.);
4. Identifies the required infrastructures for existing and proposed future development activities (i.e., roads, sewers, water, etc.); and
5. Identifies measures to promote and enhance environmental protection (i.e., flood plains, contaminated lands, required setbacks from watercourses, minimum rural residential lot size, etc.).

The First Nation Land Manager needs to be conscientious concerning two main activities related to Community Land Use Planning:

1. To ensure the proposed creation of any interest (i.e., land allotments, land transfers, locatee leasing, etc.) is in compliance with each of the following, where applicable:
 - the community land use plan;
 - community's land management goals and objectives (where no land use plan exists);
 - other site specific land management projects and plans, such as Economic Development, Capital and Housing; and
 - approved development plans or zoning by-laws.
2. Where there is no community land use plan in place, ensure that the proposed activity is compatible with, and does not negatively affect, neighbouring land uses and/or the environment.

If the land management activity or project proposal is not consistent with the above, the First Nation Land Manager will refer it back to the Band Council for review and resolution.

Though land use planning is not mandatory under the new RLEMP, AANDC strongly encourages First Nations to use land use planning techniques linked to the larger comprehensive community planning process to help increase their capacity to effectively manage their lands and resources.

Note: For the community land use planning function, AANDC's role is to provide advice and guidance to a First Nation community engaged in land use planning activities in support of establishing land use principles, priorities and strategies; creating an inventory of community land uses (including institutional, industrial, commercial, residential, recreation, open space, environmental, vacant, transportation, transmission); and projecting future needs and implications, including industrial, commercial, residential, institutional and infrastructure.

As a result, AANDC will provide an additional 5 percent to Base funding to First Nations who have an eligible Community Land Use Plan in place and are at the Operational or Delegated Authority Level.

To access these funds, the RLEMP provides a Community Land Use Planning Guide found in the RLEMP Toolkit (Part E) that describes the general eligibility requirements and the criteria that will be used by AANDC Regions to determine whether additional funding should be awarded.

Community Environmental Sustainability Plan

A Community Environmental Sustainability Plan (CESP) will facilitate a First Nation in managing their environmental responsibilities both associated with the land transactions, as well as harmonization requirements with other departmental environmental management responsibilities and other federal authorities. Environmental management processes are an integral component of RLEMP, including the use of Environmental Site Assessments (ESA) and Environmental Assessments (EA) for land acquisitions and transactions. In addition, First Nations will be required to monitor and address the environmental Terms and Conditions of their land transactions, and respond to any environmental emergencies or incidences that may arise from these matters.

A CESP is a written document that outlines a systematic approach to identifying environmental issues and concerns and then manages its environmental responsibilities. Through the development and implementation of a CESP, a First Nation community can ensure that, from an environmental point of view, its operations, activities and decision-making process are effectively managed. Further, a First Nation can demonstrate due diligence in protecting the health and safety of the community and the environmental integrity of reserve lands.

A CESP undertakes an array of follow-up actions which provide for the sound environmental management of a project or activity so that adverse environmental impacts are minimized and mitigated, beneficial environmental effects are maximized and sustainable development is ensured.

The main components of a CESP are as follows:

- Introduction
- Vision Statement
- Environmental Profile
- Legislative and Regulatory Requirements
- Environmental Priorities List
- Community Involvement

A more detailed guide to the development of a CESP can be found in the RLEMP Toolkit in Part E.

Once a CESP is implemented, its progress needs to be continually measured and monitored. Routine measurement and monitoring of the concerns and issues that have been identified must be undertaken to determine the potential for significant impacts on the environment.

To ensure the continuing effectiveness of the CESP, a First Nation will need to regularly review and evaluate information such as the results of audits, corrective action, current and proposed legislation, results of monitoring, and complaints. This review allows management to look at the plan and ensure that it is, and will remain, suitable and effective.

AANDC will provide an additional 5 percent to Base funding to First Nations who have an eligible Community Environmental Sustainability Plan in place and are at the Operational or Delegated Authority Level.

To access these funds, the RLEMP provides a Community Environmental Sustainability Plan Guide and Template (see RLEMP Toolkit Appendix E7) that describes the criteria that will be used by AANDC Regions to determine whether additional funding should be awarded.

Compliance Framework/Strategy

Effective compliance management is founded in a detailed compliance strategy or framework that includes an in-depth analysis of how the organization or entity does business or intends to do business.

A compliance framework involves the management of the regulatory and legal requirements affecting a First Nation, often achieved through a number of specific compliance programs (i.e., environmental compliance program). The various compliance programs are compiled to form the compliance framework. This framework provides a comprehensive and consistent approach to compliance. A key feature of an effective compliance framework is that it makes compliance everyone's responsibility and allows the First Nation to focus on the future and not waste time, effort and money addressing issues of non-compliance. (See RLEMP Toolkit Appendix E2)

The purpose of a compliance strategy or framework goes beyond monitoring for compliance and responding to non-compliance. The strategy should demonstrate the relevance of compliance to land and environmental outcomes, as well as the First Nation's goals and objectives. It should demonstrate how to employ all the tools of compliance and enforcement selectively and effectively.

AANDC's objective in addressing contraventions to the *Indian Act* and its regulations should be to protect the rights and interests of First Nations. These include securing economic benefits for First Nations; protecting First Nation lands, resources and environment; fostering the health and safety of First Nation residents; strengthening First Nations governance; protecting the personal property of individual First Nation members; and protecting the property of First Nations with spiritual or cultural significance.

It is important for AANDC and First Nations to secure voluntary compliance with the *Indian Act*. Getting voluntary compliance through education and communication initiatives reduces the need to monitor and enforce.

It is necessary for AANDC to ensure that compliance activities are conducted for the management of lands and natural resources. These activities are promotion, monitoring, enforcement and remedial action, and are dealt with extensively in the Promotion, Monitoring, Enforcement and Remedial Action Checklists (see Appendix E3 to E6 of the RLEMP Toolkit).

Compliance is important, as the extent and complexity of compliance requirements are increasing. Failures in these areas may result in costs through litigation and/or penalties but may have far more significant implications. Compliance failures may result in damage to land and resources, to the organization's reputation, or result in the death or injury of an employee or third party.

A well designed RLEMP compliance framework/strategy will:

- aim to prevent and to respond to breaches of specific laws, regulations, codes or organizational standards;
- contribute to a culture of compliance within AANDC and First Nations;
- support the sustainable use of First Nation lands and management of resources;
- form part of a compliance management framework for AANDC and First Nations; and
- facilitate transition to increasing levels of responsibility to First Nations.

In order to be considered to have an eligible Compliance Framework under RLEMP, the First Nation must:

- conduct an in-depth analysis on how the First Nation intends to manage their lands and natural resources;
- outline what factors will influence its success (objectives);
- outline the promotion and monitoring activities that must be complied with and the enforcement criteria to be used (i.e., warnings, sanctions, cancellation of agreements, court injunctions, etc.);
- outline what tools they have or will need to obtain (systems, records, templates, equipment, etc.);
- outline how they can best employ those tools to achieve compliance;
- outline how they will assess compliance performance (service standards);
- develop policies and procedures that can be used as a general guide for day-to-day operations of enforcement officials and the First Nation/First Nation Land Manager; and
- provide a report to AANDC recording the results of the in-depth analysis.

AANDC will provide an additional 5 percent to Base funding to First Nations who have an eligible Compliance Framework in place and are at the Operational or Delegated Authority Level.

To access these funds, the RLEMP provides tools for planning a Compliance Strategy or Framework found in the RLEMP Toolkit that describes the general eligibility requirements and the criteria that will be used by AANDC Regions to determine whether additional funding should be awarded.

*See PART E of the RLEMP Toolkit for
Guidelines and Templates for RLEMP Planning Package.*

12. How will this program benefit First Nations?

The RLEMP will assist First Nations in gaining the tools they need to manage reserve land, resources and the environment. As a result, First Nations will have increased involvement in the full scope of land and environmental management activities on reserve, including community land use planning, environmental management, and compliance.

Funding for the RLEMP was designed to better reflect the role of a First Nation Land Manager in terms of their land and environmental management responsibilities, and is based on the level of activity in key areas of land management. As such, many First Nations will receive an increase to their current land management funding levels under the RLEMP Funding Formula.

The RLEMP will also provide First Nations with enhanced training and professional development that will build land and environmental management knowledge and skills. It will enable First Nations communities to exercise greater control over land and environmental management decisions on reserve lands.

Through the training and development component of RLEMP, First Nations will build new competencies that will enable them to assume new responsibilities with respect to land, resources, and the environment. For interested First Nations, this could facilitate a transition to initiatives such as the *First Nations Land Management Act* and eventually to self-governance.



Aboriginal Affairs and
Northern Development Canada

Affaires autochtones et
Développement du Nord Canada

RESERVE LAND AND ENVIRONMENT MANAGEMENT

TOOLKIT

November 2011

A vertical decorative graphic on the right side of the page, featuring overlapping curved shapes in shades of blue and purple. At the bottom, there is a red and yellow curved shape.

Canada

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RLEMP ENTRY PROCESS**

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ENTRY PROCESS

AANDC Region and First Nation consultation should occur, as required, throughout the process

| Process # | Activity | Responsibility | Requirements | Template / References | Timeframe |
|-----------|--|----------------|--|---|--|
| 1 | First Nation expresses interest in RLEMP to AANDC Regional Office | First Nation | Expression of interest must be in a written format (i.e. letter, e-mail etc) | | |
| 2 | Provide presentation on RLEMP to Chief and Council (upon request only) | Region | First Nation requests presentation | | Mutual agreement |
| 3 | Receives initial expression of interest and acknowledges receipt | Region | Region sends letter to First Nation acknowledging receipt of expression of interest as well as a communication package | Acknowledgement Letter for Receipt of Expression of Interest in RLEMP Participation (RLEMP TOOLKIT Appendix A2) | 7 working days from receipt of expression of interest |
| 4 | Assess eligibility for RLEMP entry | Region | Conduct an eligibility screening For First Nations meeting screening approval – proceed to Process #5 For First Nations not meeting screening approval – proceed to Process #7 | Approval Criteria Checklist for RLEMP Entry – (Screening Approval Criteria only) (RLEMP TOOLKIT Appendix A3) | 30 working days from receipt of expression of interest (i.e. letter, e-mail, BCR etc.) |

Appendix A1

| Process # | Activity | Responsibility | Requirements | Template / References | Timeframe |
|-----------|--|--|--|--|---|
| 5 | Determine program level of responsibility | Region in consultation with First Nation | <p>First Nations for the most part will join RLEMP at the Training and Development Level</p> <p>First Nations requesting entry at Operational Level require the First Nation Land Manager must be certified and the First Nation Lands Office must be approved by AANDC Region</p> <p>First Nations with Delegated Authority under Sec. 53 & 60 of the <i>Indian Act</i> will automatically enter at the Delegated Authority Level</p> | | 30 working days from receipt of expression of interest (i.e. letter, e-mail, BCR) |
| 6 | <p>Region advises First Nation in writing of acceptance and informs of determined program level</p> <p>(if ineligible proceed to Process #7)</p> | Region | <p>Send letter to First Nation advising them of their acceptance into the program</p> <p>Proceed to Process #8</p> | <p>Confirmation Letter of Approval for Program Entry (RLEMP TOOLKIT Appendix A4)</p> <p>Template for BCR Requesting Entry into</p> | 60 working days from receipt of expression of interest (i.e. letter, e-mail, BCR) |

Appendix A1

| Process # | Activity | Responsibility | Requirements | Template / References | Timeframe |
|-----------|---|---------------------------------|---|---|---|
| | | | | RLEMP (RLEMP TOOLKIT Appendix A6) | |
| 7 | Region advises First Nation in writing of their ineligibility to enter program. | Region | Send letter to First Nation advising them of their ineligibility and conditions to be addressed (Process may be completed at this time. If conditions are addressed return to Process # 4) | Refusal Letter for Program Entry (RLEMP TOOLKIT Appendix A5) | 60 working days from receipt of expression of interest (i.e. letter, e-mail, BCR) |
| 8 | Draft and sign Workplan at appropriate Level of Responsibility | First Nation and Region jointly | Workplan identifies goals, targets, timeframes, learning plans, access to tools and equipment, expected requirements at level of responsibility | Training and Development Level workplan template (RLEMP TOOLKIT Appendix A8) or Operational Level Workplan template (RLEMP TOOLKIT Appendix A9) or Delegated Authority level Workplan template (RLEMP TOOLKIT | 14-21 working days from First Nation receipt of Confirmation Letter of Approval for Entry |

Appendix A1

| Process # | Activity | Responsibility | Requirements | Template / References | Timeframe |
|-----------|---|----------------|---|---|--|
| | | | | Appendix A10) | |
| 9 | Identify candidate to attend the Professional Land Management Certification Program training and advise AANDC accordingly | First Nation | First Nation commits to hiring a Land Manager within two months of acceptance into RLEMP and to having him/her trained through the Professional Land Management Certification Program | Land Management Competencies (SEE RLEMP TOOLKIT Appendix A12) | 30-60 working days from receipt of Confirmation Letter of Approval for Entry |
| 12 | Draft funding allocation is determined for First Nation entering RLEMP | HQ | Funding allocation is calculated on an annual basis as per RLEMP Funding Formula | RLEMP Funding Formula (calculated by HQ) | 7 working days from receipt of Workplan |
| 13 | Provide Region with proposed funding allocation for First Nation | HQ | | RLEMP Funding Formula Statement (completed by HQ) | 7 working days from receipt of Workplan |
| 14 | Provide First nation with proposed funding allocation | Region | Region will provide a copy of the RLEMP Funding Formula Statement completed by HQ. | | 7 working days from receipt of completed Funding Formula Statement from AANDC HQ |
| 15 | Prepare BCR for RLEMP entry | First Nation | First Nation must include mandatory clauses in BCR | Template for BCR requesting Entry (RLEMP | 15 working days |

Appendix A1

| Process # | Activity | Responsibility | Requirements | Template / References | Timeframe |
|------------------|--|-----------------------|--|--|------------------------------------|
| | | | | TOOLKIT Appendix A6) | |
| 16 | Forward signed BCR (if not already in receipt of) | First Nation | Chief and Council must make informed consent and review terms and conditions for participating in RLEMP | RLEMP Guidelines (RLEMP TOOLKIT Appendix A13) | 15 working days |
| 17 | Acknowledge receipt of BCR for RLEMP Entry | Region | Region sends letter to First Nation acknowledging receipt of BCR for RLEMP Entry and sent for registration | Acknowledge Letter for Receipt of BCR for RLEMP Entry (RLEMP TOOLKIT Appendix A11) | 7 working days from receipt of BCR |
| 18 | Submit BCR to Indian Lands Registry for registration | Region | Region completes Application for Registration and submits BCR for registration | Application for Registration/l LRS Pending File | 7 working days |

Appendix A1

| Process # | Activity | Responsibility | Requirements | Template / References | Timeframe |
|------------------|--|----------------------------|--|----------------------------------|---|
| 19 | Register BCR | HQ (Indian Lands Registry) | Indian Lands Registry receives the registration package Indian Lands Registry registers or rejects the registration package based on requirements according to the Indian Lands Registration Manual | Indian Lands Registration Manual | 7 – 10 working days from receipt |
| 20 | Send confirmation of registration to AANDC Regional Office | HQ (Indian Lands Registry) | Forwards registration particulars to the region | | 2 working days after registration has occurred |
| 21 | Send copy of confirmation of registration to First Nation | Region | | | 7 working days from receipt of registration particulars |

**ACKNOWLEDGEMENT LETTER
FOR EXPRESSION OF INTEREST IN RLEMP PARTICIPATION**

Date:

<First Nation>
<Address Line>

Dear _____ :

We wish to acknowledge receipt of your expression of interest for participation in the Reserve Lands and Environment Management Program (RLEMP) dated (_____) and enclose an RLEMP Fact Sheet for your information.

If you have any questions, do not hesitate to contact _____ at _____ .

Yours sincerely,

Regional Director
(_____) Region

APPROVAL CRITERIA CHECKLIST FOR RLEMP ENTRY

Screening Approval Criteria

- First Nation has a Land Manager on staff or has a plan in place to hire one within two months of RLEMP entry.
- First Nation has at least one active registered land transaction.
- First Nation has maintained a three consecutive year history of good financial management and audits immediately proceeding entry into RLEMP and in sound financial position.
- First Nation is operating under a Remedial Management Plan but it does not apply to land management area.

Entry Approval Criteria

- First Nation agrees to be a participant to RLEMP.
- First Nation agrees to accept all of the Terms and Conditions in the RLEMP Guidelines.
- First Nation agrees to jointly develop, with AANDC Region, a Workplan for participating in RLEMP (Training and Development, Operational or Delegated Authority, as applicable) and sign the Workplan accepting all of the Terms and Conditions therein.
- First Nation agrees to partner with AANDC Region in the administration of land management services during the RLEMP Training and Development Level phase.
- First Nation agrees to be funded according to the program level they are entering RLEMP at, based on the annual RLEMP funding formula calculations.
- First Nation agrees that the funds received from RLEMP will be expended for land and environmental management services only.
- First Nation agrees to hire a Land Manager within two months of the date of the letter of approval for program entry into the program, or already has a Land Manager on staff.
- First Nation agrees to open a Lands Office and to acquire adequate land data records.

- At Training and Development Level, the First Nation agrees to have their Land Manager successfully complete the Professional Land Management Certification Program in land and environmental management with support provided by AANDC Region.
- For Operational Level entry, First Nation has a Land Manager certified in lands and environmental management and has their Lands Office approved by AANDC Regional Staff.
- For Delegated Authority Level entry, the First Nation must have 53/60 Delegated Land Management Authority, must have or agrees to have their Land Manager certified in lands and environmental management, must have or agrees to have their Lands Office approved by AANDC Regional Staff, within two years of entry.
- First Nation entering at Training and Development level agrees to progress to Operational Level within two years of RLEMP entry, accepting the roles and responsibilities associated with that level and complying with the program Terms and Conditions.
- First Nation agrees that, in order to progress to Delegated Authority Level, they must have Delegated Land Management Authority under section 53 of the *Indian Act* by way of letter from the Minister dated (.....) and Delegated Land Management Authority under section 60 of the *Indian Act* by way of Order in Council No. (.....). (See Chapter 11, Land Management Manual for further information)

Name and Title of
Regional AANDC Representative

Signature

Date

_____ Region

CONFIRMATION LETTER OF APPROVAL FOR PROGRAM ENTRY

Date:

<First Nation>
<Address Line>

Dear :

Decision of Entry – Reserve Land and Environment Management Program

This is to inform you that you have met the eligibility requirements and have been accepted to participate in the program.

Attached is a copy of the RLEMP Guidelines which outlines the roles and responsibilities the First nation will assume upon entering the program. Also enclosed is the template 'BCR Requesting Entry into RLEMP' containing the mandatory clauses is attached for your use (see Appendix A). Please complete and return to the following AANDC Regional Office address:.

Upon receipt of your Band Council Resolution, we will contact you to set up a joint session in order to complete the Workplan.

If you have any questions concerning the program and its components, please contact _____ at _____ .

Yours sincerely,

Name and Title of AANDC Representative
(Land Manager, (insert Region))

REFUSAL LETTER FOR PROGRAM ENTRY

Date:

<First Nation>
<Address Line>

Dear :

Decision of Entry – Reserve Land and Environment Management Program

This is to inform you that you have not met the eligibility requirements and have therefore not been accepted to participate in the program.

The following conditions need to be addressed before your entry into the program can be accepted:

- Human Resources Requirements (please identify specific outstanding requirements)

- Financial Management Requirement s

- Registered Land Management Activity Requirements

Should you require assistance or guidance to satisfy the entry criteria, please feel free to contact your AANDC Regional Office.

Yours sincerely,

Name and Title of AANDC representative
(Land Manager, (Insert Region))

**TEMPLATE FOR BAND COUNCIL RESOLUTION (BCR)
REQUESTING ENTRY INTO RESERVE LAND AND ENVIRONMENT
MANAGEMENT PROGRAM**

(.....) FIRST NATION COUNCIL RESOLUTION
Chronological Number (.....)

The undersigned Chief and Council of the (.....) First Nation do hereby certify that the following is a resolution that was duly moved, seconded and approved by a majority of the Council at a duly convened meeting held at..... on the day of 20.... .

(Mandatory clause) WHEREAS the (.....) First Nation confirms that the terms and conditions for entry into the Reserve Land and Environment Management Program have been reviewed.

WHEREAS the (.....) First Nation meets the eligibility requirements for entry into the Reserve Land and Environment Management Program and has the intention to meet all of the requirements set out for continued participation in the program (maintain eligibility).

(For First Nations with delegated authority under Sections 53 & 60 of the Indian Act)

WHEREAS the (.....) First Nation has:

- a) **(Mandatory clause)** Delegated Land Management Authority under Section 53 of the *Indian Act* by way of letter from the Minister dated (.....) and Delegated Land Management Authority under Section 60 of the *Indian Act* by way of Order in Council No. (.....).

(Mandatory clause) AND THEREFORE LET IT BE RESOLVED THAT:

(.....) First Nation requests entry into the Reserve Land and Environment Management Program and shall comply with the Terms and Conditions outlined in the Reserve Land and Environment Management Program Guidelines at the Training and Development/Operational/Delegated Authority level.

A quorum for the (.....) First Nation is (.....) Band Council members.

(Chief)

(Councillor)

(Councillor)

(Councillor)

(Councillor)

**APPENDIX A7
UNDER CONSTRUCTION**

**Please contact
RLEMP@aadnc-aandc.gc.ca**

TRAINING AND DEVELOPMENT LEVEL WORKPLAN

Goal

- First Nation progresses to Operational Level.

Targets

- First Nation hires a Land Manager within two months of the date of the letter of acceptance into the RLEMP;
- First Nation ensures their Land Manager successfully completes the Professional Land Management Certification Program (post secondary and technical training) in land and environmental management with mentoring/coaching provided by AANDC Region;
- First Nation Land Manager is certified in land and environmental management;
- First Nation's Lands Office is approved;
- First Nation Land Manager performs the tasks as outlined under "Level of Responsibility" found below. Under this model, the First Nation will partner with AANDC Region in the administration of land management services;
- First Nation maintains a three consecutive year history of good financial management and audits immediately proceeding entry into RLEMP and is in a sound financial position;
- AANDC Region verifies and agrees that the First Nation has met the requirements for progression from Training and Development Level to Operational Level.

Timeframe

- Expected timeframe for First Nation progression from Training and Development Level to Operational Level is two years from the date of entry into RLEMP.

Learning Plan

- First Nation Land Manager successfully completes the Professional Land Management Certification Program with mentoring/coaching provided by AANDC Region;

Access to tools and equipment

- First Nation Land Manager has access to AANDC standard documents / templates, systems, policies and procedures related to land and environmental management.

Level of Responsibility

Upon completion of the post secondary certificate program and technical training components of the Professional Land Management Certification Program, the First Nation Land Manager, in partnership with the region, is expected to:

- Participate in the negotiation of leases;
- Participate in the negotiation of permits;
- Draft simple, straightforward land instruments such as BCR allotments and individual land holding transactions using AANDC templates;
- Confirm survey requirements are met;
- Ensure appraisals are conducted, as necessary;
- Enter transaction particulars in NetLands;
- Prepare the following reports for any transaction type and forward them to the region:
 - a) Land Transaction Information Report;
 - b) Land Inspection Report;
 - c) Transaction Checklist;
 - d) Locatee Consent (if applicable).
- Ensure Environmental Management processes associated with each of the above are conducted and provided for review and approval by AANDC Region;
- Conduct compliance related activities associated with each of the above for review and approval by AANDC Region.

Draft Budget (using RLEMP funding formula)

- Upon entry into RLEMP, the First Nation will receive Training and Development Level funding for the following fiscal year (80% of base funding) calculated annually as per the RLEMP funding formula.

Review schedule

- First Nation submits an annual progress report on their Training and Development Level Workplan to AANDC Region.

Name and Title of
First Nation Representative

Signature

Date

Name of First Nation

OPERATIONAL LEVEL WORKPLAN

Goals

- First Nation retains a Land Manager that has successfully completed the Professional Land Management Certification Program training (post secondary and technical training).
- First Nation has its Lands Office approved.
- First Nation assumes responsibility for the following RLEMP Key Functions (land and natural resources transactions, community land use planning, environmental management and compliance management) and performs the reserve land and environmental management activities associated with this level.
- First Nation builds additional skills and gains experience to eventually achieve full management and control of their reserve land and environmental resources, if they so desire.

Targets

- First Nation retains a Land Manager that has successfully completed the Professional Land Management Certification Program (post secondary training and technical training).
- First Nation assumes responsibility for RLEMP Key Functions (land and natural resources transactions, community land use planning, environmental management and compliance management) and is performing the reserve land and environment management activities associated with this level.
- First Nation Land Manager performs the tasks as outlined under “Level of Responsibility”.
- First Nation continues to maintain a three consecutive year history of good financial management and audits immediately proceeding entry into RLEMP and is in sound financial position.
- AANDC Region verifies and agrees that the First Nation has met the requirements for progression from Training and Development Level to Operational Level.

Timeframe

- First Nation can remain at this level indefinitely as progression from Operational Level to Delegated Authority Level is based on a First Nation obtaining 53/60 delegated land management authority.

Learning Plan

- First Nation continues to receive advice and guidance from AANDC Region.

Access to tools and equipment

- First Nation Land Manager has access to AANDC standard documents/templates, systems, policies and procedures related to land and environmental management.

Level of Responsibility

Upon progression to Operational Level, the First Nation Land Manager is expected to:

- Participate in the negotiation of leases;
- Participate in the negotiation of permits;
- Draft simple, straightforward land instruments such as BCR allotments and individual land holding transactions using AANDC templates;
- Confirm survey requirements are met;
- Ensure appraisals are conducted, as necessary;
- Prepare the following reports for any transaction type and forward them to the region:
 - e) Land Transaction Information Report;
 - f) Land Inspection Report;
 - g) Transaction Checklist;
 - h) Locatee Consent (if applicable).
- Ensure Environmental Management processes associated with each of the above are conducted and provided for review and approval by AANDC Region;
- Conduct compliance related activities associated with each of the above for review and approval by AANDC Region;
- Complete registration requirements checklist, and forward transaction to AANDC Region for approval/execution;
- Receive registration particulars from AANDC Region and send executed documents to proponents, retaining a copy on file.

Draft Budget (using RLEMP funding formula)

- First Nation will receive Operational Level funding (100% base funding) for the next fiscal year, calculated annually as per the RLEMP funding formula.

Review schedule

- First Nation submits annual progress report on their Operational Level Workplan to AANDC Region.

First Nation Representative

Date

AANDC Regional Representative

Date

DELEGATED AUTHORITY LEVEL WORKPLAN

Goals

- First Nation retains a Land Manager that has successfully completed the Professional Land Management Certification Program training (post secondary certificate program and technical training).
- First Nation has their Lands Office approved. (This involves having their Land Manager certified in land and environmental management and obtaining AANDC Regional Office approval for entry at/progression to this level.) [First Nation's Lands Office may already be approved if they are progressing from Operational Level].
- First Nation assumes responsibility for the following RLEMP Key Functions: land and natural resources transactions, community land use planning, environmental management and compliance management.
- First Nation gains additional skills and experience to achieve full management and control of their reserve land and environmental resources under Sections 53 and 60 of the *Indian Act*.

Targets

For First Nations progressing from Operational Level to Delegated Authority Level:

- First Nation continues to retain a Land Manager who has successfully completed the Professional Land Management Certification Program (post secondary certificate program and technical training).
- First Nation continues to assume responsibility for RLEMP Key Functions (land and natural resources transactions, community land use planning, environmental management and compliance) and is performing the reserve land and environment management activities associated with this level.
- First Nation Land Manager performs the tasks as outlined under "Level of Responsibility" found below.
- First Nation continues to maintain a three consecutive year history of good financial management and audits immediately proceeding entry into RLEMP and is in a sound financial position.

- AANDC Region verifies and agrees that the First Nation has met the requirements for progression from either, the Training and Development Level to Delegated Authority Level, or Operational Level to Delegated Authority Level, as applicable.

In addition, for 53/60 First Nations entering RLEMP at the Delegated Authority Level, they will have the following additional targets:

- If they do not already have one, the First Nation will hire a Land Manager within two months of the date of the letter of acceptance into the RLEMP.
- First Nation will ensure their Land Manager successfully completes the Professional Land Management Certification Program (post secondary certificate program and technical training).
- AANDC Region verifies and agrees that the First Nation has met the requirements for entry at this level.

Timeframe

- Current 53/60 First Nations who decide to join RLEMP must enter at the Delegated Authority Level. First Nations who obtain 53/60 delegated land management authority while in RLEMP (at either the Training and Development Level or Operational Level) must progress to Delegated Authority Level once they obtain this authority.

Learning Plan

- For a First Nation entering RLEMP at the Delegated Authority Level, the 53/60 First Nation Land Manager obtains certification in land and environmental management by successfully completing the Professional Development Program training to obtain certification in land and environmental management, within two years from date of entry.

Access to tools and equipment

- First Nation Land Manager has access to AANDC standard documents/templates, policies and procedures related to land and environmental management.

Level of Responsibility

The First Nation Land Manager is expected to:

- Execute and register leases and permits and submit them for registration
- Approve actions under the *Indian Act* that the First Nation has delegated authority to manage
- Submit all land transactions to Indian Lands Registry for registration
- Monitor compliance with non-site related terms such as insurance
- Carry out specific Crown obligations under the leases and permits by ensuring rent reviews are completed, preparing contracts for appraisals, approving mortgages and subleases etc.
- Confirm survey requirements are met
- Ensure appraisals are conducted, as necessary
- Prepare the following reports for any transaction type and forward them to the Region:
 - a) Land Transaction Information Report
 - b) Land Inspection Report
 - c) Transaction Checklist
 - d) Locatee Consent (if applicable)
- Manage Environmental Management processes associated with each of the above for review and approval by AANDC Region
- Conduct compliance related activities associated with each of the above for review and approval by AANDC Region
- Complete registration requirements checklist, enter transactions into ILRS and forward completed registration packages to the Indian Lands Registry
- Receive registration particulars from Indian Lands Registry and retains a copy on file

Draft Budget (using RLEMP funding formula)

- First Nation will receive Delegated Authority Level funding (100% base funding plus an additional 15%) calculated annually as per the RLEMP funding formula.

Review schedule

- First Nation submits annual progress report on their Delegated Authority Level Workplan to AANDC Region.

FN Representative

Date

AANDC Regional Representative

Date

**ACKNOWLEDGEMENT LETTER
FOR RECEIPT OF BCR REQUESTING ENTRY INTO RLEMP**

Date:

<First Nation>
<Address Line>

Dear :

We wish to acknowledge receipt of your Band Council Resolution dated requesting entry in the RLEMP. The Band Council Resolution has been sent for registration.

Registration particulars will be forwarded once the Band Council Resolution has been registered in the Indian Lands Registry.

If you have any questions, please contact _____ at _____ .

Yours sincerely,

Regional Director
() Region

LAND MANAGEMENT COMPETENCIES

Abilities

- Ability to identify, evaluate and correctly interpret evidence relating to interests in, title to and status of reserve land.
- Ability to conduct encumbrance checks in ILRS.
- General research capabilities.
- Ability to participate in the negotiation and submission of land instruments for approval and registration.
- Ability to monitor and ensure compliance of land instruments.
- Ability to analyse, interpret and apply policies, directives, regulations and legislation as they relate to the management of reserve, surrendered and other federal Crown land.
- Ability to analyse, interpret and apply basic contract law.
- Ability to prepare a sketch based on a survey.
- Ability to interpret survey plans and surveyor field work information.
- Ability to interpret environmental assessments and audits.
- Ability to interpret and request land appraisals.
- Ability to identify appropriate *Indian Act* legislation as it relates to instrument type and purpose.
- Ability to establish and maintain a record keeping system or record management system.
- Ability to use AANDC electronic land and environmental management systems (i.e., NetLands, ILRS, etc.).
- Ability to prepare correspondence, statistical and narrative reports.
- Ability to conduct effective presentations for the transfer of information relevant to land related issues.
- Ability to participate in the management of natural resources.
- Ability to participate in the development and implementation of Community Land Use Plan/Land Use Planning.
- Ability to participate in the development of By-laws.

Knowledge

- policies, directives, regulations and legislation as they relate to the management of reserve, surrendered and other federal Crown land
- Land Management Manual
- *Indian Act*
- Indian Land Registration Manual
- *Species at Risk Act*
- *Canadian Environmental Protection Act*
- *Canadian Environmental Assessment Act*
- *Fisheries Act*
- *Federal Real Property and Federal Immovables Act*
- *Oil and Gas Act*
- Various Provincial and Municipal Acts
- *CMHC Act*
- *Royal Proclamation Act ,1763*
- *The Constitution Act, 1867*
- *First Nations Land Management Act*
- Interdepartmental Framework Agreement (AANDC and NRCAN)
- Mining Regulations
- Waste Disposal Regulations
- Timber Regulations
- Referendum Regulations
- Natural Resources Transfer Agreements
- Selected Supreme Court of Canada Summaries relevant to Reserve Lands Management
- Community knowledge
- Membership
- By-laws
- Band policies
- Memorandums of Understanding
- Service Agreements
- Knowledge of implementing and utilizing terms of reference for appraisals, environmental assessments and audits
- Processes
- Survey process
- Designation process
- ATR/TLE Process
- Tendering process
- Monitoring and remediation processes
- Land Use Planning Process
- Compliance Strategy Process
- Environmental Management Plan process
- Knowledge of financial systems, billing systems
- Knowledge of record keeping systems
- Knowledge of monitoring systems (i.e., for Terms and Conditions, etc.)

Skills

- General computer skills
- Specific systems
- ILRS
- NetLands
- ESSIMS
- Negotiation skills
- Interpersonal skills
- Communication skills
 - Written
 - Oral
- Presentation
- Dispute resolution skills
- Project management
- Financial management
- Organization skills
- Record keeping
- Business skills
- Accounting
- Budgeting
- Math

Reserve Land and Environment Management Program - General Guidelines

Purpose

01. This directive explains the procedural requirement and framework for the Reserve Land and Environment Management Program (RLEMP). You should read it as an introduction to this chapter and for information on:
- **General Guidelines:** It explains the procedural requirements that govern RLEMP's land and environmental management activities.
 - **Program:** It describes the structure of the RLEMP land management program and the various funding programs.

General

02. The transfer of control over land management to First Nations is part of an overall departmental approach to facilitating assumption by First Nations of control over their communities. The RLEMP directly supports the Department's efforts in transferring land management responsibilities to First Nations, and is comprised of three separate components:
- **RLEMP Training and Development Level** is a newly designed model of land management for those First Nations that have a low to moderate familiarity with land and environmental management. Under this model, First Nations will partner with AANDC Region in the administration of land management services. This requires that both parties follow applicable legislation, departmental policies and operational guidelines to jointly manage on-reserve activities, thereby allowing First Nations to develop land and environmental management capabilities in a relatively risk free manner. AANDC Regional Officials are unanimous in agreeing that, for most First Nations, joint management needs to be in place to allow First Nations the opportunity to develop the necessary skills and capabilities to advance to the Operational Level of the program.

Those First Nations who enter the RLEMP agree to work towards progression to the Operational Level within two years from the time of RLEMP entry.

- **RLEMP Operational Level** is also a newly designed model of land and environmental management. Under this model, First Nations who have either successfully completed the Training and Development Level, or who have greater experience and familiarity with land and environmental management, will assume responsibility for RLEMP's key functions of land and natural resources transactions, community land use planning, environmental management and compliance management. They will retain a certified Land Manager and maintain an approved Lands Office.

The First Nation will be expected to perform all land management activities up to the point of Ministerial consent. This will include activities such as negotiating and drafting leases and permits; drafting simple, straightforward land instruments such as Band Council Resolution (BCR) allotments and individual land holding transactions; confirming survey requirements are met; ensuring appraisals are conducted as necessary; entering transaction particulars in NetLands; preparing Land Transaction Information Reports, Land Inspection Reports, Transaction Checklists and Locatee Consents; and managing Environmental Management processes and compliance related activities associated with these land and natural resources transactions. The First Nation will be responsible for results achieved through land and environmental management activities and for reporting on these results.

- **The RLEMP Delegated Authority Level** Under the Delegated Authority Level, First Nations must have sections 53/60 Delegated Land Management Authority.

Section 53 is the vehicle which allows the Minister to delegate authority to First Nations for the administration of designated lands. Section 60 is the means by which the Governor in Council may authorize bands to manage reserve land activities which includes the following under the *Indian Act*: lands used for the general welfare of the band under section 18(2), approval of band allotments under section 20(1), approval of transfers under section 24, time extension for disposition of reserve lands under section 25(1) permits under sections 28(2) and 58(4), approval of transfers of land by personal representative under section 49, transactions affecting designated lands under section 53(1)(b), leases under sections 58(1)(b), 58(1)(c), and 58(3), and permits, leases or licences issued under *Indian Mining Regulations*, *Indian Reserve Waste Disposal Regulations*, *Indian Timber Regulations*, and *Indian Timber Harvesting Regulations*. The process for obtaining sections 53/60 delegated land management authority will be covered in Directive 00-02 of this chapter.

The First Nation will also be responsible for all RLEMP key functions and for the roles and responsibilities/land and environmental activities associated with the Operational Level.

The RLEMP Delegated Authority Level, like the Training and Development and Operational Levels, is designed to facilitate First Nations who wish to enter into the First Nation Land Management (FNLM) or into self-government.

Self-government agreements, as well as agreements for First Nations operating under the *First Nations Land Management Act* and their Land Management Codes, are negotiated with individual First Nations and will not be discussed in this chapter.

03. The four basic principles upon which the RLEMP land management programs are based are:
- **Primacy of statutory duties and fiduciary obligations:** The department will not pursue the transfer of functions at the expense of performing its statutory duties and fulfilling its fiduciary obligations.
 - **Clear mutual understanding of the respective accountabilities of the Minister and First Nations:** First Nations have a right to know what they are getting into when they accept responsibility for land management functions.
 - **Informed Consent:** First Nations will not be pressured into accepting the transfer of land management functions, and they will be given all available information regarding the pros and cons of assuming land management responsibilities.
 - **Equal access to available resources:** All First Nations participating in RLEMP, with or without sections 53/60 delegated land management authority, will be given equal access to resources available within the department.
04. The Professional Land Management Certification Program (PLMCP) is aimed at First Nation Land Managers to prepare them to become certified in land and environmental management. Successful participants of the post secondary training component will receive a certificate from an accredited learning institution in Canada. This will be followed by a period of technical training in the management of reserve land under the *Indian Act* to complete the requirements for certification.

This certification will enable them to assume responsibility for the administration of their lands and environmental management services under the RLEMP Operational Level.

05. All levels of the RLEMP land management program enable First Nations to perform a variety of land management activities and to be mindful of the environmental, compliance and community planning issues that go along with managing land and natural resources transactions.

Authorities

06. Treasury Board (TB) has granted authorities for the following programs:
- TB granted authority for the 53/60 Program in 1983 and in 1996. Treasury Board granted authority for the 53/60 Program, the Regional Lands Administration Program and the Reserve Land and Environment Management Program in 2009.
07. First Nations are authorized to exercise delegated land management authorities under the following sections of the *Indian Act*:

53. (1) *The Minister or a person appointed by the Minister for the purpose may, in accordance with this Act and the terms of the absolute surrender or designation, as the case may be,*

(a) *manage or sell absolutely surrendered lands; or*

(b) *manage, lease or carry out any other transaction affecting designated lands.*

60. (1) *The Governor in Council may at the request of a band grant to the band the right to exercise such control and management over lands in the reserve occupied by the band as the Governor in Council considers desirable.*

(2) *The Governor in Council may at any time withdraw from a band a right conferred on the band under subsection (1).*

Requirements for entry into the RLEMP Training and Development Level

08. **Entry Criteria:** First Nations (both new First Nations and current RLAP and 53/60 First Nations) seeking to participate in the RLEMP must meet the following criteria:
- First Nation must have at least one active registered land transaction.
 - First Nation must formally request participation in RLEMP by submitting a BCR expressing its desire to participate in the program.
 - First Nation agrees to partner with AANDC Region in the administration of land management services during the Training and Development Level phase.
 - First Nation accepts all of the Terms and Conditions of the Training and Development Level Workplan. See Schedule A.
 - First Nation hires a Land Manager within two months of acceptance into the RLEMP (if they don't already have a Land Manager).
 - First Nation agrees to have their Land Manager attend the RLEMP Professional Land Management Certification Program training (post secondary certificate program and technical training) while being mentored/coached by AANDC Region [or other qualified organization] to acquire the necessary knowledge and skills to obtain certification in land and environmental management.
 - First Nation agrees to establish adequate land management records.
 - First Nation has a three consecutive year history of good financial management and audits immediately proceeding entry into RLEMP and is in a sound financial position. It must have adequate financial management systems and audits, or an approved Remedial Management Plan (RMP), or their financial status has been approved by AANDC Regional Office.
 - Those First Nations that are accepted for entry into the RLEMP on the condition that they upgrade their financial systems must do so within twelve months of entering the program.
 - The First Nation agrees that the funds received from RLEMP will be expended for land and environmental management services only.
 - The First Nation must progress to the Operational Level within two years and to accept the roles and responsibilities associated with the Operational level.
 - The First Nation obtains approval from AANDC Regional Office to progress

from Training and Development Level to Operational Level.

09. **Services:** Under the RLEMP **Training and Development Level**, the department provides funding to First Nations to perform the following services:
- Perform Training and Development Level roles and responsibilities.
 - Have their Land Manager, in partnership with AANDC Region, negotiate and draft leases and permits for approval and submit them to the AANDC Region; draft simple, straightforward land instruments such as BCR allotments and individual land holding transactions; confirm survey requirements are met; ensure appraisals are conducted as necessary; enter the transaction particulars in NetLands; prepare Land Transaction Information Reports, Land Inspection Reports, Transaction Checklists and Locatee Consents; manage Environmental Management processes and conduct compliance related activities associated with these land and natural resources transactions.
 - AANDC and the First Nations together will follow applicable legislation, departmental policies and operational guidelines to jointly manage on-reserve activities.
10. **Funding:** RLEMP Training and Development Level will be funded using a redesigned funding formula which will include land and natural resource transactions and other related factors such as a supplement for on-going operational costs. Training and Development Level funding will be provided upon acceptance into the RLEMP. The First Nation will receive Training and Development Level funding (80% of operational funding) for the next fiscal year following acceptance.

**Requirements for entry/progression into the RLEMP
Operational Level**

11. **Entry Criteria:** A First Nation seeking to participate at the Operational Level must meet the following criteria:
- First Nation meets all Training and Development Level requirements (i.e., First Nation has at least one active registered land transaction, has formally submitted a BCR requesting participation in RLEMP, has hired a Land Manager, etc.).
 - First Nation accepts all of the Terms and Conditions of the Operational Level Workplan.
 - First Nation has their Land Manager (or equivalent service provider) attend the RLEMP Professional Land Management Certification Program training (post secondary certificate program and technical training) to acquire the necessary knowledge and skills for certification in land and environmental management.
 - The First Nation Land Manager is certified upon successful completion of the Professional Land Management Certification Program training.
 - First Nation has adequate land management records in place. (Refer to Land Management Manual, Chapter 11, Directive 11.02, Items 3.3 and 3.4)
 - First Nation has their Lands Office approved by AANDC Regional Staff.
 - First Nation has a three consecutive year history of good financial management and audits immediately proceeding entry into RLEMP and is in a sound financial position. It must also have adequate financial management systems and audits, or an approved RMP, or their financial status has been approved by AANDC Regional Office.
 - First Nation agrees that the funds received from RLEMP will be expended for land and environmental management services only.
 - AANDC Region verifies and agrees that the First Nation has met the requirements for entry at Operational Level.

12. **Services:** Under the RLEMP **Operational Level**, the department provides funding to First Nations to perform the following services:
- Perform Operational Level roles and responsibilities
 - The First Nation will assume primary responsibility for RLEMP Key Functions (land and natural resources transactions, community land use planning, environmental management and compliance management) and will perform the reserve land and environmental activities as follows:
 - First Nation Land Manager will continue to be responsible for the following land management activities up to the point of ministerial consent: negotiating, drafting and finalizing all land management instruments (i.e., leases, licenses, permits, allotments, individual land holding transactions, etc.) and submitting them to AANDC Region for approval; confirming survey requirements are met; ensuring appraisals are conducted as necessary; entering the transaction particulars in NetLands; preparing Land Transaction Information Reports, Land Inspection Reports, Transactions Checklists, and Locatee Consents for all transaction types and have them approved; managing Environmental Management processes associated with each of the RLEMP key functions; conducting compliance related activities associated with each of the RLEMP key functions; completing the registration requirements checklist, entering transactions into ILRS and forwarding completed registration packages to AANDC Region; receiving registration particulars from AANDC Region and sending executed documents to proponents, retaining a copy on file.
 - The First Nation will be accountable for results achieved through land and environmental management activities and for reporting on these.
 - First Nation maintains a Lands Office with adequate land data records.

The First Nation Land Manager will also be responsible for the following:

- Following applicable legislation, departmental policies, systems and operational guidelines to manage on-reserve activities.
- Providing information to members and third parties regarding the status of their lands and issues related to the granting, transfer or alienation of interests in those lands.
- Representing the First Nation in dealings with third parties and other federal agencies regarding the management of First Nation lands under the *Indian Act*.
- Providing the department with input and advice regarding the views of the First Nation in matters relating to the management of their lands under the *Indian Act*. An example would be participating in lease negotiations and

- advising the department.
- Liaising with Natural Resources Canada, AANDC, members and third parties to resolve issues relating to the management of its lands under the *Act*. An example would be participating in discussions involving settling of disputes for individual land holdings.
 - Inspecting reserve boundaries and lease and permit sites to identify encroachments or violations of the terms of a lease or permit. This includes advising the department of any violations as soon as possible. An example would be inspecting a stream on a leasehold to make sure the water is not being diverted.
 - Conducting other site specific functions such as supporting or assisting survey work, resource inventories or environmental audits.
 - Land surveys. The Land Manager is the liaison for survey projects. Capital projects may include funding for surveys.
 - Monitoring compliance with non-site related terms such as insurance and payment of rent.
 - Carrying out specific Crown obligations under the leases and permits by conducting rent reviews/appraisals.
 - Other services may include preparing and submitting the following for approval: allotments under s. 20, setting aside lands under section 18(2) of the *Act* and supporting the department in relation to designations.
13. **Funding:** At Operational Level, funding (100% of base funding) will be provided for the assumption of greater responsibility for the key functions such as environmental and compliance related activities, as well as for the Operational Level activities outlined in Item 12 above.
- At either the Operational Level or Delegated Authority Level, additional funding will be provided to the First Nation for having one or more of the following: a Community Land Use Plan, an Environmental Management System, and/or a Compliance Framework.
14. **Terms and Conditions:** The Terms and Conditions for the Operational Level are outlined in Schedule B. The major Terms and Conditions are as follows:
- First Nation must continue at all times to meet all of the entry criteria requirements for the program.
 - First Nation agrees that the funds received from RLEMP will be expended for

- land and environment management services only.
- The First Nation must deliver the services for which they are funded, in accordance with all relevant legislation and regulations and departmental policies and procedures.
 - All First Nations in the RLEMP must provide AANDC Region with an annual report on:
 - a) progress report on their Operational Level Workplan
 - b) their program deliverables
 - c) acceptance of RLEMP funding and agreement to continue participating in the program
 - Each First Nation must comply with the roles and responsibilities as set out in this Chapter.
15. The department will provide advice, funding and access to selected tools and records in accordance with this manual.

Where necessary, enforcement and remedial action will be taken.

Requirements for entry/progression into the RLEMP Delegated Authority Level

16. **Entry Criteria:** A First Nation seeking to participate at the Delegated Authority Level must meet the following criteria,
- First Nation meets all Training and Development Level requirements.
 - First Nation has 53/60 Delegated Land Management Authority.
 - First Nation submits a Band Council Resolution expressing its desire to participate in the program.
 - First Nation accepts all of the Terms and Conditions of the Delegated Authority Level Workplan.
 - First Nation has adequate land management records in place. (Refer to Land Management Manual, Chapter 11, Directive 11.02, Items 3.3 and 3.4).
 - First Nation has a three consecutive year history of good financial management and audits immediately preceding entry into RLEMP and be in a sound financial position. It must also have adequate financial management systems and audits, or an approved RMP, or their financial status has been approved by AANDC Regional Office.
 - First Nation agrees that the funds received from RLEMP will be expended for

- land and environmental management services only.
- For a 53/60 First Nation, has their Land Manager certified in land and environmental management within two years of entry:
 - For a 53/60 First Nation, has their Lands Office approved by AANDC Regional Staff within two years of entry.
 - AANDC Region verifies and agrees that the First Nation has met the requirements for entry/progression to the Delegated Authority Level.
17. **Services:** Under the **Delegated Authority Level**, the department will provide funding to First Nations to perform the following services, as well as those services listed under the RLEMP Operational Level:
- For First Nations with 53/60 Delegated Authority to:
- negotiate, draft, finalize, execute and register leases and permits and submit them for registration;
 - carry out specified Crown obligations under a lease or permit. This includes approving mortgages and subleases and conducting rent reviews;
 - approve actions under the *Indian Act* relating to the granting, transfer and expiration of individual interests in reserve lands;
 - submit all land transactions to Indian Land Registry for registration.
18. **Funding:** At Delegated Authority Level, the First Nation receives 100% base funding and a 15% increase for having 53/60 Delegated Land Management Authority.
19. **Terms and Conditions:** The Terms and Conditions for the Delegated Authority Level are also outlined in Schedule C. The major Terms and Conditions are:
- First Nation must continue at all times to meet all of the entry criteria requirements for the program.
 - First Nation agrees that the funds received from RLEMP will be expended for land and environment management services only.
 - First Nations must deliver the services for which they are funded, in accordance with all relevant legislation and regulations and departmental policies and procedures.

- All First Nations in the RLEMP must provide AANDC Region with an annual report on:
 - progress report on their Delegated Authority Level Workplan
 - their program deliverables
 - acceptance of RLEMP funding and agreement to continue participating in the program
 - Each First Nation must comply with the roles and responsibilities as set out in this chapter.
20. The department will provide advice, funding and access to selected tools and records in accordance with this manual.

Regions must monitor the transfer of land management functions by reviewing First Nation reports and conducting site reviews of the First Nation's land management operation at least once every two years. Where necessary, enforcement and remedial action will be taken according to the Terms and Conditions of Directive 00-04 of this chapter.

21. Section 60 enables the Governor-in-Council to authorize bands to manage land activities on reserves, which may include those under the following *Indian Act* provisions:
- **Subsection 18(2):** Authority to set aside reserve lands for Indian schools, burial grounds, health projects or other purposes for the general health and welfare of the band.
 - **Subsection 20(1):** Authorities relating to the allotment of reserve lands to First Nation members.
 - **Section 24:** Authority to approve transfers of land from First Nation members to other members or to the First Nation.
 - **Subsection 25(1):** Authority to extend the time limit only for disposition of reserve lands by those no longer entitled to reside on reserve.
 - **Subsection 28(2):** Authority to issue permits for the use of reserve land, including subsections 57(a), 57(c), and section 73.
 - **Section 49:** Authority to approve lawful possession or occupation of lands to a person who claims to be entitled to possession or occupation of lands in a reserve by devise or descent.
 - **Subsection 53(1)(b):** Authority to manage, lease or carry out any other transaction affecting designated lands.

- **Subsection 57(a):** Authority to grant licenses to cut timber on surrendered lands, or with the consent of the council of the band, on reserve lands.
 - **Subsection 58(1)(b):** Authority to lease uncultivated allotted reserve land for agricultural or grazing purposes or for any purpose that is for the benefit of the locatee.
 - **Subsection 58(1)(c):** Authority to lease uncultivated un-allotted reserve land for agricultural or grazing purposes.
 - **Subsection 58(3):** Authority to lease allotted reserve land for the benefit of the locatee.
 - **Subsection 58(4):** Authority to dispose of dead grass, fallen timber, sand, clay, gravel and other nonmetallic materials on reserve land.
 - Permits, leases and licenses issued under *Indian Mining Regulations, Indian Reserve Waste Disposal Regulations, Indian Timber Regulations, and Indian Timber Harvesting Regulations.*
22. All First Nations with designated lands entering the delegation program are required to assume delegated authorities under section 53 of the *Indian Act*. However, the scope of such delegations may be limited so as to exclude the First Nations from any responsibility for disputes and other issues arising from the department's administration of designated lands prior to the date of the delegation to the First Nation.

Process

23. Processes related to the management and operation of RLEMP and 53/60 land management programs are further described in the following directives:
- **Directive 00-01, Entry:** This describes processes relating to the entry of First Nations into RLEMP and 53/60 land management programs.
 - **Directive 00-02, Consent:** This directive outlines the process for obtaining consent of a majority of all eligible electors for a delegation under sections 53 or 60 of the *Indian Act*.
 - **Directive 00-03, Administration:** This directive describes processes relating to the funding and operation of services under the RLEMP and 53/60 land management programs.
 - **Directive 00-04, Monitoring, Enforcement and Remedial Action:** This directive outlines procedures governing the monitoring of First Nation operations under these programs and for taking enforcement and remedial action where required.

SCHEDULE “A”

Reserve Land and Environment Management Program
Directive

Training and Development Level
Roles and Responsibilities

Under the RLEMP **Training and Development Level**, the department provides funding to First Nations to perform the following services:

- Perform Training and Development Level roles and responsibilities.
- Have their Land Manager, in partnership with AANDC Region, participate in the negotiation of leases and permits for approval and submit them to the AANDC Region; draft simple, straightforward land instruments such as BCR allotments and individual land holding transactions; confirm survey requirements are met; ensure appraisals are conducted as necessary; prepare Land Transaction Information Reports, Land Inspection Reports, Transaction Checklists and Locatee Consents; ensure Environmental Management processes are conducted and conduct compliance related activities associated with these land and natural resources transactions.
- AANDC and the First Nations together will follow applicable legislation, departmental policies and operational guidelines to jointly manage on-reserve activities.

SCHEDULE “B”

**Reserve Land and Environment Management Program
Directive****Operational Level
Roles and Responsibilities**

Under the RLEMP **Operational Level**, the department provides funding to First Nations to perform the following services:

- Perform Operational Level roles and responsibilities.
- The First Nation will assume primary responsibility for RLEMP Key Functions (land and natural resources transactions, environmental management and compliance management) and will perform the reserve land and environmental activities as follows:
 - First Nation Land Manager will continue to be responsible for the following land management activities up to the point of ministerial consent: participating in the negotiation and finalizing of most land management instruments (i.e., leases, licenses, permits, allotments, individual land holding transactions, etc.) and submitting them to AANDC Region for approval; confirming survey requirements are met; ensuring appraisals are conducted as necessary; preparing Land Transaction Information Reports, Land Inspection Reports, Transactions Checklists, and Locatee Consents for all transaction types and have them approved; ensure Environmental Management processes associated with each of the RLEMP key functions are conducted; conducting compliance related activities associated with each of the RLEMP key functions; completing the registration requirements checklist, entering transactions into ILRS pending file and forwarding completed registration application packages to AANDC Region; receiving registration particulars from AANDC Region and sending executed documents to proponents, retaining a copy on file.
 - The First Nation will be accountable for results achieved through land and environmental management activities and for reporting on these.
 - First Nation maintains an approved Lands Office with adequate land data records.

- The First Nation Land Manager will also be responsible for the following:
 - Following applicable legislation, departmental policies or direction, systems and operational guidelines to manage on-reserve activities.
 - Providing information to members and third parties regarding the status of their lands and issues related to the granting, transfer or alienation of interests in those lands.
 - Representing the First Nation in dealings with third parties and other federal agencies regarding the management of First Nation reserves under the *Indian Act*.
 - Providing the department with input and advice regarding the views of the First Nation in matters relating to the management of their lands under the *Indian Act*. An example would be participating in lease negotiations and advising the department.
 - Liaising with Natural Resources Canada (NRCAN), AANDC, members and third parties to resolve issues relating to the management of its lands under the *Act*. An example would be participating in discussions involving settling of disputes for individual land holdings.
 - Inspecting reserve boundaries and lease and permit sites to identify encroachments or violations of the terms of a lease or permit. This includes advising the department of any violations as soon as possible.
 - Monitoring environmental terms and conditions included in leases and water is not being diverted.
 - Conducting other site specific functions such as supporting or assisting survey work, resource inventories or environmental audits.
 - The Land Manager is the liaison between third parties and NRCAN for survey projects.
 - Monitoring compliance with non-site related terms such as insurance.
 - Carrying out specific Crown obligations under the leases and permits by ensuring rent reviews are completed, preparing contracts for appraisals, etc.
 - Other services may include preparing and submitting the following for approval: allotments under section 20, setting aside lands under section 18(2) of the *Act* and supporting the department in relation to designations.

SCHEDULE “C”

Reserve Land and Environment Management Program Directive

Delegated Authority Level Roles and Responsibilities

Under the **Delegated Authority Level**, the department will provide funding to First Nations to perform the following services, as well as those services listed under the RLEMP Operational Level:

- For First Nations with 53/60 Delegated Authority to:
 - Execute and register leases and permits and submit them for registration;
 - Monitor compliance with non-site related terms such as insurance;
 - Carry out specific Crown obligations under the leases and permits by ensuring rent reviews are completed, preparing contracts for appraisals, approving mortgages and subleases etc;
 - Approve actions, under the *Indian Act*, that the First Nation has delegated authority to manage;
 - Submit all land transactions to Indian Lands Registry for registration.
- Section 53 allows the Minister to delegate authority to First Nations for the administration of designated lands. Section 60 enables the Governor-in-Council to authorize bands to manage land activities on reserves, which may include those under the following *Indian Act* provisions:
 - lands used for the general welfare of the band under Section 18(2)
 - approval of band allotments under Section 20(1)
 - approval of transfers under Section 24
 - time extension for disposition of reserve lands under Section 25(1)
 - permits under Sections 28(2) and 58(4)
 - transactions affecting designated lands under Section 53(1)(b)
 - leases under Sections. 58(1)(b), 58(1)(c), and 58(3)
- permits, leases or licences issued under the *Indian Mining Regulations, Indian Reserve Waste Disposal Regulations, Indian Timber Regulations, and the Indian Timber Harvesting Regulations*

**APPENDIX B
RLEMP FUNDING**



APPENDIX B1

| A | Applicant | Name or Title of Service | Band Number | Region, Service Center |
|---|-----------|--------------------------|-------------|------------------------|
| 0 | | | | |

| B | Level of Responsibility | Type of Application | | Fiscal Year |
|---|-------------------------|--|-------------|-------------|
| | | New Entry (N) or Progression Request (P) | Renewal (R) | |
| 0 | Training & Development | - | - | - |
| 0 | Operational Level | - | - | - |
| 0 | Delegated Authority | - | - | - |

| C | Land and Natural Resource Activities (Includes Environmental Management, Land Use) | Transaction Volume (ILR) | Rate \$ | Total \$ | |
|---|---|----------------------------------|---------|----------|---------------|
| 0 | Leases Residential / Cottage/Recreational | Leases and first 200 | 0 | \$392.05 | \$0.00 |
| 0 | | SubLeases over | 0 | \$130.68 | \$0.00 |
| 0 | Leases Commercial/Retail (P. Codes : 3, 49, 50, 51, 56, 58) | Leases 1 or | 0 | \$766.67 | \$0.00 |
| 0 | | SubLease 1 or | 0 | \$219.05 | \$0.00 |
| 0 | Leases Industrial (P. Codes : 18, 39, 48, 51, 60, 73, 75, 98) | Leases 1 or | 0 | \$930.96 | \$0.00 |
| 1 | | SubLeases 1 or | 0 | \$465.48 | \$0.00 |
| 1 | Leases & Permits, Agriculture | 0.0 Hectares first | 0.0 | \$21.13 | \$0.00 |
| 1 | | next | 0.0 | \$2.11 | \$0.00 |
| 1 | (Excluding grazing) | over | 0.0 | \$2.11 | \$0.00 |
| 1 | Leases & Permits, Grazing | 0.0 Hectares first | 0.0 | \$16.90 | \$0.00 |
| 1 | | next | 0.0 | \$1.69 | \$0.00 |
| 1 | | over | 0.0 | \$1.69 | \$0.00 |
| 1 | Natural Resources** & Other Permits (P. Codes : 5, 7, 8, 9, 15, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100) | 1 or | 0 | \$273.81 | \$0.00 |
| 1 | Evidence of Title created by transaction in period (CO, CP, OKA, NETI, LT, NE) and Band Council Resolutions*** (Sec. 18.2 only) | first 50 | 0 | \$313.12 | \$0.00 |
| 1 | | next | 0 | \$156.56 | \$0.00 |
| 2 | (P. Codes : 6, 10, 11, 19, 61, 64, 67, 68, 69, 72, 103) | over | 0 | \$78.28 | \$0.00 |
| 2 | Total : Land and Natural Resource Activity | | | | \$0.00 |

| D | Compliance. Adjustments & ILH Related | Volume | Rate \$ | Total \$ | |
|---|--|--------|-----------------|----------|--------|
| 2 | Adjustment for Population 0 | first | 0 | \$2.50 | \$0.00 |
| 2 | | next | 0 | \$1.00 | \$0.00 |
| 2 | | over | 0 | \$0.50 | \$0.00 |
| 2 | Adjustments for Land Area (Ha) 0.0 | first | 0 | \$1.25 | \$0.00 |
| 2 | | over | 0 | \$0.25 | \$0.00 |
| 2 | Support for Activities Related to Active | | \$30.00 | \$0.00 | |
| 2 | SubTotal : Compliance. Adjustments & ILH Related Activities | | | \$0.00 | |
| 2 | Add : Compliance (Promotion, Monitoring and | | 30.00% of Total | \$0.00 | |
| 3 | Add : Compliance (Promotion, Monitoring and | | 30.00% of Total | \$0.00 | |
| 3 | Total Compliance. Adjustments & ILH Related Activities | | | \$0.00 | |

| E | Total Funding per Level of Responsibility (as identified in | Rate x Total | Total \$ |
|---|---|-----------------|----------|
| 3 | Training & Development If Line 21 = \$0 and Line 28 = \$0, then Line 32 = \$0 | 80% x (C + D) | \$0.00 |
| 3 | Operational Level If Line 21 = \$0 and Line 28 = \$0, then Line 33 = \$0 | (C + D) | |
| 3 | Delegated Authority | 15% x (C + D) + | \$0.00 |
| 3 | Add : Land Use Plan | 5% x line 33 or | \$0.00 |
| 3 | Add : Environmental Management System | 5% x line 33 or | \$0.00 |
| 3 | Add : Compliance Framework | 5% x line 33 or | \$0.00 |
| 3 | SubTotal: Operational or Delegated | | \$0.00 |
| 3 | Total : Level of Responsibility Funding (E) | | |

| F | Funding Adjustments | Total \$ |
|---|--|------------|
| 4 | --- | |
| 4 | Ongoing Operational Costs | \$4,869.00 |
| 4 | --- | |
| 4 | Total : Funding Adjustments (F) | |

| | | |
|---|---|--|
| 4 | Net Funding Grand Level (E) Max: \$350,000 - Level (O) Max: \$375,000 - Level (S) Max: \$400,000 | |
|---|---|--|

RLEMP - FUNDED DELIVERABLES

| FUNCTION | DELIVERABLE |
|--|--|
| Community Land Use Planning | Development and Creation of Land Use Plan (Management of Land Use Plan (Output - Land Use Plan)) |
| Land and Natural Resources Activities | <p>Certificate of Possession - active Certificate of Occupation - active Notice of Entitlement - active Location Ticket - active Oka Letter - active No Evidence of Title Issued (N.E.T.I.) - active</p> <p>BCR under section 18(2) of the <i>Indian Act</i> or Ministerial Order under section 18(2) of the <i>Indian Act</i> (i.e., land set aside for the welfare of the band) Purposes within section 18(2) BCR</p> <ul style="list-style-type: none"> - Cemetery (011) - Church (010) - Educational (006) - Healing Lodge (103) - Medical (019) - Postal Services (064) - R.C.M.P. (061) - Retirement Home (069) - Water Supply (072) - Fire Hall (067) - Administration (068) <p>Leases/Sub-leases - Residential/Cottage/Recreational</p> <ul style="list-style-type: none"> - Cottage (012) - Cottage and Residential (020) - Recreational (004) - Residential (002) - Resort (031) - River Rafting (046) - Rifle Range (063) |

| FUNCTION | DELIVERABLE |
|--|---|
| Land and Natural Resources Activities | <p>Leases/Sub-leases - Commercial/Retail</p> <ul style="list-style-type: none"> - Advertising (050) - Airstrip (058) - Commercial (003) - Offices (056) - Dock (049) - Storage (051) <p>Development (018)</p> <p>Disposal Site (073)</p> <p>Ice Boom Anchor (098)</p> <p>Industrial Leases, Sub-leases and Permits</p> <ul style="list-style-type: none"> - - Industrial (048) - Line Heater Site (039) - Navigation Light Site (060) - Sawmill (075) - Storage (051) <p>Other Permits</p> <ul style="list-style-type: none"> - Communication (015) - Disposal Site (073) - Hydro & Communication (029) - Hydro Line (009) - Hydro Line R/W (047) - Soil Treatment (070) - Utilities (026) - Weir (043) - Powerline (057) - Sewage (059) - Pipeline (007) - Road (008) - Riparian Rights (024) - Access Road (037) - Surveys (052) - Railway Right of Way (066) <p>Agricultural Leases/Permits</p> <ul style="list-style-type: none"> - Agriculture (001) - Dyke (102) - Drainage Ditch (101) - Horticultural (030) - Grazing (053) |

| FUNCTION | DELIVERABLE |
|---|--|
| <p>Land and Natural Resources Activities</p> | <p>Natural Resources Leases & Permits</p> <ul style="list-style-type: none"> - Clay (076) - Gravel Pit (022) - Logging (025) - Minerals (005) - Sand (021) - Sand & Gravel (042) - Disposal Site (073) - Gas Pipeline (023) - Hunting (027) - Timber (032) - Irrigation (044) - Damsite (062) - Junction Site (065) - Fishing (071) |
| <p>Environmental Management</p> | <p>Management of Environmental Site Assessment (Output - Environmental Site Assessment)</p> <p>Management of Environmental Audit (Output - Environmental Audit)</p> <p>Management of Environmental Assessment (Output - Environmental Assessment)</p> <p>Management of Emergency Response Plan (Output - Emergency Response Plan)</p> <p>Management of Contaminated Site Management Plan (Output - Contaminated Site Management Plan)</p> |
| <p>Compliance</p> | <p>Rent collection - (Terms & Conditions of Lease)</p> <p>Lease/Permit/Sub-lease - under Terms and Conditions</p> <ul style="list-style-type: none"> - Site Visit (Output - Screening Decision) - Crop Inspection (Output Crop Report) - Rent/Fee Review (Output Appraisal Assessment by qualified appraiser) <p>Certificate of Possession Certificate of Occupation Location Ticket Notice of Entitlement Oka Letters</p> |

| FUNCTION | DELIVERABLE |
|----------|---|
| | <p>Sec. 18(2) BCR - land set aside for the general welfare of the First Nation</p> <p>Memo of Understanding - for the general welfare of the First Nation</p> <p>Purpose within Memo of Understanding</p> <ul style="list-style-type: none"> - Policing - R.C.M.P. - Access Road |

RLEMP - NON-FUNDED DELIVERABLES

| FUNCTION | NON FUNDED DELIVERABLE |
|--|---|
| Land and Natural Resources Activities (Individual Land Holding) | Certificate of Possession - Inactive Certificate of Occupation - Inactive Notice of Entitlement - Inactive Location Ticket - Inactive Oka Letter - Inactive No Evidence of Title Issued (N.E.T.I.) - Inactive First Nation/Band - Active/Inactive |
| Land and Natural Resources Activities (All other transaction types) | Act Addendum Affidavit Affidavit of Ratification Agreement Amendment Amendment to Designation Articles of Association Assignment Assignment - Partial Assumption Agreement Bank Assignment Builder's Lien Cancellation Caveat Certificate Certificate of Allocation Certificate of Lis Pendens Certificate of Title Charging Agreement Commissioners Report Consent Conveyance Court Order Debenture Deed Deed of Trust & Mortgage Default on Mortgage Delegation of Authority Designation Discharge Discharge Bank Assignment Dower Rights Easement Grant Guardian Appointment Index Index of Expired Interests |

| FUNCTION | NON FUNDED DELIVERABLE |
|--|---|
| Land and Natural Resources Activities (All other transaction types) | Judgement Letter of Acknowledgement Letter of Appointment Letter of Undertaking Letters Patent Mortgage Mortgage Agreement Mortgage Amending Agreement Mortgage Terms Mortgage/Guarantee Name Change Notice Notice of Application Notice of Mortgage Notice of New Entry Notice of Sale OCPC (Order in Council) Oil & Gas Lease Notice Oil & Gas Permit Notice Opposition Option Agreement Option to Lease Option to Purchase Partial Discharge Partial Release Partial Relinquishment Partial Revocation Partial Surrender Postponement Power of Attorney Process Verbal Proclamation PROV OC Provisional Agreement Quit Claim R/W Agreement Release Relinquishment Renewal Report Response to Notice Revocation Right of Way Road Abandonment RS Plan |

| FUNCTION | NON FUNDED DELIVERABLE |
|--|--|
| Land and Natural Resources Activities (All other transaction types) | Sales Record Settlement Agreement Sketch Statement of Claim Statutory Declaration Statutory Easement Sub-License Sub-Sub-Lease - all purpose types Supplemental Indenture Supplementary Agreement Sur-Lease Sur-Sale Surrender Transfer and Acceptance Treasury Board Minute Treaty Waiver Withdrawal Withdrawal of Notice Writ of Execution Writ of Possession Writ of Summons |
| Environmental Management | None |
| Compliance | None |

ANTICIPATED ANNUAL FUNDING ALLOCATION LETTER

Date:

<First Nation>
<Address Line>

Dear :

Please find attached a draft annual funding allocation for _____ (insert fiscal year) based on the RLEMP funding formula.

Please review and identify any discrepancies by _____(insert date to be returned).

If you have any questions, do not hesitate to contact _____ at _____ .

Yours sincerely,

Regional Land Manager/Director
(_____) Region

**APPENDIX C
RLEMP PROGRESSION**

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APPROVAL CRITERIA CHECKLIST FOR PROGRESSION TO OPERATIONAL LEVEL

- First Nation Land Manager has successfully completed the Professional Land Management Certification Program (post secondary certificate program and technical training) with mentoring/coaching provided by AANDC Region in order to obtain certification in land and environmental management within two years of date of entry.
- First Nation has established and will maintain a Lands Office with adequate land data records.
- The First Nation Lands Office has been approved by AANDC Regional Staff.
- First Nation agrees to assume primary responsibility for RLEMP key functions (lands and natural resources transactions, community land use planning, environmental management and compliance) and the roles and responsibilities/land management activities associated with this level.
- First Nation agrees to jointly develop, with AANDC Region, an Operational Level Workplan and sign the Workplan accepting all of its Terms and Conditions.
- First Nation agrees to be funded at the Operational Level, based on the annual RLEMP funding formula calculations.
- First Nation agrees that the funds received from RLEMP will be expended for land and environmental management services only, as detailed in the Terms and Conditions.
- First Nation continues to meet all of the RLEMP entry requirements (see Appendix A3).
- AANDC Region verifies and agrees that the First Nation has met the above requirements for progression from Training and Development Level to Operational Level.

AANDC Regional Representative

Date

**APPROVAL CRITERIA CHECKLIST FOR PROGRESSION TO
DELEGATED AUTHORITY LEVEL**

- First Nation has Delegated Land Management Authority under section 53 of the *Indian Act* by way of letter from the Minister dated (_____) and Delegated Land Management Authority under section 60 of the *Indian Act* by way of Order in Council No. (_____).
- First Nation agrees to assume primary responsibility for RLEMP key functions (land and natural resources transactions, community land use planning, environmental management and compliance) and the roles and responsibilities/land management activities associated with this level.
- First Nation agrees to jointly develop, with AANDC Region, a Delegated Authority Level Workplan and sign the Workplan accepting all of the Terms and Conditions.
- First Nation continues to retain a certified Land Manager.
- First Nation has its Lands Office approved by AANDC Regional Staff.
- First Nation agrees to be funded at the Delegated Authority Level, based on the annual RLEMP funding formula calculations.
- First Nation agrees that the funds received from RLEMP will be expended for land and environmental management services only as per terms and conditions.
- First Nation Land Manager has successfully completed the Professional Land Management Certification Program (post secondary certificate program and technical training) with support provided by AANDC Region in order to obtain certification in land and environmental management within two years of date of entry.
- First Nation meets all of the RLEMP entry requirements.
- First Nation maintains a Lands Office with complete land data records.

- AANDC Region verifies and agrees that the First Nation has met the above requirements to enter RLEMP at the Delegated Authority Level, or qualifies for progression from Operational Level to Delegated Authority Level, as applicable.

AANDC Regional Representative

Signature

Date

_____ Region

**APPENDIX D
ROLES AND RESPONSIBILITIES**

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Creating Individual Interests – Allotment (Section 20(1))

ROLES AND RESPONSIBILITIES

Under the Indian Act and Reserve Land and Environment Management Program (RLEMP)

First Nations not operating under RLEMP

- AANDC Regional Officer will conduct all roles and responsibilities identified as First Nation and Region

First Nations operating under RLEMP

TRAINING AND DEVELOPMENT LEVEL

- AANDC Regional Officer will conduct all roles and responsibilities identified as First Nation and Region
- Upon completion of the Professional Development Training (Core and Technical components), the First Nation Lands Manager will work in partnership with the Department to perform these roles and responsibilities

OPERATIONAL LEVEL

- AANDC Regional Officer will conduct all roles and responsibilities identified as Region
- First Nation Lands Manager will conduct all roles and responsibilities identified as First Nation

DELEGATED AUTHORITY LEVEL

First Nations with Delegated Authority under the *Indian Act*

- AANDC Regional Officer will conduct all roles and responsibilities identified as Region, excluding roles and responsibilities identified under Execution and Approval Phase as per delegated authority under the *Indian Act*
- First Nation Lands Manager will conduct all roles and responsibilities identified as First Nation including roles and responsibilities identified under Execution and Approval Phase as per delegated authority under the *Indian Act*

REFER TO THE LAND MANAGEMENT MANUAL FOR ADDITIONAL POLICY REQUIREMENTS

APPENDIX D1

Creating Individual Interests – Allotment (Section 20(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|-------------------------|---|------------|-----------|------------|---------------------|---------------|-----------|
| GROUNDWORK PHASE | | | | | | | |
| 1 | Receive a request for an interest in land. | | | | X | | |
| 2 | Determine if: <p>a) The proposed land instrument has been identified in one of the following:</p> <ul style="list-style-type: none"> • the community's land management goals and objectives, other site specific land management projects & land; • management objectives (i.e., EcDev, Capital, Housing etc.); • approved or pending development plans or zoning by-laws; • agreed to community land use plan. <p>b) The proposed land instrument has regard for applicable real property requirements, federal environmental legislation and community environmental sustainability plan (if applicable).</p> | | | | X | | |
| 3 | Check the status of the land to be allotted and ensure that the Land Transaction Information Report has been completed. | | | | X | | |
| 4 | Obtain verification of the First Nation Member's correct name and member's number from the Region or from First Nation certification (section 10 of the <i>Indian Act</i>). | | | | X | | |
| 5 | Region provides confirmation of the First Nation Member's correct name and member's number as confirmed by the Indian Membership Register, if applicable. | | | | | X | |

Creating Individual Interests – Allotment (Section 20(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|---|---|-----|----|-----|--------------|--------|----|
| 6 | Where the transferee is a First Nation member registered under section 10 of the <i>Indian Act</i> , a confirmation of the individual's membership must be provided by the Band and included as part of the transfer document. | | | | X | | |
| | Note: When a proposed allotment includes a project as defined under the <i>Canadian Environmental Assessment Act (CEAA)</i>, an Evaluation Audit (EAudit) must be conducted prior to the issuance of the allotment. | | | | | | |
| 7 | Based on the request for an interest in land, determine which of the following land transactions and appropriate environmental management process will be required: a) Proposed New Allotment - When allotments include project proposals, an Environmental Assessment (EA) may be required under CEAA and must be conducted prior to the approval of the allotment. b) Transfer of Allotment - An Environmental Site Assessment (ESA) and, if the transfer includes a project proposal, an EA may be required under CEAA and must be conducted prior to the approval of the allotment. Note: Costs related to undertaking an EA, ESA or EAudit is to be the responsibility of the Locatee (proponent) as a part of doing business. | | | | X | | |
| 8 | Proposed New Allotment: Environmental Assessment Requirements a) Identify the scope of the "project", the authority under the <i>Indian Act</i> for land tenure and the type of Environmental Assessment | | | | X | | |

Creating Individual Interests – Allotment (Section 20(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|---|---|-----|----|-----|--------------|--------|---------------|
| 8 | <p>required (screening, comprehensive study or Panel) in accordance with Canadian Environmental Assessment Act;</p> <p>b) Ensure that the appropriate information related to the intent of undertaking an Environmental Assessment is documented in the departmental environmental assessment database system (ESSIMS) and is registered in the Canadian Environmental Assessment Registry (CEAR) in accordance with Canadian Environmental Assessment Act;</p> <p>c) Develop Terms of Reference (ToR) to guide the undertaking of the Environmental Assessment Report (EAR) by the Locatee (proponent) by a qualified environmental assessor. The Terms of Reference shall include as a minimum requirement:</p> <ul style="list-style-type: none"> - description of the “project”; - identify the scope of the Environmental Assessment ; - identify all applicable acts, regulations and best practice standards to be used (i.e.,: <i>Canadian Environmental Protection Act (CEPA), Species At Risk Act (SARA), FA</i>, etc.); - identify the environmental setting: <ul style="list-style-type: none"> i.e., physical resources: topography, climate, land/soil, surface water, ground water; biological resources: flora/fauna; land use: historical, natural resources, archaeology/cultural special places. | | | | | X | Advisory role |

APPENDIX D1

Creating Individual Interests – Allotment (Section 20(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| 8 | <p>- indicate the need for an Environmental Site Assessment Phase 1 if required based on previous studies and information;</p> <p>- identify potential impacts and effects including cumulative effects and assessment of the significance of any adverse environmental effect;</p> <p>- identify the scope of consultations (i.e., Chief and Council, Community members, off-reserve residents, other federal departments and/or provincial or municipal government agencies);</p> <p>- identify proposed mitigation measures, monitoring and reporting requirements, emergency response measures, enforcement provisions and a decommissioning plan in terms of a recommended Environmental Protection Plan (EPP);</p> <p>- include all supporting documentation (i.e., maps, design plans, operational and maintenance plans, permits and approvals, photographs, etc.).</p> | | | | X | Advisory role | |
| 9 | Determine and refer Terms of Reference to other federal departments for regulatory responsibilities or interest and incorporate any additional requirements | | | | | X | |
| 10 | Provide completed Terms of Reference to the Locatee (proponent) to undertake the Environment Assessment Report (EAR) including a proposed Environmental Protection Plan. | | | | X | | |

APPENDIX D1

Creating Individual Interests – Allotment (Section 20(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|------------|-----------|------------|---------------------|---------------|-----------|
| 11 | Upon receipt of the Environment Assessment Report including a proposed Environmental Protection Plan from the Locatee (proponent), the report is reviewed by an environmental advisor to determine any deficiencies and provide recommendations. Outstanding deficiencies are to be addressed by the Locatee (proponent). | | | | Advisory role | X | |
| 12 | Based on the completed Environmental Assessment Report including a proposed Environmental Protection Plan, a screening decision is rendered by the Responsible Authority and the Environmental Protection Plan is approved. The screening decision is documented in the departmental environmental assessment database system (ESSIMS) and is registered in the Canadian Environmental Assessment Registry in accordance with Canadian Environmental Assessment Act. Both electronic and hard copies are then forwarded to First Nation Lands Office. | | | | | X | |
| 13 | If the decision rendered recommends that the “project” can proceed, the approved Environmental Protection Plan is incorporated as a condition of approval of the allotment binding the Locatee (proponent) to implementation of all mitigation measures, monitoring and reporting requirements, environmental emergency measures, enforcement provisions and decommissioning plan for the | | | | X | | |

APPENDIX D1

Creating Individual Interests – Allotment (Section 20(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|------------------------------------|---|------------|-----------|------------|---------------------|---------------|-----------|
| | life-cycle of the allotment. | | | | | | |
| 14 | Monitoring for compliance of Environmental Protection Plan. | | | | X | | |
| 15 | Enforcement of non-conformance with Environmental Protection Plan. | | | | | X | |
| DOCUMENT FINALIZATION PHASE | | | | | | | |
| 16 | <p>Finalize Band Council Resolution (BCR) to allot possession of the parcel of land to the First Nation member(s) which must include:</p> <p>a) the section of the <i>Indian Act</i> under which the council makes the allotment;</p> <p>b) the full formal name of the person(s) to whom the allotment is being made;</p> <p>c) the First Nation number of the person(s) to whom the allotment is being made;</p> <p>d) the First Nation's certification of the individual's membership in the First Nation where a First Nation member is registered under section 10 of the <i>Indian Act</i>;</p> | | | | X | | |

Creating Individual Interests – Allotment (Section 20(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|--------|----|
| 16 | <p>e) a land description which meets the requirements for legal descriptions of Indian Lands, as described in <i>Schedule A of the Framework Accord between Lands and Environment Branch, Lands and Trust Sector of the Department of Indian Affairs and Northern Development and Earth and Science Sector of the Department of Natural Resources Canada</i> and amended from time to time, including all known encumbrances affecting that land;</p> <p>f) that an access to the land is provided if required;</p> <p>g) the number constituting a quorum of the First Nation council;</p> <p>h) the signatures of a quorum of the First Nation council;</p> <p>i) environmental awareness clauses.</p> | | | | X | | |
| 17 | <p>Reviews the Transaction Checklist for verification purposes to ensure the necessary criteria are satisfied. Considers recommending the allotment for approval of Band Council, having regard to the following criteria:</p> <p>a) whether the BCR is correct;</p> <p>b) whether the land to be allotted is described</p> | | | | X | | |

APPENDIX D1

Creating Individual Interests – Allotment (Section 20(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|------------|-----------|------------|---------------------|---------------|-----------|
| 17 | <p>c) properly; that the allotment is in the best interests of the First Nation;</p> <p>d) whether any third party rights inconsistent with the proposed allotment are present;</p> <p>e) whether the proposed locatee is aware of the third party interests to which the parcel of land is subject;</p> <p>f) if the allotment is made to a council member or their immediate family, evidence that the council member did not participate in the allotment vote.</p> | | | | X | | |
| 18 | Submits the BCR and any supporting documentation and the Transaction Checklist to the Band Council for approval. | | | | X | | |
| 19 | Band Council passes the BCR requesting the allotment. | | | | X | | |
| 20 | Once the BCR is approved, First Nation Lands Manager ensures it has been duly passed by a quorum of the Band Council and completes the Transaction Checklist. | | | | X | | |
| 21 | First Nation Lands Manager enters the transaction in the Indian Land Registry System (ILRS) pending file, prints the Application for Registration from the pending file, and completes the Transaction Checklist. | | | | X | | |
| 22 | <p>Forwards the Land Transaction Information Report and registration package to region for approval by Regional Delegated Authority. The registration package includes:</p> <ul style="list-style-type: none"> • the BCR; • the Application for Registration; | | | | X | | |

APPENDIX D1

Creating Individual Interests – Allotment (Section 20(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|---------------------------|--|------------|-----------|------------|---------------------|---------------|-----------|
| | <ul style="list-style-type: none"> the Transaction Checklist. | | | | | | |
| 23 | Region receives and reviews the registration package and the Land Transaction Information Report. | | | | | X | |
| 24 | AANDC regional representative authorized under the current Regional delegation of authority will approve the BCR | | | | | X | |
| 25 | Region completes Part B of the Transaction Checklist. | | | | | X | |
| 26 | AANDC regional representative sends the registration package to the Indian Land Registry and retains the Land Transaction Information Report on file. The registration package includes: <ul style="list-style-type: none"> the BCR; the Application for Registration; the Transaction Checklist | | | | | X | |
| REGISTRATION PHASE | | | | | | | |
| 27 | Indian Land Registry receives registration package and ensures compliance with the Indian Land Registration Manual. | | | | | | X |
| 28 | Indian Land Registry registers the interest. | | | | | | X |
| 29 | Indian Land Registry issues evidence of title. | | | | | | X |
| 30 | Indian Land Registry forwards the evidence of title and executed document with registration particulars affixed thereon to applicant. | | | | | | X |
| 31 | Region receives evidence of title and executed document with registration particulars affixed thereon and distributes to all parties i.e. locatee, First Nation and/or AANDC. If applicable a copy is kept on file. | | | | X | X | |

Creating Individual Interests – Allotment (Section 20(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|--------|----|
| 32 | <p>Provide (computer generated) documents (with suitable disclaimers) to agreement holders and locatees (if applicable) at time of signing or before, to explain in simple language:</p> <ul style="list-style-type: none"> • primary obligations found in Terms and Conditions (e.g., payment of rent and GST, provision of insurance certificates, payment of taxes and utilities); • First Nation by-laws; • land use plan (zoning etc.); • roles and responsibilities of Indian and Northern Affairs and First Nation; <p>enforcement penalties and remedial actions.</p> | | | | X | | |
| 33 | <p>Prepare an annual monitoring strategy based on an assessment of the risks, costs and benefits on monitoring options for all active land and resource instruments. (i.e., monitor based on priorities (major risk to health, safety, land, resources, environment)).</p> | | | | X | | |
| 34 | <p>Enter monitoring items (i.e., leasing, licensing and permitting information) and monitoring schedule into NetLands and/or other appropriate systems (i.e., environmental management system), which may include such items as:</p> <p>-for leasing and permit purposes</p> <ul style="list-style-type: none"> • insurance • rent collection • building code compliance • crop inspection • inspection requirements (site | | | | X | | |

APPENDIX D1

Creating Individual Interests – Allotment (Section 20(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|------------|-----------|------------|---------------------|---------------|-----------|
| 34 | inspection, desk audit) -for individual land holding purposes <ul style="list-style-type: none"> • band by-laws • zoning -for Certificates of Occupation <ul style="list-style-type: none"> • foundation is constructed • building code compliance -for set asides and band allotments <ul style="list-style-type: none"> • environmental compliance -environmental legislative requirements <ul style="list-style-type: none"> • Canadian Environmental Assessment Act • Canadian Environmental Protection Act • Species at Risk Act | | | | X | | |
| 35 | Schedule monitoring site inspections and desk audits. | | | | X | | |
| 36 | Forward notices of upcoming requirements to agreement holder based on monitoring schedule (when applicable): <ul style="list-style-type: none"> • rent review; • annual payments, etc.; • self-monitoring reports; • third party monitoring; • audits and inspections. | | | | X | | |
| 37 | Where a breach or default of an agreement is identified or reported, the responsible officer: will verify details of the report and obtain any additional information needed to determine best course of action (i.e., consult enforcement agencies, Department of Justice, etc.). | | | | X Jointly | X Jointly | |

APPENDIX D1

Creating Individual Interests – Allotment (Section 20(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|------------|-----------|------------|---------------------|---------------|-----------|
| 38 | <p>The responsible officer will decide on course of action based on facts of the situation. This may require the officer to:</p> <ul style="list-style-type: none"> • Give notice to agreement holder and locatee and seek to remedy default or breach; • Take appropriate action under the terms of the instrument, First Nation by-laws, etc.; <p>report to appropriate authority (i.e., Environment Canada, Health Canada etc., if applicable).</p> | | | | X | | |
| 39 | <p>Document offences and enforcement actions taken, as well as the rationale for action taken.</p> | | | | X | | |
| 40 | <p>The responsible officer will assess results of action taken to determine if:</p> <ul style="list-style-type: none"> • breach, default, dispute has been resolved and any damage done has been repaired; • conduct follow-up investigations to assess the results of remediation taken to resolve contraventions. | | | | X | | |

Leases on Designated Land (section 53(1))

ROLES AND RESPONSIBILITIES

Under the Indian Act and Reserve Land and Environment Management Program (RLEMP)

First Nations not operating under RLEMP

- AANDC Regional Officer will conduct all roles and responsibilities identified as First Nation and Region

First Nations operating under RLEMP

TRAINING AND DEVELOPMENT LEVEL

- AANDC Regional Officer will conduct all roles and responsibilities identified as First Nation and Region
- Upon completion of the Professional Development Training (Core and Technical components), the First Nation Lands Manager will work in partnership with the Department to perform these roles and responsibilities

OPERATIONAL LEVEL

- AANDC Regional Officer will conduct all roles and responsibilities identified as Region
- First Nation Lands Manager will conduct all roles and responsibilities identified as First Nation

DELEGATED AUTHORITY LEVEL

First Nations with Delegated Authority under the *Indian Act*

- AANDC Regional Officer will conduct all roles and responsibilities identified as Region, excluding roles and responsibilities identified under Execution and Approval Phase as per delegated authority under the *Indian Act*
- First Nation Lands Manager will conduct all roles and responsibilities identified as First Nation including roles and responsibilities identified under Execution and Approval Phase as per delegated authority under the *Indian Act*

REFER TO THE LAND MANAGEMENT MANUAL FOR ADDITIONAL POLICY REQUIREMENTS

Leases on Designated Land (section 53(1))

ROLES AND RESPONSIBILITIES

Under the Indian Act and Reserve Land and Environment Management Program (RLEMP)

First Nations not operating under RLEMP

- AANDC Regional Officer will conduct all roles and responsibilities identified as First Nation and Region

First Nations operating under RLEMP

TRAINING AND DEVELOPMENT LEVEL

- AANDC Regional Officer will conduct all roles and responsibilities identified as First Nation and Region
- Upon completion of the Professional Development Training (Core and Technical components), the First Nation Lands Manager will work in partnership with the Department to perform these roles and responsibilities

OPERATIONAL LEVEL

- AANDC Regional Officer will conduct all roles and responsibilities identified as Region
- First Nation Lands Manager will conduct all roles and responsibilities identified as First Nation

DELEGATED AUTHORITY LEVEL

First Nations with Delegated Authority under the *Indian Act*

- AANDC Regional Officer will conduct all roles and responsibilities identified as Region, excluding roles and responsibilities identified under Execution and Approval Phase as per delegated authority under the *Indian Act*
- First Nation Lands Manager will conduct all roles and responsibilities identified as First Nation including roles and responsibilities identified under Execution and Approval Phase as per delegated authority under the *Indian Act*

REFER TO THE LAND MANAGEMENT MANUAL FOR ADDITIONAL POLICY REQUIREMENTS

Leases on Designated Land (section 53(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|-------------------------|--|-----|----|-----|--------------|---------------|----|
| GROUNDWORK PHASE | | | | | | | |
| 1 | Receive a request for an interest in land. | | | | X | | |
| 2 | <p>Determine if:</p> <p>a) The proposed land instrument has been identified in one of the following:</p> <ul style="list-style-type: none"> • the community's land management goals and objectives, other site specific land management projects & land; • management objectives (i.e., EcDev, Capital, Housing etc.); • approved or pending development plans or zoning by-laws; • agreed to community land use plan. <p>b) The proposed land instrument has regard for applicable real property requirements, federal environmental legislation and community environmental sustainability plan (if applicable).</p> | | | | X | | |
| 3 | Enter the transaction particulars in NetLands. | | | | | X | |
| 4 | Check the status of the land to be leased to the proponent and ensure that the Land Transaction Information Report has been completed by the proposed lessee. | | | | X | | |
| 5 | Ensure proper designation is in place, or initiate the designation. | | | | X | | |
| 6 | Confirm that designation and lease under ss. 53(1) is the appropriate mechanism. | | | | X | Advisory role | |
| 7 | Ensure a valid appraisal exists or that an appraisal is made of the value of the land to be leased. | | | | X | | |

Leases on Designated Land (section 53(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|---|--|-----|----|-----|--------------|--------|----|
| 8 | Ensure credit investigation/corporate status check has been conducted. | | | | X | | |
| | NOTE: When a proposed lease includes a project as defined under sections 2 and 5 of the <i>Canadian Environmental Assessment Act (CEAA)</i>, an Environmental Assessment (EA) must be conducted prior to the issuance of the lease. If the lease has no identified project but subsequent sub-leases (see Appendix W) include a project as defined under section 5 of the CEAA, an EA must be conducted prior to that issuance. This should be included in the Terms and Conditions of the head lease. | | | | | | |
| 9 | Based on the request for an interest in land, determine which of the following lease transactions and appropriate environmental management process will be required: a) Proposed New Lease – Environmental Assessment and/or Environmental Site Assessment (ESA) - Phase 1 minimum if needed; b) Lease Renewal - Review for compliance of existing Environmental Protection Plan (EPP) based on the Environmental Assessment approved, or if never undertaken, then there is a requirement for an Environmental Assessment to determine whether or not the activity under lease is in compliance with appropriate acts, regulations and/or best practices; | | | | X | | |

Leases on Designated Land (section 53(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| 9 | <p>c) Lease Expiry – Environmental Site Assessment.</p> <p>Note: Costs related to undertaking an EA, ESA or EAudit is to be the responsibility of the lessee (proponent) as a part of doing business.</p> | | | | X | | |
| 10 | <p>Proposed New Lease: EA Requirements</p> <p>a) Identify the scope of the “project”, the authority under the <i>Indian Act</i> for land tenure and the type of Environmental Assessment required (screening, comprehensive study or Panel) in accordance with Canadian Environmental Assessment Act;</p> <p>b) Ensure that the appropriate information related to the intent of undertaking an EA is documented in the departmental environmental assessment database system (ESSIMS) and is registered in the Canadian Environmental Assessment Registry (CEAR) in accordance with Canadian Environmental Assessment Act;</p> <p>c) Develop Terms of Reference (ToR) to guide the undertaking of the Environmental Assessment Report (EAR) by the lessee (proponent) by a qualified environmental assessor. The Terms of Reference shall include as a minimum requirement: - description of the “project”; - identify the scope of the Environmental Assessment;</p> | | | | X | X | |
| | | | | | X | Advisory role | |

Leases on Designated Land (section 53(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|---------------|----|
| 10 | <ul style="list-style-type: none"> - identify all applicable acts, regulations and best practice standards to be used (i.e., <i>Canadian Environmental Protection Act (CEPA)</i>, <i>Species At Risk Act (SARA)</i>, FA, etc.); - identify the environmental setting: i.e., physical resources: topography, climate, land/soil, surface water, ground water;. biological resources: flora/fauna; land use: historical, natural resources, archaeology/cultural special places. - indicate the need for an Environmental Site Assessment Phase 1 if required based on previous studies and information; - identify potential impacts and effects including cumulative effects and assessment of the significance of any adverse environmental effect; - identify the scope of consultations (i.e., Chief and Council, Community members, off-reserve residents, other federal departments and/or provincial or municipal government agencies); - identify proposed mitigation measures, monitoring and reporting requirements, emergency response measures, enforcement provisions and a decommissioning plan in terms of a recommended Environmental Protection Plan (EPP); - include all supporting documentation (i.e., maps, design plans, operational and maintenance plans, permits and approvals, photographs, etc.). | | | | X | Advisory role | |

APPENDIX D2

Leases on Designated Land (section 53(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|---------------|--------|----|
| 11 | Determine and refer Terms of Reference to other federal departments for regulatory responsibilities or interest and incorporate any additional requirements. | | | | | X | |
| 12 | Provide completed Terms of Reference to the lessee (proponent) to undertake the Environmental Assessment Report including a proposed Environmental Protection Plan. | | | | X | | |
| 13 | Upon receipt of the Environmental Assessment Report including a proposed Environmental Protection Plan from the lessee (proponent), the report is reviewed by an environmental advisor to determine any deficiencies and provide recommendations. Outstanding deficiencies are to be addressed by the lessee (proponent). | | | | Advisory role | X | |
| 14 | Based on the completed Environmental Assessment Report including a proposed Environmental Protection Plan, a screening decision is rendered by the Responsible Authority and the Environmental Protection Plan is approved. The screening decision is documented in the departmental environmental assessment database system (ESSIMS) and is registered in the Canadian Environmental Assessment Registry in accordance with Canadian Environmental Assessment Act. Both electronic and hard copies are then forwarded to First Nation Lands Office. | | | | | X | |

APPENDIX D2

Leases on Designated Land (section 53(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|--------------------------|---|------------|-----------|------------|---------------------|---------------|-----------|
| 15 | If the decision rendered recommends that the “project” can proceed, the approved Environmental Protection Plan is incorporated as a condition of approval of the lease binding the lessee (proponent) to implementation of all mitigation measures, monitoring and reporting requirements, environmental emergency measures, enforcement provisions and decommissioning plan for the life-cycle of the lease. | | | | X | | |
| 16 | Monitoring for compliance of Environmental Protection Plan. | | | | X | | |
| 17 | Enforcement of non-conformance with Environmental Protection Plan. | | | | | X | |
| NEGOTIATION PHASE | | | | | | | |
| 18 | Prior to the commencement of negotiations, consider whether the conditions of the land are suitable to support the proposed activity, provide a copy of the standard lease applicable to the proposed use and advise the First Nation Council and the prospective lessee of the primary obligations and provision of the lease. | | | | X | | |
| 19 | Negotiate the basic terms of the lease and incorporate mandatory provisions and standard clauses into the standard lease or departmentally approved equivalent: i) provide lessee with draft copy of the departmentally approved precedent lease; ii) if required, determine whether personal guarantees or performance bonds are required; and | | | | X | Advisory role | |

Leases on Designated Land (section 53(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|---------------|----|
| 19 | iii) draft the lease incorporating mandatory provisions and standard clauses of departmentally approved forms and ensure the lease terms are consistent with the terms of the designation, including a land description that meets the requirements for legal descriptions of Indian Lands, including all known encumbrances affecting that land. (If necessary, obtain land description from lessee). | | | | X | Advisory role | |
| 20 | <p>Conduct an assessment of the lease, including:</p> <ul style="list-style-type: none"> the adequacy of the rent (based on an independent appraisal obtained by the proposed lessee, and reviewed if necessary by Public Works and Government Services Canada); the term (refer to Directive 7-4: General Guidelines for Drafting Leases); the proposed use of the land, taking into consideration the Land Inspection Report; whether all Terms and Conditions required by the designation and/or the departmental policy have been included (based on standard lease document); | | | | X | Advisory role | |

APPENDIX D2

Leases on Designated Land (section 53(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| 20 | <ul style="list-style-type: none"> • the suitability of all non-standard clauses appearing in the lease. If necessary, the opinion of the Department of Justice (DOJ) respecting specific non-standard clauses must be obtained and in consultation with the Lands Officer, the departmental position will be determined; • the potential environmental impact of the lease, taking in consideration environmental legislation, screening decisions and reports. | | | | X | Advisory role | |
| 21 | <p>Review the lease and the Transaction Checklist before execution to ensure that all standard terms and requirements are present, including the following Terms and Conditions:</p> <p>a) The full formal name and address of the lessee and if the lease is a company, the following statement:</p> <ul style="list-style-type: none"> i) the name of the company, stated as in the Certificate of Incorporation/Letters Patent; ii) the jurisdiction of incorporation; iii) the address of the head office; iv) authorization to enter into land transactions. <p>b) Specify the applicable authority under the <i>Indian Act</i>;</p> | | | | X | Advisory role | |

Leases on Designated Land (section 53(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| 21 | <p>c) A full and identifiable and most current land description, including identification of any existing easements or other encumbrances;</p> <p>d) The amount and period of rental payments, including:</p> <ul style="list-style-type: none"> i) the date on which payment is due; ii) if rent is to be a percentage of another quantity, the agreed method of calculation; iii) whether the rent is to be reviewed at least every five years; iv) a mechanism for determining the rent in the event the parties fail to agree; and v) a mechanism for adjusting a nominal rent to fair market rent upon the assignment of a band corporation lease to non-band lessee. <p>e) Clearly defined acceptable uses of the demised lands;</p> <p>f) The standards to be followed specifically in respect of:</p> <ul style="list-style-type: none"> i) construction and safety; ii) health; and iii) property maintenance. | | | | X | Advisory role | |

Leases on Designated Land (section 53(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| 21 | <p>g) Any performance requirements;</p> <p>h) Any fencing requirements;</p> <p>i) Environmental provisions, such as waste or rubbish contamination, compliance with environmental standards, environmental assessments and mitigation, environmental protection, no contaminants or hazardous substances, mitigation of environmental impacts, etc.; specific to the CEEA, CEPA, SARA, and Fisheries Acts.</p> <p>j) Whether issues of dangerous objects, noxious weeds, etc. have been addressed;</p> <p>k) Any provisions for cancellation of the lease for specified reasons;</p> <p>l) Provision for ownership of improvements at the end of the lease, and who is to decide or quantify;</p> <p>m) Provision of insurance at lessee's expense for:</p> <p style="padding-left: 20px;">i) fire;</p> <p style="padding-left: 20px;">ii) public liability; and</p> <p style="padding-left: 20px;">iii) crops.</p> <p>n) Indemnification of Her Majesty from all claims, damages, costs, etc.;</p> | | | | X | Advisory role | |

Leases on Designated Land (section 53(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| 21 | <p>o) Whether lessee undertakes to pay all taxes, levies, or other charges;</p> <p>p) Whether lessee covenanted to comply with all applicable laws, including First Nation bylaws;</p> <p>q) Whether the Crown reserved the mineral rights in, upon or under the demised lands;</p> <p>r) Whether the lessee is given the right to hold, use and occupy the premises without interference so long as rents are paid and covenants complied with;</p> <p>s) Whether the lease has been duly executed by the lessee and Affidavits of Execution or corporate seals have been provided;</p> <p>t) If the lease is in the nature of a head lease, whether it is mandatory to register all sub-leases in the Indian Lands Registry;</p> <p>u) If the lease is assignable:</p> <p style="padding-left: 20px;">i) provision for the payment of a fee upon assignment of the lease;</p> <p style="padding-left: 20px;">ii) whether the provision stipulates that the fee must be a true reflection of expenses incurred in connection</p> | | | | X | Advisory role | |

Leases on Designated Land (section 53(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|---------------|----|
| 21 | <p>with the assignment; and</p> <p>iii) provision that the lessee may not assign or transfer the lease without Her Majesty's consent.</p> <p>v) Provision that upon bankruptcy or receivership of lessee, Her Majesty may terminate;</p> <p>w) Provision that Her Majesty's or other applicable authorities representative may enter to view and inspect premises;</p> <p>x) Where, in Her Majesty's opinion, a nuisance exists, the lessee may be ordered to abate and pay costs thereof;</p> <p>y) Upon expiry of the lease, the lessee shall peaceably surrender possession to Her Majesty;</p> | | | | X | Advisory role | |

APPENDIX D2

Leases on Designated Land (section 53(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|------------------------------------|---|------------|-----------|------------|---------------------|---------------|-----------|
| 21 | <p>z) Where the lease contemplates major commercial, industrial or residential development, the following terms should appear:</p> <p>i) Improvements will revert to the lesser, or if not, evidence on file that this condition has been expressly waived;</p> <p>ii) An acceptable development plan has been submitted to the Minister prior to granting of lease;</p> <p>ii) Security, in the form of a performance bond, should be obtained to guarantee completion of the development.</p> | | | | X | Advisory role | |
| 22 | First Nation and lessee review the draft lease. | | | | X | | |
| DOCUMENT FINALIZATION PHASE | | | | | | | |
| 23 | <p>Finalize the lease:</p> <p>a) based on confirmed details of the Land Transaction Information Report;</p> <p>b) based on confirmed negotiations;</p> <p>c) using standard documentation and clauses, i.e., Departmentally approved standard forms;</p> <p>d) in consideration of Indian Lands Registration Manual.</p> | | | | X | | |

Leases on Designated Land (section 53(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|--------|----|
| 24 | <p>Prepare BCR consenting to the Minister granting the proposed lease pursuant to the applicable statutory authority which should include the following:</p> <p>a) a land description which meets the requirements for legal descriptions of Indian Lands, as described in <i>Schedule A of the Framework Accord between Lands and Environment Branch, Lands and Trust Sector of the Department of Indian Affairs and Northern Development and Earth and Science Sector of the Department of Natural Resources Canada</i> and amended from time to time, including all known encumbrances affecting that land;</p> <p>b) the proposed use should be clearly identified;</p> <p>c) the term of the lease;</p> <p>d) a request that the Minister enter into a lease agreement pursuant to the appropriate <i>Indian Act</i> provision;</p> <p>e) Copy of lease and BCR identifies approval by Chief and Council of lease format.</p> | | | | X | | |

APPENDIX D2

Leases on Designated Land (section 53(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|-------------------------------------|--|-----|----|-----|--------------|--------|----|
| 25 | Passes BCR consenting to granting of proposed lease. | | | | X | | |
| EXECUTION AND APPROVAL PHASE | | | | | | | |
| 26 | <p>Arrange for 4 original lease documents to be executed/signed. A copy each for the Indian Land Registry, the lessee, First Nation and AANDC regional office. The Lease should be executed in the following order:</p> <p style="margin-left: 40px;">a) First, the <u>Lessee</u> executes;</p> <p style="margin-left: 40px;">b) Second, approval by individual with Delegated Authority.</p> | | | | X | X | |
| 27 | First Nation Lands Manager enters the transaction into the Indian Lands Registry System (ILRS) pending file, prints the Application for Registration from the pending file, and completes the Transaction Checklist. | | | | X | | |
| 28 | <p>Forwards the Land Transaction Information Report and registration package to the region for approval by Regional Delegated Authority. The registration package includes:</p> <ul style="list-style-type: none"> • the lease; • the Application for Registration; • the Transaction Checklist | | | | X | | |
| 29 | Region receives and reviews the registration package and the Land Transaction Information Report. | | | | X | | |

APPENDIX D2

Leases on Designated Land (section 53(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|---------------------------|--|------------|-----------|------------|---------------------|---------------|-----------|
| 30 | Departmental representative, authorized to execute the lease under the current Regional delegation of authority, will execute the original copies of the lease. | | | | | X | |
| 31 | Region completes Part B of the Transaction Checklist. | | | | | X | |
| 32 | Region forwards the registration package to the Indian Land Registry and retains the Land Transaction Information Report on file. The registration package includes: <ul style="list-style-type: none"> • the lease; • the Application for Registration; • the Transaction Checklist. | | | | | X | |
| REGISTRATION PHASE | | | | | | | |
| 33 | Indian Land Registry receives registration package and ensures compliance with the Indian Land Registration Manual. | | | | | | X |
| 34 | Indian Land Registry registers the interest. | | | | | | X |
| 35 | Indian Land Registry forwards registration particulars to applicant. | | | | | | X |
| DISTRIBUTION PHASE | | | | | | | |
| 36 | Executed document with registration particulars affixed thereon is received and distributed to all parties i.e Proponent, Lessee, Locatee, First Nation and /or AANDC etc. A copy should be kept in the Lands Officer's file. | | | | | | X |

Leases on Designated Land (section 53(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|-------------------------|---|-----|----|-----|--------------|--------|----|
| COMPLIANCE PHASE | | | | | | | |
| 37 | <p>Provide (computer generated) documents (with suitable disclaimers) to agreement holders at time of signing or before, to explain in simple language:</p> <ul style="list-style-type: none"> • primary obligations found in Terms and Conditions (e.g., payment of rent and GST, provision of insurance certificates, payment of taxes and utilities); • First Nation by-laws; • land use plan (zoning, etc.); • roles and responsibilities of Indian and Northern Affairs and First Nation; • enforcement penalties and remedial actions. | | | | X | | |
| 38 | <p>Prepare an annual monitoring strategy based on an assessment of the risks, costs and benefits on monitoring options for all active land and resource instruments. (i.e., monitor based on priorities, major risk to health, safety, land, resources, environment).</p> | | | | X | | |

Leases on Designated Land (section 53(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|--------|----|
| 39 | <p>Enter monitoring items (i.e., leasing, licensing and permitting information) and monitoring schedule into NetLands and/or other appropriate systems (i.e., environmental management system), which may include such items as:</p> <ul style="list-style-type: none"> -for leasing and permit purposes <ul style="list-style-type: none"> • Insurance • rent collection • building code compliance • crop inspection • inspection requirements (site inspection, desk audit) -for individual land holding purposes <ul style="list-style-type: none"> • band by-laws • zoning -for Certificates of Occupation <ul style="list-style-type: none"> • foundation is constructed • building code compliance -for set asides and band allotments <ul style="list-style-type: none"> • environmental compliance -environmental legislative requirements <ul style="list-style-type: none"> • Canadian Environmental Assessment Act • Canadian Environmental Protection Act • Species at Risk Act | | | | X | | |
| 40 | Schedule monitoring site inspections and desk audits. | | | | X | | |

APPENDIX D2

Leases on Designated Land (section 53(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|---------------|----|
| 41 | Forward notices of upcoming requirements to agreement holder based on monitoring schedule (when applicable): <ul style="list-style-type: none"> • rent review; • annual payments, etc.; • self-monitoring reports; • third party monitoring; • audits and inspections. | | | | X | | |
| 42 | Record inspection findings resulting from site inspections and desk audits in NetLands and provide copies of findings to all parties involved. | | | | X | | |
| 43 | Where a breach or default of an agreement is identified or reported, the responsible officer: <ul style="list-style-type: none"> • will verify details of the report and obtain any additional information needed to determine best course of action (i.e., consult enforcement agencies, Department of Justice, etc.). | | | | X | Advisory role | |
| 44 | The responsible officer will decide on course of action based on facts of the situation. This may require the officer to: <ul style="list-style-type: none"> • Give notice to agreement holder and seek to remedy default or breach; Take appropriate action under the terms of the instrument, First Nation by-laws, etc.; | | | | X | | |
| 45 | Document offences and enforcement actions taken, as well as the rationale for action taken. | | | | X | | |

APPENDIX D2

Leases on Designated Land (section 53(1))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|------------|-----------|------------|---------------------|---------------|-----------|
| 46 | <p>The responsible officer will assess results of action taken to determine if:</p> <ul style="list-style-type: none"> • breach, default, dispute has been resolved and any damage done has been repaired; • conduct follow-up investigations to assess the results of remediation taken to resolve contraventions. | | | | X | | |

Leases on Designated Land (section 53(1))

ANNEX A

LAND INSPECTION REPORT (determines whether the land can be used for the purposes intended by the instrument)

1. Description of site (general location, proximity to water frontage, river etc.)

2. Topography: (soil, ground cover etc.)

3. Land Features

Available Services (check box - may select more than one)

- Access to public road
- Water
- Sewer
- Power
- Natural Gas
- Telephone
- Garbage Collection

Land Use

Existing land use _____

Proposed land use _____

Leases on Designated Land (section 53(1))

Adjacent land uses

East _____

West _____

North _____

South _____

Existing and proposed structures on the subject property _____

4. Distance to nearest community

5. Additional Comments:

6. Land Management Planning

a) The proposed land instrument has been identified in (check box - may select more than one):

- RLEMP Work Plan
- Community's land management goals and objectives
- Other site specific land management projects & land management objectives (i.e., EcDev, Capital, Housing etc.)
- Approved or pending development plans or zoning by-laws
- Agreed to Community land use plan

b) The proposed land instrument should be executed and have regard for applicable real property requirements and federal environmental legislation

Locatee Lease (section 58(3))

ROLES AND RESPONSIBILITIES
Under the Indian Act and Reserve Land and Environment
Management Program (RLEMP)

First Nations not operating under RLEMP

- AANDC Regional Officer will conduct all roles and responsibilities identified as First Nation and Region

First Nations operating under RLEMP

TRAINING AND DEVELOPMENT LEVEL

- AANDC Regional Officer will conduct all roles and responsibilities identified as First Nation and Region
- Upon completion of the Professional Development Training (Core and Technical components), the First Nation Lands Manager will work in partnership with the Department to perform these roles and responsibilities

OPERATIONAL LEVEL

- AANDC Regional Officer will conduct all roles and responsibilities identified as Region
- First Nation Lands Manager will conduct all roles and responsibilities identified as First Nation

DELEGATED AUTHORITY LEVEL

First Nations with Delegated Authority under the *Indian Act*

- AANDC Regional Officer will conduct all roles and responsibilities identified as Region, excluding roles and responsibilities identified under Execution and Approval Phase as per delegated authority under the *Indian Act*
- First Nation Lands Manager will conduct all roles and responsibilities identified as First Nation including roles and responsibilities identified under Execution and Approval Phase as per delegated authority under the *Indian Act*

REFER TO THE LAND MANAGEMENT MANUAL FOR ADDITIONAL POLICY REQUIREMENTS

Locatee Lease (section 58(3))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|-------------------------|--|-----|----|-----|--------------|--------|----|
| GROUNDWORK PHASE | | | | | | | |
| 1 | Receive a request for an interest in land. | | | | X | | |
| 2 | <p>Determine if:</p> <p>a) The proposed land instrument has been identified in one of the following:</p> <ul style="list-style-type: none"> • the community's land management goals and objectives, other site specific land management projects & land; • management objectives (i.e., EcDev, Capital, Housing etc.); • approved or pending development plans or zoning by-laws; • agreed to community land use plan. <p>b) The proposed land instrument has regard for applicable real property requirements, federal environmental legislation and community environmental sustainability plan (if applicable).</p> | | | | X | | |
| 3 | Enter the transaction particulars in NetLands. | | | | | X | |
| 4 | Check the status of the land to be leased to the proponent and ensure that the Land Transaction Information Report has been completed by the proposed lessee. | | | | X | | |
| 5 | Inform locatee and lessee of all leasing policies used for the leasing of locatee land. | | | | X | | |
| 6 | Ensure a valid appraisal exists or that an appraisal is made of the value of the land to be leased. | | | | X | | |
| 7 | Provide the Lands Transaction Information Report to the locatee for review. | | | | x | | |

Locatee Lease (section 58(3))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|--------|----|
| 8 | Obtain locatee's written consent to the negotiation and preparation of the lease by having locatee sign Part 1 of the Land Transaction Information Report. Where there is more than one locatee registered on title, the signatures of all locatees are required. | | | | X | | |
| 9 | Initiates credit investigation Conducts corporate status check. | | | | X | | |
| | NOTE: When a proposed lease includes a project as defined under <i>Canadian Environmental Assessment Act (CEAA)</i>, an Environmental Assessment (EA) must be conducted prior to the issuance of the lease. | | | | | | |
| 10 | Based on the request for an interest in land, determine which of the following lease transactions and appropriate environmental management process will be required: a) Proposed New Lease - Environmental Assessment (EA) and/or Environmental Site Assessment (ESA) - Phase 1 minimum if needed; b) Lease Renewal - Review for compliance of existing Environmental Protection Plan based on the Environmental Assessment approved, or if never undertaken, then there is a requirement for an Environmental Audit to determine whether or not the activity under lease is in compliance with appropriate acts, regulations and/or best practices; | | | | X | | |

Locatee Lease (section 58(3))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| 10 | <p>c) Lease Expiry – Environmental Site Assessment.</p> <p>Note: Costs related to undertaking an EA, ESA or EAudit is to be the responsibility of the lessee (proponent) as a part of doing business.</p> | | | | X | | |
| 11 | <p>Proposed New Lease: Environmental Assessment Requirements</p> <p>a) Identify the scope of the “project”, the authority under the <i>Indian Act</i> for land tenure and the type of Environmental Assessment required (screening, comprehensive study or Panel) in accordance with Canadian Environmental Assessment Act;</p> <p>b) Ensure that the appropriate information related to the intent of undertaking an Environmental Assessment is documented in the departmental environmental assessment database system (ESSIMS) and is registered in the Canadian Environmental Assessment Registry (CEAR) in accordance with Canadian Environmental Assessment Act;</p> <p>c) Develop Terms of Reference (ToR) to guide the undertaking of the Environmental Assessment Report (EAR) by the lessee (proponent) by a qualified environmental assessor. The Terms of Reference shall include as a minimum requirement: - description of the “project”; - identify the scope of the Environmental Assessment;</p> | | | | X | X | |
| | | | | | X | Advisory role | |

Locatee Lease (section 58(3))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| 11 | <ul style="list-style-type: none"> - identify all applicable acts, regulations and best practice standards to be used (i.e. <i>Canadian Environmental Protection Act (CEPA)</i>, <i>Species At Risk Act (SARA)</i>, FA, etc.); - identify the environmental setting: i.e., physical resources: topography, climate, land/soil, surface water, ground water. biological resources: flora/fauna land use: historical, natural resources, archaeology/cultural special places; - indicate the need for an Environmental Site Assessment Phase 1 if required based on previous studies and information; - identify potential impacts and effects including cumulative effects and assessment of the significance of any adverse environmental effect; - identify the scope of consultations (i.e., Chief and Council, Community members, off-reserve residents, other federal departments and/or provincial or municipal government agencies); - identify proposed mitigation measures, monitoring and reporting requirements, emergency response measures, enforcement provisions and a decommissioning plan in terms of a recommended Environmental Protection Plan;- include all supporting documentation (i.e., maps, design plans, operational and maintenance plans, permits and approvals, photographs, etc.). | | | | X | Advisory role | |

Locatee Lease (section 58(3))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|---------------|--------|----|
| 12 | Determine and refer Terms of Reference to other federal departments for regulatory responsibilities or interest and incorporate any additional requirements. | | | | | X | |
| 13 | Provide completed Terms of Reference to the lessee (proponent) to undertake the Environmental Assessment Report including a proposed Environmental Protection Plan. | | | | X | | |
| 14 | Upon receipt of the Environmental Assessment Report including a proposed Environmental Protection Plan from the lessee (proponent), the report is reviewed by an environmental advisor to determine any deficiencies and provide recommendations. Outstanding deficiencies are to be addressed by the lessee (proponent). | | | | Advisory role | X | |
| 15 | Based on the completed Environmental Assessment Report including a proposed Environmental Protection Plan, a screening decision is rendered by the Responsible Authority and the Environmental Protection Plan is approved. The screening decision is documented in the departmental environmental assessment database system (ESSIMS) and is registered in the Canadian Environmental Assessment Report in accordance with Canadian Environmental Assessment Act. Both electronic and hard copies are then forwarded to First Nation Lands Office. | | | | | X | |

Locatee Lease (section 58(3))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|--------------------------|---|-----|----|-----|--------------|---------------|----|
| 16 | If the decision rendered recommends that the “project” can proceed, the approved Environmental Protection Plan is incorporated as a condition of approval of the lease binding the lessee (proponent) to implementation of all mitigation measures, monitoring and reporting requirements, environmental emergency measures, enforcement provisions and decommissioning plan for the life-cycle of the lease. | | | | X | | |
| 17 | Monitoring for compliance of Environmental Protection Plan. | | | | X | | |
| 18 | Enforcement of non-compliance with Environmental Protection Plan. | | | | | X | |
| NEGOTIATION PHASE | | | | | | | |
| 19 | Prior to the commencement of negotiations, provide a copy of the standard lease applicable to the proposed use and advise the First Nation Council and the prospective lessee of the primary obligations and provision of the lease. | | | | X | | |
| 20 | Negotiate the basic terms of the lease and incorporate mandatory provisions and standard clauses into the standard lease or departmentally approved equivalent: i) provide lessee with draft copy of the departmentally approved precedent lease; | | | | X | Advisory role | |

Locatee Lease (section 58(3))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| 20 | <p>ii) if required, with the assistance of Public Works and Government Services Canada, determine whether personal guarantees or performance bonds are required; and</p> <p>iii) draft the lease incorporating mandatory provisions and standard clauses of departmentally approved forms, including a land description that meets the requirements for legal descriptions of Indian Lands, including all known encumbrances affecting that land.</p> | | | | X | Advisory role | |
| 21 | <p>Conduct an assessment of the draft lease, including:</p> <ul style="list-style-type: none"> • the adequacy of the rent (based on an independent appraisal, obtained by the proposed lessee, and reviewed if necessary by Public Works and Government Services Canada); • the term (refer to Directive 7-4: General Guidelines for Drafting Leases in the Land Management Manual); • the proposed use of the land (taking into consideration the Land Inspection Report); | | | | X | Advisory role | |

Locatee Lease (section 58(3))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| 21 | <ul style="list-style-type: none"> • whether all Terms and Conditions required by the departmental policy have been included (based on standard lease document); • the suitability of all non-standard clauses appearing in the lease. If necessary, the opinion of the Department of Justice (DOJ) respecting specific non-standard clauses must be obtained and in consultation with the Lands Manager, the departmental position will be determined. Depending upon the DOJ's advice, renegotiate lease with respective parties; • the potential environmental impact of the lease taking into consideration environmental legislation, screening decisions and reports. | | | | X | Advisory role | |
| 22 | <p>Review the lease and the Transaction Checklist before execution to ensure that all standard terms and requirements are present, including the following Terms and Conditions:</p> <p>a) The full formal name and address of the lessee; If the lessee is a company, do the following appear:</p> <p>i) the name of the company, as stated in the Certificate of Incorporation/Letters Patent;</p> | | | | X | Advisory role | |

Locatee Lease (section 58(3))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| 22 | <ul style="list-style-type: none"> ii) the jurisdiction of incorporation; iii) the address of the head office; iv) authorization to enter into land transactions. <p>b) Specify the applicable authority under section 58(3) of the <i>Indian Act</i>;</p> <p>c) A full and identifiable and most current land description, including identification of any existing easements or other encumbrances;</p> <p>d) The amount and period of rental payments, including:</p> <ul style="list-style-type: none"> i) the date on which payment is due; ii) if rent is to be a percentage of another quantity, the agreed method of calculation; iii) where the term exceeds five years, specification that the rent is to be reviewed at least every five years; and iv) does the lease provide a mechanism for determining the rent in the event the parties fail to agree? <p>e) Clearly defined acceptable uses of the demised lands;</p> | | | | X | Advisory role | |

Locatee Lease (section 58(3))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| 22 | <p>f) The standards to follow specifically in respect of :</p> <p>(i) construction and safety;</p> <p>(ii) health; and</p> <p>(iii) property maintenance.</p> <p>g) Any performance requirements;</p> <p>h) Environmental provisions, such as waste or rubbish contamination, compliance with environmental standards, environmental assessments and mitigation, environmental protection, no contaminants or hazardous substances, mitigation of environmental impacts, etc., specific to the CEEA, CEPA, SARA and <i>Fisheries Act</i>;</p> <p>i) Any fencing requirements;</p> <p>j) Whether the issues of dangerous objects, noxious weeds, etc. have been addressed;</p> <p>k) Provision for cancellation of the lease for specified reasons;</p> <p>l) Provision for the ownership of improvements at the end of lease, and who is to decide;</p> | | | | X | Advisory role | |

Locatee Lease (section 58(3))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|---------------|----|
| 22 | <p>m) Provision of insurance at lessee's expense:</p> <p>(i) fire</p> <p>(ii) public liability</p> <p>(iii) crop</p> <p>n) Indemnification of Her Majesty from all claims, damages, costs, etc.;</p> <p>o) The lessee's undertaking to pay all taxes, levies, or other charges;</p> <p>p) The lessee's covenant to comply with all applicable laws, including First Nation by-laws</p> <p>q) Whether the Crown has reserved the mineral rights in, upon or under the demised lands;</p> <p>r) That the lessee is given the right to hold, use and occupy the premises without interference, if the lessee pays the rent and complies with all c-covenants;</p> <p>s) That the lessee has duly executed the lease and provided Affidavits of Execution or corporate seals;</p> <p>t) Whether all sub-leases must be registered in the Indian Lands Registry if the lease is a head-lease;</p> | | | | X | Advisory role | |

Locatee Lease (section 58(3))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| 22 | <p>u) Regarding Assignments:</p> <p>i) whether a fee is to be paid upon assignment of the lease;</p> <p>ii) stipulation that the fee must be a true reflection of the expenses incurred concerning the assignment, if required;</p> <p>iii) provision that the lessee may not assign or transfer the lease without Her Majesty's consent, if required;</p> <p>v) That upon bankruptcy or receivership of the lessee, Her Majesty may terminate.</p> <p>w) That Her Majesty's representative and any other applicable authority may enter to view and inspect premises;</p> <p>x) That where, in Her Majesty's opinion, a nuisance exists, the lessee may be ordered to stop the nuisance and pay costs thereof;</p> <p>y) Upon expiry, the lessee will peaceably surrender possession to Her Majesty;</p> | | | | X | Advisory role | |

Locatee Lease (section 58(3))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| 22 | <p>z) Where the lease contemplates major commercial, industrial or residential development, the following terms appear:</p> <p>i) Improvements are to revert to the lesser, or if not, evidence on file that the lesser has waived this condition;</p> <p>ii) The lessee has submitted an acceptable development plan to the Minister prior to granting of the lease; and</p> <p>iii) The lessee will obtain security (i.e., a performance bond) to guarantee completion of the development, if required.</p> | | | | X | Advisory role | |
| 23 | Confirm that the First Nation and the locatee have executed a revenue allocation agreement, and that the agreement is on file, if applicable. | | | | X | | |
| 24 | Where the term of the lease is 49 years or less, draft a Band Council Resolution (BCR) expressing the band council's view on the proposed lease, particularly any potential social, economic or cultural aspects on reserve and addressing compliance with approved land use plans or zoning by-laws | | | | X | | |
| 25 | Determine if a review of appraisal by Public Works and Government Services Canada (PWGSC) is necessary. | | | | X | X | |

Locatee Lease (section 58(3))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|---------------------|---|-----|----|-----|--------------|---------------|----|
| 26 | Determine whether non-standard clauses to the lease require DOJ's review. | | | | X | Advisory role | |
| 27 | Forward lease with identified non-standard clauses to AANDC Region for review by DOJ (if applicable). | | | | X | | |
| 28 | Depending upon DOJ's advice, renegotiate lease with respective parties. | | | | X | | |
| VOTING PHASE | | | | | | | |
| 29 | For leases with terms greater than 49 years, where a First Nation electorate has delegated approval to the Band Council, confirms that the Council has passed a BCR formally approving the lease. | | | | X | | |
| 30 | Conduct an information meeting prior to vote, if required. | | | | X | | |
| 31 | Ensure a copy of the notice of the meeting is on file showing it was posted 15 days before the meeting. | | | | X | | |
| 32 | Ensure a certified copy of the minutes of the information meeting is on file, if applicable. | | | | X | | |
| 33 | Ensure a vote of band electors is held to consider and approve the proposed lease if its term exceeds 49 years. | | | | X | | |
| 34 | Ensure that a BCR setting out the number of eligible voters, the number of votes cast for and against the lease, and the number of spoiled ballots is on file. | | | | X | | |

Locatee Lease (section 58(3))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|--------|----|
| 35 | <p>Review, and where necessary, address any concerns of the First Nation electors, or Band Council (where the electors have delegated this authority to the Band Council), with respect to the following:</p> <ul style="list-style-type: none"> i) adequacy of rent; ii) division of rental proceeds; iii) length of term; iv) compliance with any reserve land use planning and valid by-laws; v) possible adverse impact of lease on reserve in social, cultural, or economic terms; vi) concerns of the department, if any. | | | | X | | |
| 36 | Where the Band Council and/or the First Nation electors have raised objections, have they done so within a reasonable time? | | | | X | | |
| 37 | Where the term of the lease is 49 years or less, pass a BCR expressing the Band Council's view on the proposed lease, particularly any potential social, economic or cultural aspects on reserve and addressing compliance with approved land use plans or zoning by-laws? | | | | X | | |

Locatee Lease (section 58(3))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|-------------------------------------|---|-----|----|-----|--------------|--------|----|
| DOCUMENT FINALIZATION PHASE | | | | | | | |
| 38 | Finalize the lease: a) based on confirmed details of the Land Transaction Information Report; b) based on confirmed negotiations; c) using standard documentation and clauses, i.e., Departmentally approved standard forms; d) in consideration of Indian Lands Registration Manual. | | | | X | | |
| 39 | Review the lease and Transaction Checklist to ensure that all standard terms and requirements are present. | | | | X | | |
| 40 | First Nation and lessee review the draft lease. | | | | X | | |
| 41 | Where the lease is less than 49 years, confirms that a BCR is on file, which expresses the Band Council's view on the proposed lease, particularly any potential social, economic and cultural impact on reserve and addressing compliance with approved land use plan or zoning by-laws, in accordance with the Lands Inspection Report. | | | | X | | |
| EXECUTION AND APPROVAL PHASE | | | | | | | |
| 42 | Arranges for the execution of 2 copies of the lease in the following order: a) First, the locatee(s) to sign the schedule to the lease, showing that they consent to the lease; b) Second, the lessee should | | | | X | | |

Locatee Lease (section 58(3))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|--------|----|
| | execute the lease. | | | | | | |
| 43 | First Nation Lands Manager enters the transaction in the ILRS pending file, prints the Application for Registration from the pending file, and completes the Transaction Checklist. | | | | X | | |
| 44 | <p>Forwards the Land Transaction Information Report and registration package to Region for verification purpose and for approval by regional delegated authority, which includes:</p> <ul style="list-style-type: none"> • executed copies of the lease; • original BCR attached; • locatee consent; • a sketch of the subject area (if applicable); • acknowledgement of corporation (if applicable); • supporting documentation referred to in the lease; • the Transaction Checklist; • the Application for Registration. | | | | X | | |
| 45 | Region receives and reviews the registration package and the Land Transaction Information Report. | | | | | X | |
| 46 | Departmental representative, authorized to execute the lease under the current Regional delegation of authority, will execute the original copies of the lease. | | | | | X | |
| 47 | Region completes Part B of the Transaction Checklist. | | | | | X | |

Locatee Lease (section 58(3))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|---------------------------|--|-----|----|-----|--------------|--------|----|
| 48 | Region forwards the registration package to the Indian Land Registry and retains the Land Transaction Information Report on file. The registration package includes: <ul style="list-style-type: none"> • the lease; • the Application for Registration; • the Transaction Checklist; | | | | | X | |
| REGISTRATION PHASE | | | | | | | |
| 49 | Indian Land Registry receives registration package and ensures compliance with the Indian Land Registration Manual. | | | | | | X |
| 50 | Indian Land Registry registers the interest. | | | | | | X |
| 51 | Indian Land Registry forwards registration particulars to applicant. | | | | | | X |
| DISTRIBUTION PHASE | | | | | | | |
| 52 | Executed document with registration particulars affixed thereon is received and distributed to all parties i.e. Proponent, Lessee, Locatee, First Nation and /or AANDC etc. If applicable a copy is kept on file. | | | | X | X | |

Locatee Lease (section 58(3))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|-------------------------|---|-----|----|-----|--------------|--------|----|
| COMPLIANCE PHASE | | | | | | | |
| 53 | <p>Provide (computer generated) documents (with suitable disclaimers) to agreement holders and locatees (if applicable) at time of signing or before, to explain in simple language:</p> <ul style="list-style-type: none"> • primary obligations found in Terms and Conditions (e.g., payment of rent and GST, provision of insurance certificates, payment of taxes and utilities); • First Nation by-laws; • land use plan (zoning etc.); • roles and responsibilities of Indian and Northern Affairs and First Nation; • enforcement penalties and remedial actions. | | | | X | | |
| 54 | <p>Prepare an annual monitoring strategy based on an assessment of the risks, costs and benefits on monitoring options for all active land and resource instruments. (i.e., monitor based on priorities (major risk to health, safety, land, resources, environment)).</p> | | | | X | | |

Locatee Lease (section 58(3))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|--------|----|
| 55 | <p>Enter monitoring items (i.e. leasing, licensing and permitting information) and monitoring schedule into NetLands and/or other appropriate systems (i.e. environmental management system), which may include such items as:</p> <p>-for leasing and permit purposes</p> <ul style="list-style-type: none"> • insurance • rent collection • building code compliance • crop inspection • inspection requirements (site inspection, desk audit). <p>-for individual land holding purposes</p> <ul style="list-style-type: none"> • band by-laws • zoning <p>-for Certificates of Occupation</p> <ul style="list-style-type: none"> • foundation is constructed • building code compliance <p>-for set asides and band allotments</p> <ul style="list-style-type: none"> • environmental compliance <p>-environmental legislative requirements</p> <ul style="list-style-type: none"> • CEAA • CEPA • SARA | | | | X | | |
| 56 | Schedule monitoring site inspections and desk audits. | | | | X | | |

Locatee Lease (section 58(3))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| 57 | Forward notices of upcoming requirements to agreement holder based on monitoring schedule (when applicable): <ul style="list-style-type: none"> • rent review; • annual payments, etc.; • self-monitoring reports; • third party monitoring; • audits and inspections; | | | | X | | |
| 58 | Record inspection findings resulting from site inspections and desk audits in NetLands and provide copies of findings to all parties involved. | | | | X | | |
| 59 | Where a breach or default of an agreement is identified or reported, the responsible officer: <ul style="list-style-type: none"> • will verify details of the report and obtain any additional information needed to determine best course of action (i.e., consult enforcement agencies, DOJ, etc.) | | | | X | Advisory role | |
| 60 | The responsible officer will decide on course of action based on facts of the situation. This may require the officer to: <ul style="list-style-type: none"> • give notice to agreement holder and locatee and seek to remedy default or breach; • take appropriate action under the terms of the instrument, First Nation by-laws, etc.; • report to appropriate authority (i.e., Environment Canada, Health Canada etc.), if applicable. | | | | X | | |

Locatee Lease (section 58(3))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|--------|----|
| 61 | Document offences and enforcement actions taken, as well as the rationale for action taken. | | | | X | | |
| 62 | <p>The responsible officer will assess results of action taken to determine if:</p> <ul style="list-style-type: none"> • breach, default, dispute has been resolved and any damage done has been repaired; • conduct follow-up investigations to assess the results of remediation taken to resolve contraventions. | | | | X | | |

Locatee Lease (section 58(3))

ANNEX A

LAND INSPECTION REPORT (determines whether the land can be used for the purposes intended by the instrument)

1. Description of site (general location, proximity to water frontage, river etc.)

2. Topography: (soil, ground cover etc.)

3. Land Features

Available Services (check box - may select more than one)

- Access to public road
- Water
- Sewer
- Power
- Natural Gas
- Telephone
- Garbage Collection

Land Use

Existing land use _____

Proposed land use _____

Locatee Lease (section 58(3))

Adjacent land uses

East _____
West _____
North _____
South _____

Existing and proposed structures on the subject property _____

4. Distance to nearest community

5. Additional Comments:

6. Land Management Planning

a) The proposed land instrument has been identified in (check box - may select more than one):

- RLEMP Work Plan
- Community's land management goals and objectives
- Other site specific land management projects & land management objectives (i.e., EcDev, Capital, Housing etc.)
- Approved or pending development plans or zoning by-laws
- Agreed to Community land use plan

b) The proposed land instrument should be executed and have regard for applicable real property requirements and federal environmental legislation

Permits (section 28(2))

ROLES AND RESPONSIBILITIES

Under the Indian Act and Reserve Land and Environment Management Program (RLEMP)

First Nations not operating under RLEMP

- Departmental Officer will conduct all roles and responsibilities identified as First Nation and Region

First Nations operating under RLEMP

TRAINING AND DEVELOPMENT LEVEL

- Departmental Officer will conduct all roles and responsibilities identified as First Nation and Region
- Upon completion of the Professional Development Training (Core and Technical components), the First Nation Lands Manager will work in partnership with the Department to perform these roles and responsibilities

OPERATIONAL LEVEL

- Departmental Officer will conduct all roles and responsibilities identified as Region
- First Nation Lands Manager will conduct all roles and responsibilities identified as “First Nation”

DELEGATED AUTHORITY LEVEL

First Nations with Delegated Authority under the *Indian Act*

- Departmental Officer will conduct all roles and responsibilities identified as Region excluding roles and responsibilities identified under Execution and Approval Phase as per delegated authority under the *Indian Act*
- First Nation Lands Manager will conduct all roles and responsibilities identified as First Nation including roles and responsibilities identified under Execution and Approval Phase as per delegated authority under the *Indian Act*

REFER TO THE LAND MANAGEMENT MANUAL FOR ADDITIONAL POLICY REQUIREMENTS

Permits (section 28(2))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|-------------------------|---|-----|----|-----|--------------|--------|----|
| GROUNDWORK PHASE | | | | | | | |
| 1 | Receive a request for interest in land | | | | X | | |
| 2 | Determine if: <p>a) The proposed land instrument has been identified in one of the following:</p> <ul style="list-style-type: none"> • the community's land management goals and objectives; • other site specific land management projects & land management objectives (i.e., EcDev, Capital, Housing etc.); • approved or pending development plans or zoning by-laws; • agreed to community land use plan. <p>b) The proposed land instrument has regard for applicable real property requirements, federal environmental legislation and community Environmental Management Action Plan.</p> | | | | X | | |
| 3 | Enter the transaction particulars in NetLands. | | | | | X | |
| 4 | Ensure Part 1 "Application for Land Use in an Indian Reserve" portion of the Land Transaction Information Report form has been completed. | | | | X | | |

Permits (section 28(2))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|--------|----|
| 5 | The First Nation Lands Manager verifies that the proposed use is one which is consistent with the non exclusive use of reserve land and is otherwise appropriate for the statutory authority under which the permit will be issued (see Chapter 2, Directive 2-2). | | | | X | | |
| 5A | <p>Appropriate uses:</p> <ul style="list-style-type: none"> • permits for the use and occupation of reserve lands issued under section 28(2) <i>Indian Act</i>; • permits for the removal of non-metallic substances issued under section 58(4); • permits granting rights of exploration and development of surrendered mines and minerals under section 5 or 6 of the <i>Indian Mining Regulations</i> pursuant to section 57(c) of the <i>Indian Act</i>; • permits issued to other government departments as Memoranda of Understanding (MOUs) or letter permits under the authority conferred by section 28(2) of the <i>Indian Act</i>; • permits issued to use land in a reserve for the disposal or storage of waste under section 5 of the <i>Indian Reserve Waste Disposal Regulations</i> pursuant to section 73 of the <i>Indian Act</i>; • permits for Indian use to a band for band purposes, or to a member or group of members of a band, to cut timber and fuel wood for personal use under section 4 under of the <i>Indian Timber Regulations</i> pursuant to section 57(a) of the <i>Indian Act</i>; | | | | X | | |

Permits (section 28(2))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----------------------------|--|-----|----|-----|--------------|--------|----|
| | <ul style="list-style-type: none"> permits issued to cut timber for sale to a band or to a member or group of members of a band under section 5 of the Indian Timber Regulations pursuant to section 57(a) of the <i>Indian Act</i>; licenses for the cutting of timber on surrendered lands or with the consent of the Band Council on reserve lands under section 9 of the Indian Timber Regulations pursuant to section 57(a) of the <i>Indian Act</i>. | | | | | | |
| 6 | Check the status of the land to be permitted. Complete Part 2 of the Land Transaction Information Report. | | | | X | | |
| 7 | Inform and provide permittee and the locatee, if applicable, of/with all permit policies. | | | | X | | |
| 8 | Ensure an appraisal is made of the value of land to be taken into consideration for permit compensation, if applicable. | | | | X | | |
| ENVIRONMENTAL PHASE | | | | | | | |
| | Note: Before issuing a permit for the purposes of enabling a project to be carried out in whole or in part, an Environmental Assessment (EA) of a project must be completed in accordance with <i>the Canadian Environmental Assessment Act (CEAA)</i>. Issuance of a permit under section 28(2) constitutes a regulatory duty and is considered a triggering action under CEAA. | | | | | | |
| 9 | Based on the request for an interest in land, determine which of the following permit transactions and appropriate environmental management process | | | | X | | |

Permits (section 28(2))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|---------------|----|
| | <p>will be required:</p> <p>a) Proposed New Permit - EA and Environmental Site Assessment (ESA) - Phase 1 minimum if needed;</p> <p>b) Permit Renewal - Review for compliance of existing Environmental Protection Plan (EPP) based on the EA approved, or if never undertaken, then there is a requirement for an Environmental Audit (EAudit) to determine whether or not the activity under permit is in compliance with appropriate acts, regulations and/or best practices;</p> <p>c) Permit Expiry - ESA.</p> <p>Note: Costs related to undertaking an EA, ESA or EAudit is to be the responsibility of the permittee (proponent) as a part of doing business.</p> | | | | | | |
| 10 | <p>Proposed New Permit: EA Requirements</p> <p>a) Identify the scope of the “project”, the authority under the <i>Indian Act</i> for land tenure and the type of EA required (screening, comprehensive study or Panel) in accordance with CEAA;</p> <p>b) Ensure that the appropriate information related to the intent of undertaking an EA is documented in the departmental environmental assessment database system (ESSIMS) and is registered in the Canadian Environmental Assessment Registry (CEAR) in accordance with CEAA;</p> <p>c) Develop Terms of Reference (ToR) to guide the undertaking of the Environmental Assessment Report (EAR) by the Permittee (proponent) by</p> | | | | X | X | |
| | | | | | X | Advisory Role | |

Permits (section 28(2))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|--------|----|
| | <p>a qualified environmental assessor. The ToR shall include as a minimum requirement:</p> <ul style="list-style-type: none"> - description of the “project”; - identify the scope of the EA; - identify all applicable acts, regulations and best practice standards to be used (i.e.: <i>Canadian Environmental Protection Act (CEPA)</i>, <i>Species At Risk Act (SARA)</i>, FA, etc.); - identify the environmental setting: (i.e.): physical resources: topography, climate, land/soil, surface water, ground water. biological resources: flora/fauna land use: historical, natural resources, archaeology/cultural special places; - indicate the need for a ESA Phase 1 if required based on previous studies and information; - identify potential impacts and effects including cumulative effects and assessment of the significance of any adverse environmental effect; - identify the scope of consultations (i.e., Chief and Council, Community members, reserve residents, other federal departments and/or provincial or municipal government agencies);- - identify proposed mitigation measures, monitoring and reporting requirements, emergency response measures, enforcement provisions and a decommissioning plan in terms of a recommended EPP; - include all supporting documentation (i.e., maps, design plans, operational and maintenance plans, permits and approvals, photographs, etc.). | | | | | | |
| 11 | Determine and refer ToR to other federal departments for regulatory responsibilities or interest and incorporate any additional | | | | | X | |

Permits (section 28(2))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|--------------------------|--|------------|-----------|------------|---------------------|---------------|-----------|
| | requirements. | | | | | | |
| 12 | Provide completed ToR to the permittee (proponent) to undertake the EAR including a proposed EPP. | | | | X | | |
| 13 | Upon receipt of the EAR including a proposed EPP from the permittee (proponent), the report is reviewed by an environmental advisor to determine any deficiencies and provide recommendations. Outstanding deficiencies are to be addressed by the permittee (proponent). | | | | Advisory Role | X | |
| 14 | Based on the completed EAR including a proposed EPP, a screening decision is rendered by the Responsible Authority and the EPP is approved. The screening decision is documented in the departmental environmental assessment database system (ESSIMS) and is registered in the CEAR in accordance with CEAA. Both electronic and hard copies are then forwarded to First Nation Lands Office. | | | | | X | |
| 15 | If the decision rendered recommends that the "project" can proceed, the approved EPP is incorporated as a condition of approval of the permit binding the permittee (proponent) to implementation of all mitigation measures, monitoring and reporting requirements, environmental emergency measures, enforcement provisions and decommissioning plan for the life-cycle of the permit. | | | | X | | |
| 16 | Monitoring for compliance of EPP. | | | | X | | |
| 17 | Enforcement of non-compliance with EPP. | | | | | X | |
| NEGOTIATION PHASE | | | | | | | |
| 18 | Prior to the commencement of negotiations, provide a copy of the | | | | X | | |

Permits (section 28(2))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|------------|-----------|------------|---------------------|---------------|-----------|
| | <p>standard permit applicable to the proposed use and advise the First Nation council and the prospective permittee that:</p> <p>a) the permit cannot authorize exclusive possession and the rights given must be consistent with the permitted use given;</p> <p>b) mandatory provisions applicable to the proposed use must be addressed;</p> <p>c) the permit must contain specific authority for cancellation by the Minister;</p> <p>d) compensation for permits is based at a minimum on fair market value, and must be reviewed at intervals not exceeding five years;</p> <p>e) environmental requirements must be met before issuing a permit;</p> <p>f) the land description meets the requirements for legal descriptions of Indian lands as described in Schedule A of the Framework Accord between Lands and Environment Branch, Lands and Trust Sector of the Department of Indian Affairs and Northern Development and Earth and Science Sector of the Department of Natural Resources Canada, including all known encumbrances affecting the land. (The land description will be at the expense of the permittee).</p> | | | | | | |
| 19 | Verify that the permit compensation is at a minimum fair market value. Review Appraisal Report. | | | | X | Advisory role | |
| 20 | Determine if a review of appraisal by | | | | X | Advisory | |

Permits (section 28(2))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|------------------------------------|---|------------|-----------|------------|---------------------|---------------|-----------|
| | Public Works and Government Services Canada (PWGSC) is necessary. | | | | | role | |
| 21 | When First Nation has knowingly agreed to value less than the fair market value, obtain a written acknowledgement from the First Nation which may include a Certificate of Independent Legal Advice and a release of claims pertaining to the compensation. | | | | X | | |
| 22 | Determine whether substantial changes respecting specific non- standard clauses have been made to the document requiring review by DOJ. | | | | X | Advisory role | |
| 23 | Forward document with non-standard clauses identified to AANDC region for review by DOJ (if applicable). | | | | X | | |
| 24 | Depending upon DOJ's advice, renegotiate permit with respective parties. | | | | X | | |
| DOCUMENT FINALIZATION PHASE | | | | | | | |
| 25 | Finalize the permit: <ul style="list-style-type: none"> based on confirmed details of the Land Transaction Information Report; based on confirmed negotiations; using standard documentation and clauses, i.e., Departmentally approved standard forms; in consideration of Indian Lands Registration Manual. | | | | X | | |
| 26 | Prepare Locatee Consent if applicable [see Annex B of Transaction Checklist] based on confirmed details of Part 1 of the Land Transaction Information Report and obtain locatee(s) signature(s). | | | | X | | |

Permits (section 28(2))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|--------|----|
| 27 | <p>Prepare Band Council Resolution (BCR) consenting to the Minister granting the proposed permit pursuant to the applicable statutory authority which should include the following:</p> <ul style="list-style-type: none"> a) a land description which meets the requirements for legal descriptions of Indian Lands, as described in Schedule A of the Framework Accord between Lands and Environment Branch, Lands and Trust Sector of the Department of Indian Affairs and Northern Development and Earth and Science Sector of the Department of Natural Resources Canada and amended from time to time, including all known encumbrances affecting that land; b) proof of locatee's consent to the permit, when the permit area includes land in the lawful possession of an individual locatee; c) the proposed use; d) the term of the permit; e) the permit compensation; f) a request that the Minister enter into a permit agreement pursuant to the appropriate <i>Indian Act</i> provision. | | | | X | | |
| 28 | Passes BCR consenting to granting proposed permit. | | | | X | | |

Permits (section 28(2))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|-------------------------------------|--|------------|-----------|------------|---------------------|---------------|-----------|
| 29 | Review the permit and Part 4 of the Land Transaction Information Report, to ensure that all standard terms and requirements are present. | | | | X | | |
| 30 | First Nation and permittee review the draft permit. | | | | X | | |
| 31 | Arrange for the signing of the permit by permittee (2 original copies). | | | | X | | |
| EXECUTION AND APPROVAL PHASE | | | | | | | |
| 32 | First Nation Lands Manager enters the transaction in the Indian Lands Registry System pending file, prints the Application for Registration from the pending file, and completes the Transaction Checklist. | | | | X | | |
| 33 | Forwards the Land Transaction Information Report and registration package to region for verification purpose and for approval by regional delegated authority, which includes: <ul style="list-style-type: none"> • executed copies of the permit; • original BCR; • locatee consent (if applicable); • a sketch of the subject area (if applicable); • acknowledgement of corporation (if applicable); • supporting documentation referred to in the permit; • the Transaction Checklist; • the Application for Registration. | | | | X | | |
| 34 | Region receives and reviews the registration package and the Land Transaction Information Report. | | | | | X | |
| 35 | Departmental representative authorized under the current regional delegation of authority will execute/approve the original copies of the permit. | | | | | X | |

Permits (section 28(2))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|---------------------------|--|------------|-----------|------------|---------------------|---------------|-----------|
| 36 | Region completes Part B of the Transaction Checklist. | | | | | X | |
| 37 | Region signs as applicant on the Application for Registration and forwards the registration package to the Indian Land Registry. | | | | | X | |
| REGISTRATION PHASE | | | | | | | |
| 38 | Indian Land Registry receives registration package and ensures compliance with the Indian Land Registration Manual. | | | | | | X |
| 39 | Indian Land Registry registers the registration package. | | | | | | X |
| 40 | Indian Land Registry forwards registration particulars to applicant. | | | | | | X |
| DISTRIBUTION PHASE | | | | | | | |
| 41 | Executed document with registration particulars affixed thereon is received and distributed to all parties i.e., Proponent, Lessee, Locatee, First Nation and /or AANDC etc. If applicable, a copy is put on file. | | | | X | X | |
| COMPLIANCE PHASE | | | | | | | |
| 42 | Provide (computer generated) documents (with suitable disclaimers) to agreement holders and locatees (if applicable) at time of signing or before, to explain in simple language: <ul style="list-style-type: none"> • primary obligations found in Terms and Conditions (e.g., payment of rent and GST, provision of insurance certificates, payment of taxes and utilities); • First Nation by-laws; • land use plan (zoning etc.); • roles and responsibilities of Indian and Northern Affairs and First Nation; • enforcement penalties and remedial actions. | | | | X | | |

Permits (section 28(2))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|--------|----|
| 43 | Prepare an annual monitoring strategy based on an assessment of the risks, costs and benefits on monitoring options for all active land and resource instruments. (i.e., monitor based on priorities (major risk to health, safety, land, resources, environment). | | | | X | | |
| 44 | Enter monitoring items (i.e., leasing, licensing and permitting information) and monitoring schedule into NetLands and/or other appropriate systems (i.e., environmental management system), which may include such items as: -for leasing and permit purposes <ul style="list-style-type: none"> • insurance • rent collection • building code compliance • crop inspection • inspection requirements (site inspection, desk audit) -for individual land holding purposes <ul style="list-style-type: none"> • band by-laws • zoning -for Certificates of Occupation <ul style="list-style-type: none"> • foundation is constructed • building code compliance -for set asides and band allotments <ul style="list-style-type: none"> • environmental compliance -environmental legislative requirements <ul style="list-style-type: none"> • CEAA/CEPA/SARA | | | | X | | |
| 45 | Schedule monitoring site inspections and desk audits. | | | | X | | |
| 46 | Forward notices of upcoming requirements to agreement holder based on monitoring schedule (when applicable): <ul style="list-style-type: none"> • rent review; • annual payments, etc.; • self-monitoring reports; • third party monitoring; • audits and inspections. | | | | X | | |

Permits (section 28(2))

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| 47 | Record inspection findings resulting from site inspections and desk audits in NetLands and provide copies of findings to all parties involved. | | | | X | | |
| 48 | Where a breach or default of an agreement is identified or reported, the responsible officer: <ul style="list-style-type: none"> will verify details of the report and obtain any additional information needed to determine best course of action (i.e., consult enforcement agencies, Department of Justice, etc.). | | | | X | Advisory role | |
| 49 | The responsible officer will decide on course of action based on facts of the situation. This may require the officer to: <ul style="list-style-type: none"> Give notice to agreement holder and locatee and seek to remedy default or breach; Take appropriate action under the terms of the instrument, First Nation by-laws, etc.; report to appropriate authority (i.e., Environment Canada, Health Canada etc., if applicable). | | | | X | | |
| 50 | Document offences and enforcement actions taken, as well as the rationale for action taken. | | | | X | | |
| 51 | The responsible officer will assess results of action taken to determine if: <ul style="list-style-type: none"> breach, default, dispute has been resolved and any damage done has been repaired; conduct follow-up investigations to assess the results of remediation taken to resolve contraventions. | | | | X | | |

**Section 18(2) - Lands Used for the General Welfare of the Band
(When BCR is required)**

**ROLES AND RESPONSIBILITIES
Under the Indian Act and Reserve Land and Environment
Management Program (RLEMP)**

First Nations not operating under RLEMP

- Departmental Officer will conduct all roles and responsibilities identified as First Nation and Region

First Nations operating under RLEMP

TRAINING AND DEVELOPMENT LEVEL

- Departmental Officer will conduct all roles and responsibilities identified as First Nation and Region
- Upon completion of the Professional Development Training (Core and Technical components), the First Nation Lands Manager will work in partnership with the department to perform these roles and responsibilities

OPERATIONAL LEVEL

- Departmental Officer will conduct all roles and responsibilities identified as region
- First Nation Lands Manager will conduct all roles and responsibilities identified as First Nation

DELEGATED AUTHORITY LEVEL

First Nations with Delegated Authority under the *Indian Act*

- Departmental Officer will conduct all roles and responsibilities identified as Region, excluding roles and responsibilities identified under Execution and Approval Phase as per delegated authority under the *Indian Act*
- First Nation Lands Manager will conduct all roles and responsibilities identified as First Nation including roles and responsibilities identified under Execution and Approval Phase as per delegated authority under the *Indian Act*

**REFER TO THE LAND MANAGEMENT MANUAL FOR ADDITIONAL POLICY
REQUIREMENTS**

APPENDIX D5

**Section 18(2) - Lands Used for the General Welfare of the Band
(When BCR is required)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|-------------------------|---|-----|----|-----|--------------|---------------|----|
| GROUNDWORK PHASE | | | | | | | |
| 1 | Receive a request for an interest in land. | | | | X | | |
| 2 | Determine if: <ul style="list-style-type: none"> a) The proposed land instrument has been identified in one of the following: <ul style="list-style-type: none"> • the community's land management goals and objectives; • other site specific land management projects & land management objectives (i.e., EcDev, Capital, Housing etc.); • approved or pending development plans or zoning by-laws; • agreed to community land use plan. b) The proposed land instrument has regard for applicable real property requirements and federal environmental legislation. | | | | X | | |
| 3 | Enter the transaction particulars in NetLands. | | | | X | | |
| 4 | Check the status of the land to be set aside and ensure the Land Transaction Information Report has been completed. | | | | X | | |
| 5 | Ensure that the proposed use of the land falls within the statutory purposes of subsection 18(2). | | | | X | Advisory role | |
| 6 | Inform those with an interest in the land, in writing, of the plans for its use | | | | X | | |

APPENDIX D5

**Section 18(2) - Lands Used for the General Welfare of the Band
(When BCR is required)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|---------------|----|
| 7 | Ensure an appraisal is done to determine the value of the land(s) which are to be taken under lawful possession. | | | | X | | |
| 8 | Negotiate an agreement on compensation. | | | | X | | |
| 9 | Determine if a review by Public Works and Government Services Canada (PWGSC) and Department of Justice (DOJ) is necessary. | | | | X | Advisory Role | |
| 10 | Ensure there are adequate First Nation funds available to pay appropriate compensation. | | | | X | | |
| 11 | If lawful possession holders are not consenting, ensure written notice of the impending decision has been provided and a compensation offer is made based on an appraisal reviewed by PWGSC. The individual must be given an opportunity to present arguments to the Minister via the Regional Director General. | | | | | X | |
| 12 | Pursuant to section 24, complete and register transfer of the land(s) under lawful possession to the First Nation, if applicable. | | | | X | | |

APPENDIX D5

**Section 18(2) - Lands Used for the General Welfare of the Band
(When BCR is required)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----------------------------|--|-----|----|-----|--------------|--------|----|
| ENVIRONMENTAL PHASE | | | | | | | |
| | NOTE: Issuance of a section 18(2) constitutes performing a regulatory duty and therefore requires that an Environmental Assessment (EA) be undertaken in accordance with the Canadian Environmental Assessment Act (CEAA). | | | | | | |
| 13 | <p>Based on the request for an interest in land, determine which of the following land transactions and appropriate environmental management process will be required:</p> <p>a) Proposed New section 18(2) – Environmental Assessment and Environmental Site Assessment - Phase 1 minimum if needed; b) 18(2) Expiry - Environmental Site Assessment (ESA).</p> <p>Note: Costs related to undertaking an EA, ESA or EAudit is to be the responsibility of the First Nation (proponent) as a part of doing business.</p> | | | | X | | |
| 14 | <p>Proposed New section 18(2): Environmental Assessment Requirements</p> <p>a) Identify the scope of the “project”, the authority under the <i>Indian Act</i> for land tenure and the type of Environmental Assessment required (screening, comprehensive study or panel) in accordance with Canadian Environmental Assessment Act;</p> | | | | X | | |

APPENDIX D5

**Section 18(2) - Lands Used for the General Welfare of the Band
(When BCR is required)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|--------|---------------|
| 14 | <p>b) Ensure that the appropriate information related to the intent of undertaking an Environmental Assessment is documented in the departmental environmental assessment database system (ESSIMS) and is registered in the Canadian Environmental Assessment Registry (CEAR) in accordance with Canadian Environmental Assessment Act;</p> <p>c) Develop Terms of Reference (ToR) to guide the undertaking of the Environmental Assessment Report (EAR) by the First Nation (proponent) by a qualified environmental assessor. The ToR shall include as a minimum requirement:</p> <ul style="list-style-type: none"> - description of the “project”; - identify the scope of the EA; - identify all applicable acts, regulations and best practice standards to be used (i.e. <i>Canadian Environmental Protection Act</i> (CEPA), <i>Species At Risk Act</i> (SARA), FA, etc.); - identify the environmental setting: i.e., <ul style="list-style-type: none"> -physical resources: topography, climate, land/soil, surface water, ground water; -biological resources: flora/fauna; -land use: historical, natural resources, archaeology/cultural special places; - indicate the need for an ESA Phase 1 if required based on previous studies and information; | | | | X | X | Advisory role |

APPENDIX D5

**Section 18(2) - Lands Used for the General Welfare of the Band
(When BCR is required)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|---------------|----|
| 14 | <p>- identify potential impacts and effects including cumulative effects and assessment of the significance of any adverse environmental effect;</p> <p>- identify the scope of consultations (i.e., Chief and Council, Community members, off-reserve residents, other federal departments and/or provincial or municipal government agencies);</p> <p>- identify proposed mitigation measures, monitoring and reporting requirements, emergency response measures, enforcement provisions and a decommissioning plan in terms of a recommended Environmental Protection Plan (EPP);</p> <p>- include all supporting documentation (i.e.. maps, design plans, operational and maintenance plans, permits and approvals, photographs, etc.).</p> | | | | X | Advisory role | |
| 15 | Determine and refer Terms of Reference to other federal departments for regulatory responsibilities or interest and incorporate any additional requirements. | | | | | X | |
| 16 | Provide completed Terms of Reference to the First Nation (proponent) to undertake the Environmental Assessment Report including a proposed Environmental Protection Plan. | | | | X | | |

APPENDIX D5

**Section 18(2) - Lands Used for the General Welfare of the Band
(When BCR is required)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|---------------|--------|----|
| 17 | Upon receipt of the Environmental Assessment Report including a proposed Environmental Protection Plan from the First Nation (proponent), the report is reviewed by an environmental advisor to determine any deficiencies and provide recommendations. Outstanding deficiencies are to be addressed by the First Nation (proponent). | | | | Advisory Role | X | |
| 18 | Based on the completed Environmental Assessment Report including a proposed Environmental Protection Plan, a screening decision is rendered by the Responsible Authority and the Environmental Protection Plan is approved. The screening decision is documented in the departmental environmental assessment database system (ESSIMS) and is registered in the Canadian Environmental Assessment Registry in accordance with Canadian Environmental Assessment Act. Both electronic and hard copies are then forwarded to First Nation Lands Office. | | | | | X | |
| 19 | If the decision rendered recommends that the "project" can proceed, the approved EPP is incorporated as a condition of approval of the section 18(2) binding the First Nation (proponent) to implementation of all mitigation measures, monitoring and reporting requirements, environmental emergency measures, enforcement provisions and decommissioning plan for the life-cycle of the section 18(2). | | | | X | | |

APPENDIX D5

**Section 18(2) - Lands Used for the General Welfare of the Band
(When BCR is required)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|------------------------------------|--|-----|----|-----|--------------|--------|----|
| | | | | | | | |
| 20 | Monitoring for compliance of Environmental Protection Plan. | | | | X | | |
| 21 | Enforcement of non-compliance with Environmental Protection Plan. | | | | | X | |
| DOCUMENT FINALIZATION PHASE | | | | | | | |
| 22 | <p>Prepare and finalize BCR for section 18(2) and ensure the Transaction Checklist is completed. Ensure it includes:</p> <p>a) the section of the <i>Indian Act</i> under which the council makes the 18(2);</p> <p>b) a land description which meets the requirements for legal descriptions of Indian Lands, as described in Schedule A of the Framework Accord between Lands and Environment Branch, Lands and Trust Sector of the Department of Indian Affairs and Northern Development and Earth and Science Sector of the Department of Natural Resources Canada and amended from time to time, including all known encumbrances affecting that land;</p> <p>c) that an access to the land is provided, if required;</p> <p>d) the number constituting a quorum of the First Nation Council;</p> <p>e) the signatures of a quorum to the First Nation Council.</p> | | | | X | | |

APPENDIX D5

**Section 18(2) - Lands Used for the General Welfare of the Band
(When BCR is required)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|-------------------------------------|--|-----|----|-----|--------------|--------|----|
| EXECUTION AND APPROVAL PHASE | | | | | | | |
| 23 | First Nation Council passes a BCR | | | | X | | |
| 24 | Arrange for payment of compensation from Indian Moneys to affected lawful possessor(s). | | | | X | | |
| 25 | First Nation Lands Manager enters the transaction in the Indian Lands Registry System pending file, prints the Application for Registration from the pending file, and completes the Transaction Checklist. | | | | X | | |
| 26 | Forwards the Land Transaction Information Report and the registration package to Region for approval by Regional delegated authority. The registration package includes: <ul style="list-style-type: none"> • the BCR; • the Application for Registration; • the Transaction Checklist. | | | | X | | |
| 27 | Region receives and reviews the registration package and the Land Transaction Information Report. | | | | | X | |
| 28 | Departmental representative authorized under the current Regional delegation of authority will approve the BCR. | | | | | X | |
| 29 | Region completes Part B of the Transaction Checklist. | | | | | X | |
| 30 | Departmental representative sends the registration package to the Indian Land Registry and retains the Land Transaction Information Report on file. The registration package includes: <ul style="list-style-type: none"> • the BCR; • the Application for Registration; • the Transaction Checklist. | | | | | X | |

APPENDIX D5

**Section 18(2) - Lands Used for the General Welfare of the Band
(When BCR is required)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|---------------------------|---|-----|----|-----|--------------|--------|----|
| REGISTRATION PHASE | | | | | | | |
| 31 | Indian Land Registry receives registration package and ensures compliance with the Indian Land Registration Manual. | | | | | | X |
| 32 | Indian Land Registry registers the interest. | | | | | | X |
| 33 | Indian Land Registry forwards the registration particulars to the applicant | | | | | | X |
| DISTRIBUTION PHASE | | | | | | | |
| 34 | Executed document with registration particulars affixed thereon is received and distributed to all parties i.e. Proponent, Lessee, Locatee, First Nation and /or AANDC etc. If applicable, a copy is kept on file. | | | | X | X | |
| COMPLIANCE PHASE | | | | | | | |
| 35 | Provide (computer generated) documents (with suitable disclaimers) to agreement holders and locatees (if applicable) at time of signing or before, to explain in simple language: <ul style="list-style-type: none"> • primary obligations found in Terms and Conditions (e.g. payment of rent and GST, provision of insurance certificates, payment of taxes and utilities); • First Nation by-laws; • land use plan (zoning etc.); • roles and responsibilities of Indian and Northern Affairs and First Nation; • enforcement penalties and remedial actions. | | | | X | | |

APPENDIX D5

**Section 18(2) - Lands Used for the General Welfare of the Band
(When BCR is required)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|--------|----|
| | | | | | | | |
| 36 | Prepare an annual monitoring strategy based on an assessment of the risks, costs and benefits on monitoring options for all active land and resource instruments. (i.e., monitor based on priorities (major risk to health, safety, land, resources, environment)). | | | | X | | |
| 37 | <p>Enter monitoring items (i.e., leasing, licensing and permitting information) and monitoring schedule into NetLands and/or other appropriate systems (i.e., environmental management system), which may include such items as:</p> <ul style="list-style-type: none"> -for leasing and permit purposes <ul style="list-style-type: none"> • insurance • rent collection • building code compliance • crop inspection • inspection requirements (site inspection, desk audit) -for individual land holding purposes <ul style="list-style-type: none"> • band by-laws • zoning -for Certificates of Occupation <ul style="list-style-type: none"> • foundation is constructed • building code compliance -for set asides and band allotments <ul style="list-style-type: none"> • environmental compliance -environmental legislative requirements <ul style="list-style-type: none"> • CEAA • CEPA • SARA | | | | X | | |

APPENDIX D5

**Section 18(2) - Lands Used for the General Welfare of the Band
(When BCR is required)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|---------------|----|
| | | | | | | | |
| 38 | Schedule monitoring site inspections and desk audits. | | | | X | | |
| 39 | Forward notices of upcoming requirements to agreement holder based on monitoring schedule (when applicable): <ul style="list-style-type: none"> • rent review; • annual payments, etc.; • self-monitoring reports; • third party monitoring; • audits and inspections. | | | | X | | |
| 40 | Record inspection findings resulting from site inspections and desk audits in NetLands and provide copies of findings to all parties involved. | | | | X | | |
| 41 | Where a breach or default of an agreement is identified or reported, the responsible officer: will verify details of the report and obtain any additional information needed to determine best course of action (i.e., consult enforcement agencies, Department of Justice, etc.).. | | | | X | Advisory role | |
| 42 | The responsible officer will decide on course of action based on facts of the situation. This may require the officer to: <ul style="list-style-type: none"> • give notice to agreement holder and locatee and seek to remedy default or breach; • take appropriate action under the terms of the instrument, First Nation by-laws, etc.; • report to appropriate authority (i.e. Environment Canada, Health Canada etc., if applicable). | | | | X | | |

APPENDIX D5

**Section 18(2) - Lands Used for the General Welfare of the Band
(When BCR is required)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|--------|----|
| | | | | | | | |
| 43 | Document offences and enforcement actions taken, as well as the rationale for action taken. | | | | X | | |
| 44 | The responsible officer will assess results of action taken to determine if: <ul style="list-style-type: none"> • breach, default, dispute has been resolved and any damage done has been repaired; • conduct follow-up investigations to assess the results of remediation taken to resolve contraventions. | | | | X | | |

LAND INSPECTION REPORT (determines whether the land can be used for the purposes intended by the instrument)

1. Description of site (general location, proximity to water frontage, river etc.)

2. Topography: (soil, ground cover etc.)

3. Land Features

Available Services (check box - may select more than one)

- Access to public road
- Water
- Sewer
- Power
- Natural Gas
- Telephone
- Garbage Collection

Land Use

Existing land use _____

Proposed land use _____

Adjacent land uses

East _____
West _____
North _____
South _____

Existing and proposed structures on the subject property

4. Distance to nearest community

5. Additional Comments: _____

6. Land Management Planning

a) The proposed land instrument has been identified in (check box - may select more than one):

- RLEMP Work Plan
- Community's land management goals and objectives
- Other site specific land management projects & land management objectives (i.e., EcDev, Capital, Housing etc.)
- Approved or pending development plans or zoning by-laws
- Agreed to Community land use plan

b) The proposed land instrument should be executed and have regard for applicable real property requirements and federal environmental legislation

**Section 18(2) - Lands Used for the General Welfare of the Band
(When Ministerial Order is required)**

**ROLES AND RESPONSIBILITIES
Under the Indian Act and Reserve Land and Environment
Management Program (RLEMP)**

First Nations not operating under RLEMP

- Departmental Officer will conduct all roles and responsibilities identified as First Nation and Region

First Nations operating under RLEMP

TRAINING AND DEVELOPMENT LEVEL

- Departmental Officer will conduct all roles and responsibilities identified as First Nation and Region
- Upon completion of the Professional Development Training (Core and Technical components), the First Nation Lands Manager will work in partnership with the department to perform these roles and responsibilities

OPERATIONAL LEVEL

- Departmental Officer will conduct all roles and responsibilities identified as region
- First Nation Lands Manager will conduct all roles and responsibilities identified as First Nation

DELEGATED AUTHORITY LEVEL

First Nations with Delegated Authority under the *Indian Act*

- Departmental Officer will conduct all roles and responsibilities identified as Region, excluding roles and responsibilities identified under Execution and Approval Phase as per delegated authority under the *Indian Act*
- First Nation Lands Manager will conduct all roles and responsibilities identified as First Nation including roles and responsibilities identified under Execution and Approval Phase as per delegated authority under the *Indian Act*

**REFER TO THE LAND MANAGEMENT MANUAL FOR ADDITIONAL POLICY
REQUIREMENTS**

APPENDIX D6

**Section 18(2) - Lands Used for the General Welfare of the Band
(When Ministerial Order is required)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|-------------------------|--|-----|----|-----|--------------|---------------|----|
| GROUNDWORK PHASE | | | | | | | |
| 1 | Receive a request for an interest in land. | | | | X | | |
| 2 | <p>Determine if:</p> <p>a) The proposed land instrument has been identified in one of the following:</p> <ul style="list-style-type: none"> • the community's land management goals and objectives; • other site specific land management projects & land management objectives (i.e., EcDev, Capital, Housing etc.); • approved or pending development plans or zoning by-laws; • agreed to community land use plan. <p>b) The proposed land instrument has regard for applicable real property requirements and federal environmental legislation.</p> | | | | X | | |
| 3 | Enter the transaction particulars in NetLands. | | | | X | | |
| 4 | Check the status of the land to be set aside and ensure the Land Transaction Information Report has been completed. | | | | X | | |
| 5 | Ensure that the proposed use of the land falls within the statutory purposes of subsection 18(2). | | | | X | Advisory role | |
| 6 | Inform those with an interest in the land, in writing, of the plans for its use | | | | X | | |

APPENDIX D6

**Section 18(2) - Lands Used for the General Welfare of the Band
(When Ministerial Order is required)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----------------------------|--|-----|----|-----|--------------|---------------|----|
| 7 | Ensure an appraisal is done to determine the value of the land(s) which are to be taken under lawful possession. | | | | X | | |
| 8 | Negotiate an agreement on compensation. | | | | X | | |
| 9 | Determine if a review by Public Works and Government Services Canada (PWGSC) and Department of Justice (DOJ) is necessary. | | | | X | Advisory Role | |
| 10 | Ensure there are adequate First Nation funds available to pay appropriate compensation. | | | | X | | |
| 11 | If lawful possession holders are not consenting, ensure written notice of the impending decision has been provided and a compensation offer is made based on an appraisal reviewed by PWGSC. The individual must be given an opportunity to present arguments to the Minister via the Regional Director General. | | | | | X | |
| 12 | Pursuant to section 24, complete and register transfer of the land(s) under lawful possession to the First Nation, if applicable. | | | | X | | |
| ENVIRONMENTAL PHASE | | | | | | | |
| | NOTE: Issuance of a section 18(2) constitutes performing a regulatory duty and therefore requires that an Environmental Assessment (EA) be undertaken in accordance with the <i>Canadian Environmental Assessment Act (CEAA)</i>. | | | | | | |

APPENDIX D6

**Section 18(2) - Lands Used for the General Welfare of the Band
(When Ministerial Order is required)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|--------|----|
| 13 | <p>Based on the request for an interest in land, determine which of the following land transactions and appropriate environmental management process will be required:</p> <p>a) Proposed New section 18(2) – Environmental Assessment and Environmental Site Assessment - Phase 1 minimum if needed;</p> <p>b) 18(2) Expiry - Environmental Site Assessment (ESA).</p> <p>Note: Costs related to undertaking an EA, ESA or EAudit is to be the responsibility of the First Nation (proponent) as a part of doing business.</p> | | | | X | | |
| 14 | <p>Proposed New section 18(2): Environmental Assessment Requirements</p> <p>a) Identify the scope of the “project”, the authority under the <i>Indian Act</i> for land tenure and the type of Environmental Assessment required (screening, comprehensive study or panel) in accordance with Canadian Environmental Assessment Act;</p> <p>b) Ensure that the appropriate information related to the intent of undertaking an Environmental Assessment is documented in the departmental environmental assessment database system (ESSIMS) and is registered in the Canadian Environmental Assessment Registry (CEAR) in accordance with Canadian Environmental Assessment Act;</p> | | | | X | X | |

APPENDIX D6

**Section 18(2) - Lands Used for the General Welfare of the Band
(When Ministerial Order is required)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| 14 | <p>c) Develop Terms of Reference (ToR) to guide the undertaking of the Environmental Assessment Report (EAR) by the First Nation (proponent) by a qualified environmental assessor. The Terms of Reference shall include as a minimum requirement:</p> <ul style="list-style-type: none"> - description of the “project”; - identify the scope of the EA; - identify all applicable acts, regulations and best practice standards to be used (i.e. <i>Canadian Environmental Protection Act (CEPA)</i>, <i>Species At Risk Act (SARA)</i>, FA, etc.); - identify the environmental setting: i.e., <ul style="list-style-type: none"> -physical resources: topography, climate, land/soil, surface water, ground water; -biological resources: flora/fauna; -land use: historical, natural resources, archaeology/cultural special places; - indicate the need for an Environmental Site Assessment Phase 1 if required based on previous studies and information; - identify potential impacts and effects including cumulative effects and assessment of the significance of any adverse environmental effect; | | | | X | Advisory role | |

APPENDIX D6

**Section 18(2) - Lands Used for the General Welfare of the Band
(When Ministerial Order is required)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|---------------|---------------|----|
| 14 | <p>- identify the scope of consultations (i.e., Chief and Council, Community members, off-reserve residents, other federal departments and/or provincial or municipal government agencies);</p> <p>- identify proposed mitigation measures, monitoring and reporting requirements, emergency response measures, enforcement provisions and a decommissioning plan in terms of a recommended Environmental Protection Plan (EPP);</p> <p>- include all supporting documentation (i.e.. maps, design plans, operational and maintenance plans, permits and approvals, photographs, etc.).</p> | | | | X | Advisory role | |
| 15 | Determine and refer Terms of Reference to other federal departments for regulatory responsibilities or interest and incorporate any additional requirements. | | | | | X | |
| 16 | Provide completed Terms of Reference to the First Nation (proponent) to undertake the Environmental Assessment Report including a proposed Environmental Protection Plan. | | | | X | | |
| 17 | Upon receipt of the Environmental Assessment Report including a proposed Environmental Protection Plan from the First Nation (proponent), the report is reviewed by an environmental advisor to determine any deficiencies and provide recommendations. Outstanding deficiencies are to be | | | | Advisory Role | X | |

APPENDIX D6

**Section 18(2) - Lands Used for the General Welfare of the Band
(When Ministerial Order is required)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|--------|----|
| | addressed by the First Nation (proponent). | | | | | | |
| 18 | Based on the completed Environmental Assessment Report including a proposed Environmental Protection Plan, a screening decision is rendered by the Responsible Authority and the Environmental Protection Plan is approved. The screening decision is documented in the departmental environmental assessment database system (ESSIMS) and is registered in the Canadian Environmental Assessment Registry in accordance with Canadian Environmental Assessment Act. Both electronic and hard copies are then forwarded to First Nation Lands Office. | | | | | X | |
| 19 | If the decision rendered recommends that the "project" can proceed, the approved Environmental Protection Plan is incorporated as a condition of approval of the section 18(2) binding the First Nation (proponent) to implementation of all mitigation measures, monitoring and reporting requirements, environmental emergency measures, enforcement provisions and decommissioning plan for the life-cycle of the section 18(2). | | | | X | | |
| 20 | Monitoring for compliance of Environmental Protection Plan. | | | | X | | |
| 21 | Enforcement of non-compliance with Environmental Protection Plan. | | | | | X | |

APPENDIX D6

**Section 18(2) - Lands Used for the General Welfare of the Band
(When Ministerial Order is required)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|------------------------------------|---|-----|----|-----|--------------|--------|----|
| | | | | | | | |
| DOCUMENT FINALIZATION PHASE | | | | | | | |
| 22 | If lawful possession is affected under an expropriation action, prepare and finalize an order authorizing the use of the lands. | | | | | X | |
| 23 | <p>Prepare Ministerial Order for section 18(2) and ensure the Transaction Checklist is completed. Ensure it includes:</p> <p>a) the section of the <i>Indian Act</i> under which the council makes the 18(2);</p> <p>b) a land description which meets the requirements for legal descriptions of Indian Lands, as described in Schedule A of the Framework Accord between Lands and Environment Branch, Lands and Trust Sector of the Department of Indian Affairs and Northern Development and Earth and Science Sector of the Department of Natural Resources Canada and amended from time to time, including all known encumbrances affecting that land;</p> <p>c) that an access to the land is provided, if required;</p> <p>d) the number constituting a quorum of the First Nation Council;</p> <p>e) the signatures of a quorum to the First Nation Council.</p> | | | | | X | |

APPENDIX D6

**Section 18(2) - Lands Used for the General Welfare of the Band
(When Ministerial Order is required)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|-------------------------------------|--|-----|----|-----|--------------|--------|----|
| | | | | | | | |
| EXECUTION AND APPROVAL PHASE | | | | | | | |
| 24 | Departmental representative (authorized under the current Regional delegation of authority) will execute/approve the Ministerial Order. | | | | | X | |
| 25 | Arrange for payment of compensation from Indian Moneys to affected lawful possessor(s). | | | | | X | |
| 26 | Region enters the transaction in the Indian Lands Registry System pending file, prints the Application for Registration from the pending file, and completes the Transaction Checklist. | | | | | X | |
| 27 | Region completes Part B of the Transaction Checklist. | | | | | X | |
| 28 | Departmental representative sends the registration package to the Indian Land Registry and retains the Land Transaction Information Report on file. The registration package includes: <ul style="list-style-type: none"> • the Ministerial Order; • the Application for Registration; • the Transaction Checklist. | | | | | X | |
| REGISTRATION PHASE | | | | | | | |
| 29 | Indian Land Registry receives registration package and ensures compliance with the Indian Land Registration Manual. | | | | | | X |
| 30 | Indian Land Registry registers the interest. | | | | | | X |
| | Indian Land Registry forwards the | | | | | | X |

APPENDIX D6

**Section 18(2) - Lands Used for the General Welfare of the Band
(When Ministerial Order is required)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|---------------------------|---|-----|----|-----|--------------|--------|----|
| 31 | registration particulars to the applicant | | | | | | |
| DISTRIBUTION PHASE | | | | | | | |
| 32 | Executed document with registration particulars affixed thereon is received and distributed to all parties i.e. Proponent, Lessee, Locatee, First Nation and /or AANDC etc. If applicable, a copy is kept on file. | | | | X | X | |
| COMPLIANCE PHASE | | | | | | | |
| 33 | Provide (computer generated) documents (with suitable disclaimers) to agreement holders and locatees (if applicable) at time of signing or before, to explain in simple language: <ul style="list-style-type: none"> • primary obligations found in Terms and Conditions (e.g. payment of rent and GST, provision of insurance certificates, payment of taxes and utilities); • First Nation by-laws; • land use plan (zoning etc.); • roles and responsibilities of Indian and Northern Affairs and First Nation; • enforcement penalties and remedial actions. | | | | X | | |
| 34 | Prepare an annual monitoring strategy based on an assessment of the risks, costs and benefits on monitoring options for all active land and resource instruments. (i.e., monitor based on priorities (major risk to health, safety, land, resources, environment)). | | | | X | | |

APPENDIX D6

**Section 18(2) - Lands Used for the General Welfare of the Band
(When Ministerial Order is required)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|--------|----|
| 35 | <p>Enter monitoring items (i.e., leasing, licensing and permitting information) and monitoring schedule into NetLands and/or other appropriate systems (i.e., environmental management system), which may include such items as:</p> <ul style="list-style-type: none"> -for leasing and permit purposes <ul style="list-style-type: none"> • insurance • rent collection • building code compliance • crop inspection • inspection requirements (site inspection, desk audit) -for individual land holding purposes <ul style="list-style-type: none"> • band by-laws • zoning -for Certificates of Occupation <ul style="list-style-type: none"> • foundation is constructed • building code compliance -for set asides and band allotments <ul style="list-style-type: none"> • environmental compliance -environmental legislative requirements <ul style="list-style-type: none"> • CEAA • CEPA • SARA | | | | X | | |
| 36 | Schedule monitoring site inspections and desk audits. | | | | X | | |
| 37 | <p>Forward notices of upcoming requirements to agreement holder based on monitoring schedule (when applicable):</p> <ul style="list-style-type: none"> • rent review; • annual payments, etc.; • self-monitoring reports; | | | | X | | |

APPENDIX D6

**Section 18(2) - Lands Used for the General Welfare of the Band
(When Ministerial Order is required)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|---------------|----|
| | <ul style="list-style-type: none"> • third party monitoring; • audits and inspections. | | | | | | |
| 38 | Record inspection findings resulting from site inspections and desk audits in NetLands and provide copies of findings to all parties involved. | | | | X | | |
| 39 | Where a breach or default of an agreement is identified or reported, the responsible officer: will verify details of the report and obtain any additional information needed to determine best course of action (i.e., consult enforcement agencies, Department of Justice, etc.).. | | | | X | Advisory role | |
| 40 | The responsible officer will decide on course of action based on facts of the situation. This may require the officer to: <ul style="list-style-type: none"> • give notice to agreement holder and locatee and seek to remedy default or breach; • take appropriate action under the terms of the instrument, First Nation by-laws, etc.; • report to appropriate authority (i.e. Environment Canada, Health Canada etc., if applicable). | | | | X | | |
| 41 | Document offences and enforcement actions taken, as well as the rationale for action taken. | | | | X | | |
| 42 | The responsible officer will assess results of action taken to determine if: <ul style="list-style-type: none"> • breach, default, dispute has been resolved and any damage done has been repaired; • conduct follow-up investigations to assess the results of remediation taken to resolve contraventions. | | | | X | | |

LAND INSPECTION REPORT (determines whether the land can be used for the purposes intended by the instrument)

1. Description of site (general location, proximity to water frontage, river etc.)

2. Topography: (soil, ground cover etc.)

3. Land Features

Available Services (check box - may select more than one)

- Access to public road
- Water
- Sewer
- Power
- Natural Gas
- Telephone
- Garbage Collection

Land Use

Existing land use _____

Proposed land use _____

Adjacent land uses

East _____
West _____
North _____
South _____

Existing and proposed structures on the subject property

4. Distance to nearest community

5. Additional Comments:

6. Land Management Planning

a) The proposed land instrument has been identified in (check box - may select more than one):

- RLEMP Work Plan
- Community's land management goals and objectives
- Other site specific land management projects & land management objectives (i.e., EcDev, Capital, Housing etc.)
- Approved or pending development plans or zoning by-laws
- Agreed to Community land use plan

b) The proposed land instrument should be executed and have regard for applicable real property requirements and federal environmental legislation

***Creating Individual Interests
– temporary Possession under section 20(4)***

**ROLES AND RESPONSIBILITIES
*Under the Indian Act and Reserve Land and Environment
Management Program (RLEMP)***

First Nations not operating under RLEMP

- Departmental Officer will conduct all roles and responsibilities identified as First Nation and Region

First Nations operating under RLEMP

TRAINING AND DEVELOPMENT LEVEL

- Departmental Officer will conduct all roles and responsibilities identified as First Nation and Region
- Upon completion of the Professional Development Training (Core and Technical components), the First Nation Lands Manager will work in partnership with the department to perform these roles and responsibilities

OPERATIONAL LEVEL

- Departmental Officer will conduct all roles and responsibilities identified as region
- First Nation Lands Manager will conduct all roles and responsibilities identified as First Nation

DELEGATED AUTHORITY LEVEL

First Nations with Delegated Authority under the *Indian Act*

- Departmental Officer will conduct all roles and responsibilities identified as Region, excluding roles and responsibilities identified under Execution and Approval Phase as per delegated authority under the *Indian Act*
- First Nation Lands Manager will conduct all roles and responsibilities identified as First Nation including roles and responsibilities identified under Execution and Approval Phase as per delegated authority under the *Indian Act*

**REFER TO THE LAND MANAGEMENT MANUAL FOR ADDITIONAL POLICY
REQUIREMENTS**

**Creating Individual Interests
– temporary Possession under section 20(4)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|-------------------------|--|-----|----|-----|--------------|--------|----|
| GROUNDWORK PHASE | | | | | | | |
| 1 | Receive a request for an interest in land. | | | | X | | |
| 2 | <p>Determine if:</p> <p>a) The proposed land instrument has been identified in one of the following:</p> <ul style="list-style-type: none"> • the community’s land management goals and objectives; • other site specific land management projects & land management objectives (i.e., EcDev, Capital, Housing etc.); • approved or pending development plans or zoning by-laws; • agreed to community land use plan. <p>b) The proposed land instrument has regard for applicable real property requirements and federal environmental legislation.</p> | | | | X | | |
| 3 | Enter the transaction particulars in NetLands. | | | | X | | |
| 4 | Determine need for temporary allotment (conditions). | | | | X | | |
| 5 | Checks the status of the land to be allotted and ensures the Land Transaction Information Report has been completed. | | | | X | | |

**Creating Individual Interests
– temporary Possession under section 20(4)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----------------------------|--|-----|----|-----|--------------|--------|----|
| 6 | Obtain verification of the First Nation Member's correct name and member's number from the region or from First Nation certification (section 10 of the <i>Indian Act</i>). | | | | X | | |
| 7 | Region provides confirmation of the First Nation Member's correct name and member's number as confirmed by the Indian Membership Register, if applicable.. | | | | | X | |
| 8 | Where the transferee is a First Nation member registered under section 10 of the <i>Indian Act</i> , a confirmation of the individual's membership must be provided by the Band and included as part of the transfer document. | | | | X | | |
| ENVIRONMENTAL PHASE | | | | | | | |
| | Note: When a proposed temporary possession includes a project as defined under the <i>Canadian Environmental Assessment Act (CEAA)</i>, an Environmental Assessment (EA) must be conducted prior to the issuance of the temporary possession. | | | | | | |
| 9 | Based on the request for an interest in land, determine which of the following land transactions and appropriate environmental management process will be required: a) Proposed New Temporary Possession - Where temporary possession includes a project proposal, an EA may be required under CEAA and must be conducted prior to the approval of the instrument. | | | | X | | |

**Creating Individual Interests
– temporary Possession under section 20(4)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|--------|----|
| 9 | <p>b) Temporary Possession Expiry - Environmental Site Assessment (ESA).</p> <p>Note: Costs related to undertaking an EA, ESA or EAudit is to be the responsibility of the First Nation (proponent) as a part of doing business.</p> | | | | X | | |
| 10 | <p>Proposed New Temporary Possession: Environmental Assessment Requirements</p> <p>a) Identify the scope of the “project”, the authority under the <i>Indian Act</i> for land tenure and the type of Environmental Assessment required (screening, comprehensive study or panel) in accordance with Canadian Environmental Assessment Act;</p> <p>b) Ensure that the appropriate information related to the intent of undertaking an Environmental Assessment is documented in the departmental environmental assessment database system (ESSIMS) and is registered in the Canadian Environmental Assessment Registry (CEAR) in accordance with Canadian Environmental Assessment Act;</p> | | | | X | X | |

**Creating Individual Interests
– temporary Possession under section 20(4)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| 10 | <p>c) Develop Terms of Reference (ToR) to guide the undertaking of the Environmental Assessment Report (EAR) by the Certificate of Occupation holder (proponent) by a qualified environmental assessor. The Terms of Reference shall include as a minimum requirement:</p> <ul style="list-style-type: none"> - description of the “project”; - identify the scope of the Environmental Assessment; - identify all applicable acts, regulations and best practice standards to be used (i.e.: Canadian Environmental Protection Act (CEPA), Species At Risk Act (SARA), FA, etc.); - identify the environmental setting: i.e., <ul style="list-style-type: none"> -physical resources: topography, climate, land/soil, surface water, ground water; -biological resources: flora/fauna; -land use: historical, natural resources, archaeology/cultural special places; - indicate the need for a Environmental Site Assessment Phase 1 if required based on previous studies and information; - identify potential impacts and effects including cumulative effects and assessment of the significance of any adverse environmental effect; | | | | X | Advisory role | |

APPENDIX D7

**Creating Individual Interests
– temporary Possession under section 20(4)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|---------------|---------------|----|
| 10 | - identify the scope of consultations (i.e.: Chief and Council, Community members, off-reserve residents, other federal departments and/or provincial or municipal government agencies);- identify proposed mitigation measures, monitoring and reporting requirements, emergency response measures, enforcement provisions and a decommissioning plan in terms of a recommended Environmental Protection Plan (EPP); - include all supporting documentation (i.e., maps, design plans, operational and maintenance plans, permits and approvals, photographs, etc.). | | | | X | Advisory role | |
| 11 | Determine and refer Terms of Reference to other federal departments for regulatory responsibilities or interest and incorporate any additional requirements. | | | | | X | |
| 12 | Provide completed Terms of Reference to the Certificate of Occupation holder (proponent) to undertake the Environmental Assessment Report including a proposed Environmental Protection Plan. | | | | X | | |
| 13 | Upon receipt of the Environmental Assessment Report including a proposed Environmental Protection Plan from the Certificate of Occupation holder (proponent), the report is reviewed by an environmental advisor to determine any deficiencies and provide recommendations. Outstanding deficiencies are to be addressed by the Certificate of Occupation holder (proponent). | | | | Advisory Role | X | |

**Creating Individual Interests
– temporary Possession under section 20(4)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|--------|----|
| 14 | Based on the completed Environmental Assessment Report including a proposed Environmental Protection Plan, a screening decision is rendered by the Responsible Authority and the Environmental Protection Plan is approved. The screening decision is documented in the departmental environmental assessment database system (ESSIMS) and is registered in the Canadian Environmental Assessment Registry (CEAR) in accordance with Canadian Environmental Assessment Act. Both electronic and hard copies are then forwarded to First Nation Lands Office. | | | | | X | |
| 15 | If the decision rendered recommends that the “project” can proceed, the approved Environmental Protection Plan is incorporated as a condition of approval of the temporary possession binding the Certificate of Occupation holder (proponent) to implementation of all mitigation measures, monitoring and reporting requirements, environmental emergency measures, enforcement provisions and decommissioning plan for the life-cycle of the Certificate of Occupation. | | | | X | | |
| 16 | Monitoring for compliance of Environmental Protection Plan. | | | | X | | |
| 17 | Enforcement of non-compliance with Environmental Protection Plan. | | | | | X | |

**Creating Individual Interests
– temporary Possession under section 20(4)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|------------------------------------|---|-----|----|-----|--------------|--------|----|
| DOCUMENT FINALIZATION PHASE | | | | | | | |
| 18 | <p>Prepare and finalize BCR to allot temporary possession of the parcel of land to the First Nation member(s) which must include:</p> <ul style="list-style-type: none"> a) the section of the <i>Indian Act</i> under which the council makes the temporary allotment (section 20(4)); b) the conditions to be included in the Band Council Resolution (BCR) as to use and settlement that the locatee must fulfil before Minister approves the allotment granting lawful possession; c) the term of occupation (up to two years from date of issue with possibility for two year extension); d) the full formal name of the person(s) to whom the temporary allotment is being made; e) the First Nation number of the person(s) to whom the temporary allotment is being made; f) the First Nation's certification of the individual's membership in the First Nation in the case of section 10 Bands; | | | | X | | |

**Creating Individual Interests
– temporary Possession under section 20(4)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|--------|----|
| 18 | <p>g) a land description which meets the requirements for legal descriptions of Indian Lands, as described in Schedule A of the Framework Accord between Lands and Environment Branch, Lands and Trust Sector of the Department of Indian Affairs and Northern Development and Earth and Science Sector of the Department of Natural Resources Canada and amended from time to time, including all known encumbrances affecting that land;</p> <p>h) the number constituting a quorum of the First Nation council;</p> <p>i) the signatures of a quorum of the First Nation Council.</p> | | | | X | | |

**Creating Individual Interests
– temporary Possession under section 20(4)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|-------------------------------------|--|-----|----|-----|--------------|--------|----|
| EXECUTION AND APPROVAL PHASE | | | | | | | |
| 19 | <p>Reviews BCR and the Transaction Checklist for verification purposes to ensure the necessary criteria are satisfied. Considers recommending the temporary allotment for approval of Band Council, having regard to the following criteria:</p> <ul style="list-style-type: none"> a) whether the BCR is correct; b) whether the land to be temporarily allotted is described properly; c) that the temporary allotment is in the best interests of the First Nation; d) whether any third party rights inconsistent with the proposed temporary allotment are present; e) whether the proposed locatee is aware of the third party interests to which the parcel of land is subject; f) if the temporary allotment is to a council member or their immediate family, evidence that the council member did not participate in the temporary allotment vote. | | | | X | | |
| 20 | Band Council passes the BCR requesting temporary possession | | | | X | | |

APPENDIX D7

**Creating Individual Interests
– temporary Possession under section 20(4)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|---------------------------|--|-----|----|-----|--------------|--------|----|
| 21 | First Nation Lands Manager enters the transaction in the ILRS pending file, prints the Application for Registration from the pending file, and completes the Transaction Checklist. | | | | X | | |
| 22 | Forwards the Land Transaction Information Report and the registration package for approval by Regional delegated authority. The registration package includes: <ul style="list-style-type: none"> • The BCR; • The Application for Registration; • The Transaction Checklist | | | | X | | |
| 23 | Region receives and reviews the registration package and the Land Transaction Information Report. | | | | | X | |
| 24 | Departmental representative authorized under the current Regional delegation of authority will approve the BCR. | | | | | X | |
| 25 | Region completes Part B of the Transaction Checklist. | | | | | X | |
| 26 | Departmental representative sends the registration package to the Indian Land Registry and retains the Land Transaction Information Report on file. The registration package includes: <ul style="list-style-type: none"> • the BCR; • the Application for Registration; • the Transaction Checklist. | | | | | X | |
| REGISTRATION PHASE | | | | | | | |
| 27 | Indian Land Registry receives registration package and ensures compliance with the Indian Land Registration Manual. | | | | | | X |
| 28 | Indian Land Registry registers the interest. | | | | | | X |

**Creating Individual Interests
– temporary Possession under section 20(4)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|---------------------------|---|-----|----|-----|--------------|--------|----|
| 29 | Indian Land Registry issues evidence of title (Certificate of Occupation pursuant to subsection 20(5) of the <i>Indian Act</i>). | | | | | | X |
| 30 | Indian Land Registry forwards the Certificate of Occupation and registration particulars to the applicant | | | | | | X |
| DISTRIBUTION PHASE | | | | | | | |
| 31 | Executed document with registration particulars affixed thereon (including Certificate of Occupation) is received and distributed to all parties i.e. Proponent, Lessee, Locatee, First Nation and /or AANDC etc. If applicable, a copy is kept on file. | | | | X | X | |
| COMPLIANCE PHASE | | | | | | | |
| 32 | Provide (computer generated) documents (with suitable disclaimers) to agreement holders and locatees (if applicable) at time of signing or before, to explain in simple language: <ul style="list-style-type: none"> • primary obligations found in Terms and Conditions (e.g. payment of rent and GST, provision of insurance certificates, payment of taxes and utilities); • First Nation by-laws; • land use plan (zoning etc.); • roles and responsibilities of Indian and Northern Affairs and First Nation; • enforcement penalties and remedial actions. | | | | X | | |
| 33 | Prepare an annual monitoring strategy based on an assessment of the risks, costs and benefits on monitoring options for all active land and resource instruments. (i.e., monitor based on priorities (major risk to health, safety, land, resources, environment)). | | | | X | | |

**Creating Individual Interests
– temporary Possession under section 20(4)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|--------|----|
| 34 | <p>Enter monitoring items (i.e., leasing, licensing and permitting information) and monitoring schedule into NetLands and/or other appropriate systems (i.e., environmental management system), which may include such items as:</p> <ul style="list-style-type: none"> -for leasing and permit purposes <ul style="list-style-type: none"> • insurance • rent collection • building code compliance • crop inspection • inspection requirements (site inspection, desk audit) -for individual land holding purposes <ul style="list-style-type: none"> • band by-laws • zoning -for Certificates of Occupation <ul style="list-style-type: none"> • foundation is constructed • building code compliance -for set asides and band allotments <ul style="list-style-type: none"> • environmental compliance -environmental legislative requirements <ul style="list-style-type: none"> • CEAA • CEPA • SARA | | | | X | | |
| 35 | Schedule monitoring site inspections and desk audits. | | | | X | | |
| 36 | <p>Forward notices of upcoming requirements to agreement holder based on monitoring schedule (when applicable):</p> <ul style="list-style-type: none"> • rent review; • annual payments, etc.; • self-monitoring reports; • third party monitoring; • audits and inspections. | | | | X | | |

APPENDIX D7

**Creating Individual Interests
– temporary Possession under section 20(4)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|---------------|----|
| 37 | Record inspection findings resulting from site inspections and desk audits in NetLands and provide copies of findings to all parties involved. | | | | X | | |
| 38 | Where a breach or default of an agreement is identified or reported, the responsible officer: will verify details of the report and obtain any additional information needed to determine best course of action (i.e., consult enforcement agencies, Department of Justice, etc.).. | | | | X | Advisory role | |
| 39 | The responsible officer will decide on course of action based on facts of the situation. This may require the officer to: <ul style="list-style-type: none"> • give notice to agreement holder and locatee and seek to remedy default or breach; • take appropriate action under the terms of the instrument, First Nation by-laws, etc.; • report to appropriate authority (i.e. Environment Canada, Health Canada etc., if applicable). | | | | X | | |
| 40 | Document offences and enforcement actions taken, as well as the rationale for action taken. | | | | X | | |
| 41 | The responsible officer will assess results of action taken to determine if: <ul style="list-style-type: none"> • breach, default, dispute has been resolved and any damage done has been repaired; • conduct follow-up investigations to assess the results of remediation taken to resolve contraventions. | | | | X | | |

LAND INSPECTION REPORT (determines whether the land can be used for the purposes intended by the instrument)

1. Description of site (general location, proximity to water frontage, river etc.)

2. Topography: (soil, ground cover etc.)

3. Land Features

Available Services (check box - may select more than one)

- Access to public road
- Water
- Sewer
- Power
- Natural Gas
- Telephone
- Garbage Collection

Land Use

Existing land use _____

Proposed land use _____

Adjacent land uses

East _____
West _____
North _____
South _____

Existing and proposed structures on the subject property

4. Distance to nearest community

5. Additional Comments:

-

-

6. Land Management Planning

a) The proposed land instrument has been identified in (check box - may select more than one):

- RLEMP Work Plan
- Community's land management goals and objectives
- Other site specific land management projects & land management objectives (i.e., EcDev, Capital, Housing etc.)
- Approved or pending development plans or zoning by-laws
- Agreed to Community land use plan

b) The proposed land instrument should be executed and have regard for applicable real property requirements and federal environmental legislation

Transferring Individual Interests (section 24)

ROLES AND RESPONSIBILITIES

Under the Indian Act and Reserve Land and Environment Management Program (RLEMP)

First Nations not operating under RLEMP

- Departmental Officer will conduct all roles and responsibilities identified as First Nation and Region

First Nations operating under RLEMP

TRAINING AND DEVELOPMENT LEVEL

- Departmental Officer will conduct all roles and responsibilities identified as First Nation and Region
- Upon completion of the Professional Development Training (Core and Technical components), the First Nation Lands Manager will work in partnership with the department to perform these roles and responsibilities

OPERATIONAL LEVEL

- Departmental Officer will conduct all roles and responsibilities identified as region
- First Nation Lands Manager will conduct all roles and responsibilities identified as First Nation

DELEGATED AUTHORITY LEVEL

First Nations with Delegated Authority under the *Indian Act*

- Departmental Officer will conduct all roles and responsibilities identified as Region, excluding roles and responsibilities identified under Execution and Approval Phase as per delegated authority under the *Indian Act*
- First Nation Lands Manager will conduct all roles and responsibilities identified as First Nation including roles and responsibilities identified under Execution and Approval Phase as per delegated authority under the *Indian Act*

REFER TO THE LAND MANAGEMENT MANUAL FOR ADDITIONAL POLICY REQUIREMENTS

Transferring Individual Interests (section 24)

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|-------------------------|---|-----|----|-----|--------------|--------|----|
| GROUNDWORK PHASE | | | | | | | |
| 1 | Receive a request for an interest in land. | | | | X | | |
| 2 | Determine if: <ul style="list-style-type: none"> a) The proposed land instrument has been identified in one of the following: <ul style="list-style-type: none"> • the community’s land management goals and objectives; • other site specific land management projects & land management objectives (i.e., EcDev, Capital, Housing etc.); • approved or pending development plans or zoning by-laws; • agreed to community land use plan. b) The proposed land instrument has regard for applicable real property requirements and federal environmental legislation. | | | | X | | |
| 3 | Enter the transaction particulars in NetLands. | | | | X | | |
| 4 | Checks the status of the land to be allotted and ensures the Land Transaction Information Report has been completed. | | | | X | | |
| 5 | Obtain verification of the First Nation Member’s correct name and member’s number from the region or from First Nation certification (section 10 of the <i>Indian Act</i>). | | | | X | | |

Transferring Individual Interests (section 24)

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----------------------------|--|-----|----|-----|--------------|--------|----|
| 6 | Region provides confirmation of the First Nation Member's correct name and member's number as confirmed by the Indian Membership Register, if applicable.. | | | | | X | |
| 7 | Where the transferee is a First Nation member registered under section 10 of the <i>Indian Act</i> , a confirmation of the individual's membership must be provided by the Band and included as part of the transfer document. | | | | X | | |
| ENVIRONMENTAL PHASE | | | | | | | |
| | Note: When a proposed temporary possession includes a project as defined under the <i>Canadian Environmental Assessment Act (CEAA)</i>, an Environmental Assessment (EA) must be conducted prior to the issuance of the temporary possession. | | | | | | |
| 8 | Based on the request for an interest in land, determine which of the following land transactions and appropriate environmental management process will be required: a) Proposed New Transfer - Where the transfer includes a project proposal, an Environmental Assessment may be required under Canadian Environmental Assessment Act and must be conducted prior to the approval of the instrument. b) Transfer of the Transfer - Environmental Site Assessment (ESA). Note: Costs related to undertaking an EA, ESA or EAudit is to be the responsibility of the First Nation | | | | X | | |

Transferring Individual Interests (section 24)

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|---|---|-----|----|-----|--------------|--------|---------------|
| | (proponent) as a part of doing business. | | | | | | |
| 9 | <p>Proposed New Transfer: Environmental Assessment Requirements</p> <p>a) Identify the scope of the “project”, the authority under the <i>Indian Act</i> for land tenure and the type of Environmental Assessment required (screening, comprehensive study or panel) in accordance with Canadian Environmental Assessment Act;</p> <p>b) Ensure that the appropriate information related to the intent of undertaking an Environmental Assessment is documented in the departmental environmental assessment database system (ESSIMS) and is registered in the Canadian Environmental Assessment Registry (CEAR) in accordance with Canadian Environmental Assessment Act;</p> <p>c) Develop Terms of Reference (ToR) to guide the undertaking of the Environmental Assessment Report (EAR) by the Certificate of Occupation holder (proponent) by a qualified environmental assessor. The Terms of Reference shall include as a minimum requirement:</p> <ul style="list-style-type: none"> - description of the “project”; - identify the scope of the Environmental Assessment; - identify all applicable acts, regulations and best practice standards to be used (i.e.: Canadian Environmental Protection Act (CEPA), Species At Risk Act (SARA), FA, etc.); | | | | X | X | Advisory role |

Transferring Individual Interests (section 24)

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|---|--|-----|----|-----|--------------|---------------|----|
| 9 | <p>- identify the environmental setting: i.e., -physical resources: topography, climate, land/soil, surface water, ground water; -biological resources: flora/fauna; -land use: historical, natural resources, archaeology/cultural special places;</p> <p>- indicate the need for a Environmental Site Assessment Phase 1 if required based on previous studies and information;</p> <p>- identify potential impacts and effects including cumulative effects and assessment of the significance of any adverse environmental effect;</p> <p>- identify the scope of consultations (i.e.: Chief and Council, Community members, off-reserve residents, other federal departments and/or provincial or municipal government agencies);- identify proposed mitigation measures, monitoring and reporting requirements, emergency response measures, enforcement provisions and a decommissioning plan in terms of a recommended Environmental Protection Plan (EPP);</p> <p>- include all supporting documentation (i.e., maps, design plans, operational and maintenance plans, permits and approvals, photographs, etc.).</p> | | | | X | Advisory role | |

Transferring Individual Interests (section 24)

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|---------------|--------|----|
| | | | | | | | |
| 10 | Determine and refer Terms of Reference to other federal departments for regulatory responsibilities or interest and incorporate any additional requirements. | | | | | X | |
| 11 | Provide completed Terms of Reference to the Transferee (proponent) to undertake the Environmental Assessment Report including a proposed Environmental Protection Plan. | | | | X | | |
| 12 | Upon receipt of the Environmental Assessment Report including a proposed Environmental Protection Plan from the transferee (proponent), the report is reviewed by an environmental advisor to determine any deficiencies and provide recommendations. Outstanding deficiencies are to be addressed by the transferee (proponent). | | | | Advisory Role | X | |

Transferring Individual Interests (section 24)

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|--------|----|
| 13 | Based on the completed Environmental Assessment Report including a proposed Environmental Protection Plan, a screening decision is rendered by the Responsible Authority and the Environmental Protection Plan is approved. The screening decision is documented in the departmental environmental assessment database system (ESSIMS) and is registered in the Canadian Environmental Assessment Registry (CEAR) in accordance with Canadian Environmental Assessment Act. Both electronic and hard copies are then forwarded to First Nation Lands Office. | | | | | X | |
| 14 | If the decision rendered recommends that the “project” can proceed, the approved Environmental Protection Plan is incorporated as a condition of approval of the temporary possession binding the Certificate of Occupation holder (proponent) to implementation of all mitigation measures, monitoring and reporting requirements, environmental emergency measures, enforcement provisions and decommissioning plan for the life-cycle of the transfer. | | | | X | | |
| 15 | Monitoring for compliance of Environmental Protection Plan. | | | | X | | |
| 16 | Enforcement of non-compliance with Environmental Protection Plan. | | | | | X | |

Transferring Individual Interests (section 24)

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|------------------------------------|--|-----|----|-----|--------------|--------|----|
| DOCUMENT FINALIZATION PHASE | | | | | | | |
| 17 | <p>Finalize the transfer document and completes the transaction checklist to ensure they meet the following requirements:</p> <p>a) it is in the prescribed form;</p> <p>b) the correct Name, Band name and number of the transferor and the transferee as per the Indian Registry System or the First Nation Membership Officer (Section 10 bands require written confirmation from First Nation);</p> <p>c) a land description which meets the requirements for legal descriptions of Indian Lands, as described in Schedule A of the Framework Accord between Lands and Environment Branch, Lands and Trust Sector of the Department of Indian Affairs and Northern Development and Earth and Science Sector of the Department of Natural Resources Canada and amended from time to time, including all known encumbrances affecting that land;</p> <p>d) the land description includes all known encumbrances affecting the land;</p> <p>e) if the land is subject to a mortgage, the mortgage has been assumed or discharged;</p> | | | | X | | |

Transferring Individual Interests (section 24)

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|-------------------------------------|---|-----|----|-----|--------------|--------|----|
| 17 | <p>f) if the land is subject to a Notice or a Caveat, the Notice or the Caveat has been removed or the party has been advised if required;</p> <p>g) includes a recital that the land is being transferred for valuable consideration;</p> <p>h) where consideration is nominal, includes a satisfactory explanation for the nominal consideration;</p> <p>i) includes the witnessed signature of the transferor identical to the name as it appears on the face of the document; and j) complies with the registration and execution of instruments requirements set out in Parts I and II of the <i>Indian Lands Registration Manual</i>.</p> | | | | X | | |
| EXECUTION AND APPROVAL PHASE | | | | | | | |
| 19 | Obtain signature of the transferor(s), and have witnessed. The witness must complete the Affidavit before a notary or a commissioner for taking oath. | | | | X | | |
| 21 | First Nation Lands Manager enters the transaction in the ILRS pending file, prints the Application for Registration from the pending file, and completes the Transaction Checklist. | | | | X | | |

Transferring Individual Interests (section 24)

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|---------------------------|---|-----|----|-----|--------------|--------|----|
| | | | | | | | |
| 22 | <p>Forwards the Land Transaction Information Report and the registration package for approval by Regional delegated authority. The registration package includes:</p> <ul style="list-style-type: none"> • The transfer • Section 10 Certification (if applicable); • The Application for Registration; • The Transaction Checklist | | | | X | | |
| 23 | Region receives and reviews the registration package and the Land Transaction Information Report. | | | | | X | |
| 24 | Departmental representative authorized under the current Regional delegation of authority will approve the transfer | | | | | X | |
| 25 | Region completes Part B of the Transaction Checklist. | | | | | X | |
| 26 | <p>Departmental representative sends the registration package to the Indian Land Registry and retains the Land Transaction Information Report on file. The registration package includes:</p> <ul style="list-style-type: none"> • the transfer; • the Application for Registration; • the Transaction Checklist. | | | | | X | |
| REGISTRATION PHASE | | | | | | | |
| 27 | Indian Land Registry receives registration package and ensures compliance with the Indian Land Registration Manual. | | | | | | X |

Transferring Individual Interests (section 24)

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|---------------------------|---|-----|----|-----|--------------|--------|----|
| 28 | Indian Land Registry registers the interest. | | | | | | X |
| 29 | Indian Land Registry issues evidence of title | | | | | | X |
| 30 | Indian Land Registry forwards the evidence of title and registration particulars to the applicant | | | | | | X |
| DISTRIBUTION PHASE | | | | | | | |
| 31 | Executed document with registration particulars affixed thereon (including evidence of title) is received and distributed to all parties i.e. Proponent, Lessee, Locatee, First Nation and /or AANDC etc. If applicable, a copy is kept on file. | | | | X | X | |
| COMPLIANCE PHASE | | | | | | | |
| 32 | Provide (computer generated) documents (with suitable disclaimers) to agreement holders and locatees (if applicable) at time of signing or before, to explain in simple language: <ul style="list-style-type: none"> • primary obligations found in Terms and Conditions (e.g. payment of rent and GST, provision of insurance certificates, payment of taxes and utilities); • First Nation by-laws; • land use plan (zoning etc.); • roles and responsibilities of Indian and Northern Affairs and First Nation; • enforcement penalties and remedial actions. | | | | X | | |

Transferring Individual Interests (section 24)

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|--------|----|
| 33 | Prepare an annual monitoring strategy based on an assessment of the risks, costs and benefits on monitoring options for all active land and resource instruments. (i.e., monitor based on priorities (major risk to health, safety, land, resources, environment)). | | | | X | | |
| 34 | Enter monitoring items (i.e., leasing, licensing and permitting information) and monitoring schedule into NetLands and/or other appropriate systems (i.e., environmental management system), which may include such items as: -for leasing and permit purposes <ul style="list-style-type: none"> • insurance • rent collection • building code compliance • crop inspection • inspection requirements (site inspection, desk audit) -for individual land holding purposes <ul style="list-style-type: none"> • band by-laws • zoning -for Certificates of Occupation <ul style="list-style-type: none"> • foundation is constructed • building code compliance -for set asides and band allotments <ul style="list-style-type: none"> • environmental compliance -environmental legislative requirements <ul style="list-style-type: none"> • CEAA • CEPA • SARA | | | | X | | |
| 35 | Schedule monitoring site inspections and desk audits. | | | | X | | |

Transferring Individual Interests (section 24)

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| 36 | <p>Forward notices of upcoming requirements to agreement holder based on monitoring schedule (when applicable):</p> <ul style="list-style-type: none"> • rent review; • annual payments, etc.; • self-monitoring reports; • third party monitoring; • audits and inspections. | | | | X | | |
| 37 | <p>Record inspection findings resulting from site inspections and desk audits in NetLands and provide copies of findings to all parties involved.</p> | | | | X | | |
| 38 | <p>Where a breach or default of an agreement is identified or reported, the responsible officer: will verify details of the report and obtain any additional information needed to determine best course of action (i.e., consult enforcement agencies, Department of Justice, etc.)..</p> | | | | X | Advisory role | |
| 39 | <p>The responsible officer will decide on course of action based on facts of the situation. This may require the officer to:</p> <ul style="list-style-type: none"> • give notice to agreement holder and locatee and seek to remedy default or breach; • take appropriate action under the terms of the instrument, First Nation by-laws, etc.; • report to appropriate authority (i.e. Environment Canada, Health Canada etc., if applicable). | | | | X | | |

Transferring Individual Interests (section 24)

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|--------|----|
| 40 | Document offences and enforcement actions taken, as well as the rationale for action taken. | | | | X | | |
| 41 | The responsible officer will assess results of action taken to determine if: <ul style="list-style-type: none"> • breach, default, dispute has been resolved and any damage done has been repaired; • conduct follow-up investigations to assess the results of remediation taken to resolve contraventions. | | | | X | | |

ANNEX A

LAND INSPECTION REPORT (determines whether the land can be used for the purposes intended by the instrument)

1. Description of site (general location, proximity to water frontage, river etc.)

2. Topography: (soil, ground cover etc.)

3. Land Features

Available Services (check box - may select more than one)

- Access to public road
- Water
- Sewer
- Power
- Natural Gas
- Telephone
- Garbage Collection

Land Use

Existing land use _____

Proposed land use _____

Adjacent land uses

East _____
West _____
North _____
South _____

Existing and proposed structures on the subject property

4. Distance to nearest community

5. Additional Comments:

6. Land Management Planning

a) The proposed land instrument has been identified in (check box - may select more than one):

- RLEMP Work Plan
- Community's land management goals and objectives
- Other site specific land management projects & land management objectives (i.e., EcDev, Capital, Housing etc.)
- Approved or pending development plans or zoning by-laws
- Agreed to Community land use plan

b) The proposed land instrument should be executed and have regard for applicable real property requirements and federal environmental legislation

Sub-leases

ROLES AND RESPONSIBILITIES
Under the Indian Act and Reserve Land and Environment
Management Program (RLEMP)

First Nations not operating under RLEMP

- Departmental Officer will conduct all roles and responsibilities identified as First Nation and Region

First Nations operating under RLEMP

TRAINING AND DEVELOPMENT LEVEL

- Departmental Officer will conduct all roles and responsibilities identified as First Nation and Region
- Upon completion of the Professional Development Training (Core and Technical components), the First Nation Lands Manager will work in partnership with the department to perform these roles and responsibilities

OPERATIONAL LEVEL

- Departmental Officer will conduct all roles and responsibilities identified as Region
- First Nation Lands Manager will conduct all roles and responsibilities identified as First Nation

DELEGATED AUTHORITY LEVEL

First Nations with Delegated Authority under the *Indian Act*

- Departmental Officer will conduct all roles and responsibilities identified as Region, excluding roles and responsibilities identified under Execution and Approval Phase as per delegated authority under the *Indian Act*
- First Nation Lands Manager will conduct all roles and responsibilities identified as First Nation including roles and responsibilities identified under Execution and Approval Phase as per delegated authority under the *Indian Act*

**REFER TO THE LAND MANAGEMENT MANUAL FOR ADDITIONAL POLICY
REQUIREMENTS**

APPENDIX D9

Sub-leases

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|-------------------------|---|-----|----|-----|--------------|--------|----|
| GROUNDWORK PHASE | | | | | | | |
| 1 | Receive a request for an interest in land. | | | | X | | |
| 2 | Determine if: <ul style="list-style-type: none"> a) The proposed land instrument has been identified in one of the following: <ul style="list-style-type: none"> • the community's land management goals and objectives; • other site specific land management projects & land management objectives (i.e., EcDev, Capital, Housing etc.); • approved or pending development plans or zoning by-laws; • agreed to community land use plan. b) The proposed land instrument has regard for applicable real property requirements, federal environmental legislation and community Environmental Management Action Plan. | | | | X | | |
| 3 | Enter the transaction particulars in NetLands. | | | | X | | |
| 4 | Checks the status of the land to be leased to the sub-locatee. | | | | X | | |
| 5 | Ensure the Land Transaction Information Report has been completed. | | | | X | | |

APPENDIX D9

Sub-leases

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| 6 | Review the terms of the head lease and confirm that a sub-lease is authorized. | | | | X | | |
| 7 | Review the terms of the designation to confirm that a sub-lease is not prohibited. | | | | X | | |
| 8 | Confirm that the head lease is in good standing, and that the lessee is not in default with respect to: (a) payment of rent; (b) the performance of any covenants. | | | | X | | |
| 9 | Provide sub-lessor with the Land Transaction Information Report for completion. | | | | X | | |
| 10 | Ensure sub-lease is drafted on behalf of sub-lessor and sub-lessee. | | | | X | | |
| 11 | Confirm that the sub-lease document is a departmentally approved equivalent. Note that it must conform to any pre-approved sub-lease which is appended to the head lease. Ensure sub-lease conforms to any Terms and Conditions in the head lease. Ensure a land description has been developed which meets the requirements for legal descriptions of Indian Lands, including all known encumbrances affecting the land. | | | | X | Advisory role | |

APPENDIX D9

Sub-leases

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----------------------------|--|-----|----|-----|--------------|--------|----|
| ENVIRONMENTAL PHASE | | | | | | | |
| | NOTE: When a proposed sub-lease includes a project as defined under the Canadian Environmental Assessment Act (CEAA), an Environmental Assessment (EA) must be conducted prior to the issuance of the sub-lease. | | | | | | |
| 12 | <p>Based on the request for an interest in land, determine which of the following lease transactions and appropriate environmental management process will be required:</p> <p>a) Proposed New Sub-lease – Environmental Assessment and/or Environmental Site Assessment (ESA) - Phase 1 minimum if needed.</p> <p>b) Sub-lease Renewal - Review for compliance of existing Environmental Protection Plan (EPP) based on the Environmental Assessment approved, or if never undertaken, then there is a requirement for an Environmental Audit (EAudit) to determine whether or not the activity under sub-lease is in compliance with appropriate acts, regulations and/or best practices</p> <p>c) Sub-lease Expiry – Environmental Site Assessment.</p> <p>Note: Costs related to undertaking an EA, ESA or EAudit is to be the</p> | | | | X | | |

APPENDIX D9

Sub-leases

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|---------------|----|
| | responsibility of the lessee (proponent) as a part of doing business. | | | | | | |
| 13 | <p>Proposed New Sub-lease: Environmental Assessment Requirements</p> <p>a) Identify the scope of the “project”, the authority under the <i>Indian Act</i> for land tenure and the type of Environmental Assessment required (screening, comprehensive study or panel) in accordance with Canadian Environmental Assessment Act;</p> <p>b) Ensure that the appropriate information related to the intent of undertaking an Environmental Assessment is documented in the departmental environmental assessment database system (ESSIMS) and is registered in the Canadian Environmental Assessment Registry (CEAR) in accordance with Canadian Environmental Assessment Act;</p> | | | | X | Advisory role | |

APPENDIX D9

Sub-leases

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|---------------|----|
| 13 | <p>c) Develop Terms of Reference (ToR) to guide the undertaking of the Environmental Assessment Report (EAR) by the Sub-lessee (proponent) by a qualified environmental assessor. The Terms of Reference shall include as a minimum requirement:</p> <ul style="list-style-type: none"> - description of the “project”; - identify the scope of the Environmental Assessment; - identify all applicable acts, regulations and best practice standards to be used (i.e. <i>Canadian Environmental Protection Act</i> (CEPA), <i>Species At Risk Act</i> (SARA), FA, etc.); - identify the environmental setting: i.e., <ul style="list-style-type: none"> -physical resources: topography, climate, land/soil, surface water, ground water; -biological resources: flora/fauna; -land use: historical, natural resources, archaeology/cultural special places;- - indicate the need for an Environmental Site Assessment Phase 1 if required based on previous studies and information; - identify potential impacts and effects including cumulative effects and assessment of the significance of any | | | | X | Advisory Role | |

APPENDIX D9

Sub-leases

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| | adverse environmental effect; | | | | | | |
| 13 | <p>- identify the scope of consultations (i.e., Chief and Council, Community members, off-reserve residents, other federal departments and/or provincial or municipal government agencies);</p> <p>- identify proposed mitigation measures, monitoring and reporting requirements, emergency response measures, enforcement provisions and a decommissioning plan in terms of a recommended Environmental Protection Plan;</p> <p>- include all supporting documentation (i.e., maps, design plans, operational and maintenance plans, permits and approvals, photographs, etc.).</p> | | | | X | Advisory role | |
| 14 | Determine and refer Terms of Reference to other federal departments for regulatory responsibilities or interest and incorporate any additional requirements. | | | | | X | |
| 15 | Provide completed Terms of Reference to the sub-lessee (proponent) to undertake the Environmental Assessment Report including a proposed Environmental Protection Plan. | | | | X | | |

APPENDIX D9

Sub-leases

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|---------------|--------|----|
| | | | | | | | |
| 16 | Upon receipt of the Environmental Assessment Report including a proposed Environmental Protection Plan from the sub-lessee (proponent), the report is reviewed by an environmental advisor to determine any deficiencies and provide recommendations. Outstanding deficiencies are to be addressed by the sub-lessee (proponent). | | | | Advisory Role | X | |
| 17 | Based on the completed Environmental Assessment Report including a proposed Environmental Protection Plan, a screening decision is rendered by the Responsible Authority and the Environmental Protection Plan is approved. The screening decision is documented in the departmental environmental assessment database system (ESSIMS) and is registered in the Canadian Environmental Assessment Registry (CEAR) in accordance with Canadian Environmental Assessment Act. Both electronic and hard copies are then forwarded to First Nation Lands Office. | | | | | X | |

APPENDIX D9

Sub-leases

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|-------------------------------------|--|-----|----|-----|--------------|--------|----|
| 18 | If the decision rendered recommends that the “project” can proceed, the approved Environmental Protection Plan is incorporated as a condition of approval of the sub-lease binding the sub-lessee (proponent) to implementation of all mitigation measures, monitoring and reporting requirements, environmental emergency measures, enforcement provisions and decommissioning plan for the life- cycle of the sub-lease. | | | | X | | |
| 19 | Monitoring for compliance of Environmental Protection Plan. | | | | X | | |
| 20 | Enforcement of non-compliance with Environmental Protection Plan. | | | | | X | |
| EXECUTION AND APPROVAL PHASE | | | | | | | |
| 21 | Obtain the Minister’s written consent (approved by the departmental officials authorized by the Delegation of Authority Instrument under the <i>Indian Act</i> and related Regulations) to the sub-lease, if applicable, and forward it to First Nation. | | | | | X | |
| 22 | First Nation receives Ministerial consent and attaches it as supporting documentation to sub-lease. | | | | X | | |
| 23 | First Nation forwards documentation to sub-lessee for execution. | | | | X | | |

APPENDIX D9

Sub-leases

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|---------------------------|--|-----|----|-----|--------------|--------|----|
| REGISTRATION PHASE | | | | | | | |
| 24 | Indian Land Registry receives the registration package and ensures compliance with the Indian Land Registration Manual. | | | | | | X |
| 25 | Indian Land Registry registers the interest. | | | | | | X |
| 26 | Indian Land Registry forwards registration particulars to applicant. | | | | | | X |
| DISTRIBUTION PHASE | | | | | | | |
| 27 | Executed document with registration particulars affixed thereon (including evidence of title) is received and distributed to all parties i.e. Proponent, Lessee, Locatee, First Nation and /or AANDC etc. If applicable a copy is kept on file. | | | | X | X | |
| COMPLIANCE PHASE | | | | | | | |
| 28 | Provide (computer generated) documents (with suitable disclaimers) to agreement holders and sub-lessees (if applicable) at time of signing or before, to explain in simple language: <ul style="list-style-type: none"> • primary obligations found in Terms and Conditions (e.g. payment of rent and GST, provision of insurance certificates, payment of taxes and utilities); • FN by-laws; • land use plan (zoning etc.); • roles and responsibilities of Indian and Northern Affairs and FN; • enforcement penalties and remedial actions. | | | | X | | |

APPENDIX D9

Sub-leases

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|--------|----|
| 29 | Prepare an annual monitoring strategy based on an assessment of the risks, costs and benefits on monitoring options for all active land and resource instruments. (i.e., monitor based on priorities (major risk to health, safety, land, resources, environment)). | | | | X | | |
| 30 | <p>Enter monitoring items (i.e. leasing, licensing and permitting information) and monitoring schedule into NetLands and/or other appropriate systems (i.e., environmental management system), which may include such items as:</p> <ul style="list-style-type: none"> -for leasing and permit purposes <ul style="list-style-type: none"> • insurance • rent collection • building code compliance • crop inspection • inspection requirements (site inspection, desk audit) -for individual land holding purposes <ul style="list-style-type: none"> • band by-laws • zoning -for Certificates of Occupation <ul style="list-style-type: none"> • foundation is constructed • building code compliance -for set asides and band allotments <ul style="list-style-type: none"> • environmental compliance -environmental legislative requirements <ul style="list-style-type: none"> • CEAA • CEPA • SARA | | | | X | | |

APPENDIX D9

Sub-leases

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|---------------|----|
| 31 | Schedule monitoring site inspections and desk audits. | | | | X | | |
| 32 | Forward notices of upcoming requirements to agreement holder based on monitoring schedule (when applicable): <ul style="list-style-type: none"> • rent review; • annual payments, etc.; • self-monitoring reports; • third party monitoring; • audits and inspections. | | | | X | | |
| 33 | Record inspection findings resulting from site inspections and desk audits in NetLands and provide copies of findings to all parties involved. | | | | X | | |
| 34 | Where a breach or default of an agreement is identified or reported, the responsible officer: <ul style="list-style-type: none"> • verify details of the report and obtain any additional information needed to determine best course of action (i.e., consult enforcement agencies, Department of Justice (DOJ), etc.) | | | | X | Advisory Role | |
| 35 | The responsible officer will decide on course of action based on facts of the situation. This may require the officer to: <ul style="list-style-type: none"> • give notice to agreement holder and sub-lessee and seek to remedy default or breach; • take appropriate action under the terms of the instrument, FN by-laws, etc.; • report to appropriate authority (i.e., Environment Canada, Health Canada etc., if applicable). | | | | X | | |

APPENDIX D9

Sub-leases

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|--------|----|
| 36 | Document offences and enforcement actions taken, as well as the rationale for action taken. | | | | X | | |
| 37 | The responsible officer will assess results of action taken to determine if: <ul style="list-style-type: none"> • breach, default, dispute has been resolved and any damage done has been repaired; • conduct follow-up investigations to assess the results of remediation taken to resolve contraventions. | | | | X | | |

LAND INSPECTION REPORT (determines whether the land can be used for the purposes intended by the instrument)

1. Description of site (general location, proximity to water frontage, river etc.)

2. Topography: (soil, ground cover etc.)

3. Land Features

Available Services (check box - may select more than one)

- Access to public road
- Water
- Sewer
- Power
- Natural Gas
- Telephone
- Garbage Collection

Land Use

Existing land use _____

Proposed land use _____

Adjacent land uses

East _____
West _____
North _____
South _____

Existing and proposed structures on the subject property

4. Distance to nearest community

5. Additional Comments:

6. Land Management Planning

a) The proposed land instrument has been identified in (check box - may select more than one):

- RLEMP Work Plan
- Community's land management goals and objectives
- Other site specific land management projects & land management objectives (i.e., EcDev, Capital, Housing etc.)
- Approved or pending development plans or zoning by-laws
- Agreed to Community land use plan

b) _____ The proposed land instrument should be executed and have regard for applicable

***Leases for Agricultural or Grazing Purposes
pursuant to Sections 58(1)(b) and 58(1)(c)***

**ROLES AND RESPONSIBILITIES
*Under the Indian Act and Reserve Land and Environment
Management Program (RLEMP)***

First Nations not operating under RLEMP

- Departmental Officer will conduct all roles and responsibilities identified as First Nation and Region

First Nations operating under RLEMP

TRAINING AND DEVELOPMENT LEVEL

- Departmental Officer will conduct all roles and responsibilities identified as First Nation and Region
- Upon completion of the Professional Development Training (Core and Technical components), the First Nation Lands Manager will work in partnership with the department to perform these roles and responsibilities

OPERATIONAL LEVEL

- Departmental Officer will conduct all roles and responsibilities identified as Region
- First Nation Lands Manager will conduct all roles and responsibilities identified as First Nation

DELEGATED AUTHORITY LEVEL

First Nations with Delegated Authority under the *Indian Act*

- Departmental Officer will conduct all roles and responsibilities identified as Region, excluding roles and responsibilities identified under Execution and Approval Phase as per delegated authority under the *Indian Act*
- First Nation Lands Manager will conduct all roles and responsibilities identified as First Nation including roles and responsibilities identified under Execution and Approval Phase as per delegated authority under the *Indian Act*

**REFER TO THE LAND MANAGEMENT MANUAL FOR ADDITIONAL POLICY
REQUIREMENTS**

APPENDIX D10

***Leases for Agricultural or Grazing Purposes
pursuant to Sections 58(1)(b) and 58(1)(c)***

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|-------------------------|---|-----|----|-----|--------------|--------|----|
| GROUNDWORK PHASE | | | | | | | |
| 1 | Receive a request for an interest in land. | | | | X | | |
| 2 | <p>Determine if:</p> <p>a) The proposed land instrument has been identified in one of the following:</p> <ul style="list-style-type: none"> • the community's land management goals and objectives; • other site specific land management projects & land management objectives (i.e., Economic Development, Capital, Housing etc.); • approved or pending development plans or zoning by-laws; • agreed to community land use plan. <p>b) The proposed land instrument has regard for applicable real property requirements, federal environmental legislation and community Environmental Management Action Plan.</p> | | | | X | | |
| 3 | Enter the transaction particulars in NetLands. | | | | X | | |
| 4 | Ensure that Part 1 of the Land Transaction Information Report has been completed by the proposed lessee. | | | | X | | |

APPENDIX D10

***Leases for Agricultural or Grazing Purposes
pursuant to Sections 58(1)(b) and 58(1)(c)***

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|---|---|-----|----|-----|--------------|--------|----|
| 5 | <p>Confirm that lease under section 58(1)(b) or 58(1)(c) is the appropriate mechanism.</p> <p>The Lands Officer verifies that the proposed use is one which is consistent with the exclusive use of reserve land and is otherwise appropriate for the statutory authority under which the lease will be issued. (see LMM, Chapter 7)</p> <p>Appropriate uses:</p> <ul style="list-style-type: none"> • where the land is in the lawful possession of any individual, grant a lease of that land for agricultural or grazing purposes or for any purpose that is for the benefit of the person in possession of the land under section 58(1)(b); • where the land is not in the lawful possession of any individual, grant for the benefit of the band a lease of that land for agricultural or grazing purposes under section 58(1)(c). | | | | X | | |
| 6 | <p>Check the status of the land to be leased to the locatee and ensure Part 2 of the Land Transaction Information Report 2 has been completed by the proposed lessee.</p> | | | | X | | |

APPENDIX D10

***Leases for Agricultural or Grazing Purposes
pursuant to Sections 58(1)(b) and 58(1)(c)***

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|--------|----|
| 7 | Inform lessee and locatee, if applicable, of all leasing policies. | | | | X | | |
| 8 | Provide the Lands Transaction Information Report to the locatee for his/her review, if applicable. | | | | X | | |
| 9 | Obtain locatee's written consent to negotiation and preparation of the lease by having the locatee sign Part 2 of the Land Transaction and Information Report, if applicable. Where the First Nation has allotted the land to more than one locatee, the signatures of all locatees are required. | | | | X | | |
| 10 | Conduct credit investigation/Conduct corporate status check. | | | | X | | |

APPENDIX D10

**Leases for Agricultural or Grazing Purposes
pursuant to Sections 58(1)(b) and 58(1)(c)**

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----------------------------|---|-----|----|-----|--------------|--------|----|
| ENVIRONMENTAL PHASE | | | | | | | |
| | NOTE: When a proposed lease includes a project as defined under the Canadian Environmental Assessment Act (CEAA), an Environmental Assessment (EA) must be conducted prior to the issuance of the lease. | | | | | | |
| 11 | <p>Based on the request for an interest in land, determine which of the following lease transactions and appropriate environmental management process will be required:</p> <p>a) Proposed New Lease – Environmental Assessment (EA) and/or Environmental Site Assessment (ESA) - Phase 1 minimum, if needed.</p> <p>b) Lease Renewal - Review for compliance of existing Environmental Protection Plan (EPP) based on the Environmental Assessment approved, or if never undertaken, then there is a requirement for an Environmental Audit (EAudit) to determine whether or not the activity under lease is in compliance with appropriate acts, regulations and/or best practices.</p> <p>c) Lease Expiry – Environmental Site Assessment .</p> <p>Note: Costs related to undertaking an</p> | | | | X | | |

APPENDIX D10

***Leases for Agricultural or Grazing Purposes
pursuant to Sections 58(1)(b) and 58(1)(c)***

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|---------------|----|
| | EA, ESA or EAudit is to be the responsibility of the Lessee (proponent) as a part of doing business. | | | | | | |
| 12 | <p>Proposed New Lease: Environmental Assessment Requirements</p> <p>a) Identify the scope of the “project”, the authority under the <i>Indian Act</i> for land tenure and the type of Environmental Assessment required (screening, comprehensive study or panel) in accordance with Canadian Environmental Assessment Act;</p> <p>b) Ensure that the appropriate information related to the intent of undertaking an Environmental Assessment is documented in the departmental environmental assessment database system (ESSIMS) and is registered in the Canadian Environmental Assessment Registry (CEAR) in accordance with Canadian Environmental Assessment Act;</p> <p>c) Develop Terms of Reference (ToR) to guide the undertaking of the Environmental Assessment Report (EAR) by the lessee (proponent) by a qualified environmental assessor. The Terms of Reference shall include as a minimum requirement:</p> <ul style="list-style-type: none"> - description of the “project”; - identify the scope of the EA; | | | | X | X | |
| | | | | | X | Advisory Role | |

APPENDIX D10

***Leases for Agricultural or Grazing Purposes
pursuant to Sections 58(1)(b) and 58(1)(c)***

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| 12 | <p>- identify all applicable acts, regulations and best practice standards to be used (i.e., <i>Canadian Environmental Protection Act (CEPA)</i>, <i>Species At Risk Act (SARA)</i>, <i>Fisheries Act</i>, etc.);</p> <p>- identify the environmental setting: i.e., -physical resources: topography, climate, land/soil, surface water, ground water;</p> <p>-biological resources: flora/fauna;</p> <p>-land use: historical, natural resources, archaeology/cultural special places;</p> <p>- indicate the need for an Environmental Site Assessment Phase 1 if required based on previous studies and information;</p> <p>- identify potential impacts and effects including cumulative effects and assessment of the significance of any adverse environmental effect;</p> <p>- identify the scope of consultations (i.e., Chief and Council, Community members, off-reserve residents, other federal departments and/or provincial or municipal government agencies);</p> | | | | X | Advisory role | |

APPENDIX D10

***Leases for Agricultural or Grazing Purposes
pursuant to Sections 58(1)(b) and 58(1)(c)***

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|---------------|---------------|----|
| 12 | - identify proposed mitigation measures, monitoring and reporting requirements, emergency response measures, enforcement provisions and a decommissioning plan in terms of a recommended Environmental Protection Plan ; - include all supporting documentation (i.e., maps, design plans, operational and maintenance plans, permits and approvals, photographs, etc.). | | | | X | Advisory role | |
| 13 | Determine and refer Terms of Reference to other federal departments for regulatory responsibilities or interest and incorporate any additional requirements | | | | | X | |
| 14 | Provide completed Terms of Reference to the lessee (proponent) to undertake the Environmental Assessment Report including a proposed Environmental Protection Plan. | | | | X | | |
| 15 | Upon receipt of the Environmental Assessment Report including a proposed Environmental Protection Plan from the lessee (proponent), the report is reviewed by an environmental advisor to determine any deficiencies and provide recommendations. Outstanding deficiencies are to be | | | | Advisory Role | X | |

APPENDIX D10

***Leases for Agricultural or Grazing Purposes
pursuant to Sections 58(1)(b) and 58(1)(c)***

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|--------|----|
| | addressed by the lessee (proponent). | | | | | | |
| 16 | Based on the completed Environmental Assessment Report including a proposed Environmental Protection Plan, a screening decision is rendered by the Responsible Authority and the Environmental Protection Plan is approved. The screening decision is documented in the departmental environmental assessment database system (ESSIMS) and is registered in the Canadian Environmental Assessment Report in accordance with Canadian Environmental Assessment Act. Both electronic and hard copies are then forwarded to First Nation Lands Office. | | | | | X | |
| 17 | If the decision rendered recommends that the “project” can proceed, the approved Environmental Protection Plan is incorporated as a condition of approval of the lease binding the lessee (proponent) to implementation of all mitigation measures, monitoring and reporting requirements, environmental emergency measures, enforcement provisions and decommissioning plan for the life- cycle of the lease. | | | | X | | |
| 18 | Monitoring for compliance of Environmental Protection Plan. | | | | X | | |
| 19 | Enforcement of non-compliance with Environmental Protection Plan. | | | | | X | |

APPENDIX D10

***Leases for Agricultural or Grazing Purposes
pursuant to Sections 58(1)(b) and 58(1)(c)***

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|--------------------------|---|-----|----|-----|--------------|---------------|----|
| | | | | | | | |
| NEGOTIATION PHASE | | | | | | | |
| 20 | Prior to the commencement of negotiations, provide a copy of the standard lease applicable to the proposed use and advise the First Nation Council and the prospective lessee of the primary obligations and provision of the lease. | | | | X | | |
| 21 | <p>Negotiate the basic terms of the lease and incorporate mandatory provisions and standard clauses into the standard lease or departmentally approved equivalent:</p> <ul style="list-style-type: none"> i) provide lessee with draft copy of the lease; ii) with the assistance of Public Works and Government Services Canada, if required, determine whether personal guarantees or performance bonds are required; and iii) draft the lease incorporating mandatory provisions and standard clauses of departmentally approved forms, including land description suitable for registration in Indian Lands Registry System. | | | | X | Advisory Role | |

APPENDIX D10

***Leases for Agricultural or Grazing Purposes
pursuant to Sections 58(1)(b) and 58(1)(c)***

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| | | | | | | | |
| 22 | <p>Conduct an assessment of the draft lease, including:</p> <p>a) the adequacy of the rent (based on an independent appraisal, provided by the proposed lessee, and reviewed if necessary by Public Works and Government Services Canada);</p> <p>b) the term (refer to Directive 7-4: General Guidelines for Drafting Leases);</p> | | | | X | Advisory Role | |

APPENDIX D10

***Leases for Agricultural or Grazing Purposes
pursuant to Sections 58(1)(b) and 58(1)(c)***

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|---------------|----|
| | <p>c) the proposed use of the land (taking into consideration the Land Transaction Information Report);</p> <p>d) whether all Terms and Conditions required by the departmental policy have been included (based on standard lease document);</p> <p>e) the suitability of all non-standard clauses appearing in the lease. If necessary, the opinion of the Department of Justice respecting specific non-standard clauses must be obtained and in consultation with the Lands Officer, the departmental position will be determined;</p> <p>f) the potential environmental impact of the lease taking into consideration environmental legislation, screening decisions and reports.</p> | | | | | | |
| 23 | <p>Review the lease and the Transaction Checklist before execution to ensure that all standard terms and requirements are present, including the following Terms and Conditions:</p> <p>a) The full formal name and address of the lessee and if the lease is a company, the following statement:</p> <p>i) the name of the company, stated as in the Certificate of Incorporation/Letters</p> | | | | X | Advisory Role | |

APPENDIX D10

***Leases for Agricultural or Grazing Purposes
pursuant to Sections 58(1)(b) and 58(1)(c)***

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| 23 | <p>Patent;</p> <p>ii) the jurisdiction of incorporation;</p> <p>iii) the address of the head office;</p> <p>iv) authorization to enter into land transactions.</p> <p>b) Specify the applicable authority under the <i>Indian Act</i>;</p> <p>c) A full and identifiable land description, including identification of any existing easements or other encumbrances;</p> <p>d) The amount and period of rental payments, including:</p> <p>i) the date on which payment is due;</p> <p>ii) for grazing leases - rent should be paid annually in advance for grazing leases;</p> <p>iii) for crop sharing - rent should be paid annually in advance or semi-annually in April and October;</p> | | | | X | Advisory role | |

APPENDIX D10

***Leases for Agricultural or Grazing Purposes
pursuant to Sections 58(1)(b) and 58(1)(c)***

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| 23 | <p>iv) if rent is to be a percentage of another quantity, the agreed method of calculation;</p> <p>v) rental yield - rent should be based upon the capacity of the land, whether on a per acre yield per crop, or per animal per month of grazing basis. Where special crops are to be grown (i.e., vegetables, produce) and the market return is not readily assessable, a market rent of a percentage of the market value of the land may be appropriate;</p> <p>vi) whether the rent is it to be reviewed at least every five years (if the term is longer than five years, the lease must provide for a rent review set at five years). Consider:</p> <p>1) whether the lands are in close proximity to urban areas;</p> <p>2) if the lease is for ordinary agricultural grazing or a cash crop, the recommended term is five years or less;</p> <p>3) if the lease involves major agricultural development (i.e., a dairy) where security</p> | | | | X | Advisory role | |

APPENDIX D10

***Leases for Agricultural or Grazing Purposes
pursuant to Sections 58(1)(b) and 58(1)(c)***

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| | <p>of tenure is required, longer periods to a maximum term of 25 years may be considered.</p> <p>There should be no right of renewal specified in the lease.</p> <p>vii) a mechanism for determining the rent in the event the parties fail to agree; and</p> <p>viii) a mechanism for adjusting a nominal rent to fair market rent upon the assignment of a band corporation lease to non-band lessee.</p> | | | | | | |
| 23 | <p>e) Clearly defined acceptable uses of the demised lands. The use should be specific, and should specify the crops to be used or the animals to be grazed, and the time periods involved. (Grazing leases should be seasonal, although tenure should be year round);</p> <p>f) The standards to be followed specifically in respect of:</p> | | | | X | Advisory role | |

APPENDIX D10

***Leases for Agricultural or Grazing Purposes
pursuant to Sections 58(1)(b) and 58(1)(c)***

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| | <ul style="list-style-type: none"> i) construction and safety; ii) health; and iii) property maintenance. | | | | | | |
| | g) Any performance requirements; | | | | | | |
| | h) Any fencing requirements; | | | | | | |
| | i) Environmental provisions, such as waste or rubbish contamination, compliance with environmental standards, environmental assessments and mitigation, environmental protection, no contaminants or hazardous substances, mitigation of environmental impacts, etc.; | | | | | | |
| | j) Whether issues of dangerous objects, noxious weeds, etc. have been addressed; | | | | | | |
| 23 | k) Any provisions for cancellation of the lease for specified reasons; | | | | X | Advisory role | |
| | l) Provision for ownership of improvements at the end of the lease, and who is to decide or quantify; | | | | | | |
| | m) Provision of insurance at lessee's expense for: <ul style="list-style-type: none"> i) fire; ii) public liability; and iii) crops. | | | | | | |

APPENDIX D10

***Leases for Agricultural or Grazing Purposes
pursuant to Sections 58(1)(b) and 58(1)(c)***

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|---------------|----|
| | <p>Liability insurance should be for a minimum of \$1,000,000</p> <p>n) Indemnification of Her Majesty from all claims, damages, costs, etc.;</p> <p>o) Whether lessee undertakes to pay all taxes, levies, or other charges;</p> <p>p) Whether lessee covenanted to comply with all applicable laws, including First Nation by-laws;</p> <p>q) Whether the Crown reserved the mineral rights in, upon or under the demised lands;</p> | | | | | | |
| 23 | <p>r) Whether the lessee is given the right to hold, use and occupy the premises without interference so long as rents are paid and covenants complied with;</p> <p>s) Whether the lease has been duly executed by the lessee and Affidavits of Execution or corporate seals have been provided;</p> <p>t) If the lease is in the nature of a head lease:</p> | | | | X | Advisory Role | |

APPENDIX D10

***Leases for Agricultural or Grazing Purposes
pursuant to Sections 58(1)(b) and 58(1)(c)***

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|---------------|----|
| | <ul style="list-style-type: none"> i) whether it is mandatory to register all sub-leases in the Indian Lands Registry; ii) whether the sub-lessee is responsible for a CEAA assessment. | | | | | | |
| | <ul style="list-style-type: none"> u) If the lease is assignable: <ul style="list-style-type: none"> i) provision for the payment of a fee upon assignment of the lease; if requested by the Band; ii) whether the provision stipulates that the fee must be a true reflection of expenses incurred in connection with the assignment; and iii) provision that the lessee may not assign or transfer the lease without Her Majesty's consent. | | | | | | |
| 23 | <ul style="list-style-type: none"> v) Provision that upon bankruptcy or receivership of lessee, Her Majesty may terminate; w) Provision that Her Majesty's or other applicable authorities' representative may enter to view and inspect premises; x) Where, in Her Majesty's opinion, a nuisance exists, the lessee | | | | X | Advisory role | |

APPENDIX D10

***Leases for Agricultural or Grazing Purposes
pursuant to Sections 58(1)(b) and 58(1)(c)***

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|---------------|----|
| | <p>may be ordered to abate and pay costs thereof;</p> <p>y) Upon expiry of the lease, the lessee shall peaceably surrender possession to Her Majesty;</p> | | | | | | |
| 23 | <p>z) Other considerations:</p> <p>i) Inspections - Grazing leases should provide for range inspection after a herd has been removed in the Fall or before turnout in the Spring;</p> <p>ii) Agricultural Practices - Agricultural practices specified by the Minister, shall be followed in order to protect the land resource;</p> | | | | X | Advisory role | |

APPENDIX D10

***Leases for Agricultural or Grazing Purposes
pursuant to Sections 58(1)(b) and 58(1)(c)***

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|------------------------------------|--|-----|----|-----|--------------|---------------|----|
| | iii) Improvements - Fixed improvements, such as buried irrigation liens, hay sheds and fences, are to remain with the land; iv) Special Conditions (i.e., disposal of straw, do not grow flax in first year, no aerial spraying). | | | | | | |
| 24 | Confirm that the First Nation and the locatee have executed a revenue allocation agreement, if applicable, and that the agreement is on file, if applicable. | | | | X | | |
| 25 | Determine whether non-standard clauses to the lease require Department of Justice's (DOJ) review. | | | | X | Advisory Role | |
| 26 | Forward lease with identified non-standard clauses to AANDC Region for review by DOJ (if applicable). | | | | X | | |
| 27 | Depending upon DOJ's advice, renegotiate lease with respective parties. | | | | X | | |
| DOCUMENT FINALIZATION PHASE | | | | | | | |
| 28 | Finalize the lease: a) based on confirmed details of Land Transaction Information Report; | | | | X | | |

APPENDIX D10

***Leases for Agricultural or Grazing Purposes
pursuant to Sections 58(1)(b) and 58(1)(c)***

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|--------|----|
| | <p>b) based on confirmed negotiations;</p> <p>c) using standard documentation and clauses, i.e., Departmentally approved standard forms;</p> <p>d) in consideration of Indian Lands Registration Manual.</p> | | | | | | |
| 29 | Prepare locatee consent if applicable [see Annex B of Transaction Checklist] based on confirmed details of Part 1 of the Land Transaction Information Report and obtain the locatee(s) signature(s). | | | | X | | |
| 30 | <p>Finalize Band Council Resolution (BCR) consenting to the Minister granting the proposed lease pursuant to the applicable statutory authority which should include the following:</p> <p>a) a land description which meets the requirements for legal descriptions of Indian Lands, as described in Schedule A of the Framework Accord between Lands and Environment Branch, Lands and Trust</p> | | | | X | | |

APPENDIX D10

***Leases for Agricultural or Grazing Purposes
pursuant to Sections 58(1)(b) and 58(1)(c)***

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|--------|----|
| | <p>Sector of the Department of Indian Affairs and Northern Development and Earth and Science Sector of the Department of Natural Resources Canada and amended from time to time, including all known encumbrances affecting that land;</p> <p>b) proof of a locatee's consent to the lease, when the lease area includes land in the lawful possession of an individual locatee;</p> <p>c) the proposed use should be clearly identified;</p> <p>d) the term of the lease;</p> <p>e) a request that the Minister enter into a lease agreement pursuant to the appropriate <i>Indian Act</i> provision.</p> | | | | | | |
| 31 | Passes BCR consenting to granting of proposed lease. | | | | X | | |
| 32 | Review the lease and the Transaction Checklist to ensure that all standard terms and requirements are present. | | | | X | | |
| 33 | First Nation and lessee review the draft lease. | | | | X | | |

APPENDIX D10

***Leases for Agricultural or Grazing Purposes
pursuant to Sections 58(1)(b) and 58(1)(c)***

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|-------------------------------------|--|-----|----|-----|--------------|--------|----|
| EXECUTION AND APPROVAL PHASE | | | | | | | |
| 34 | <p>Arranges for the execution of 2 copies of the lease in the following order:</p> <p>a) First, the locatee(s) to sign the schedule to the lease, showing that they consent to the lease;</p> <p>b) Second, the lessee should execute the lease.</p> | | | | X | | |
| 35 | <p>First Nation Land Manager enters the transaction in the Indian Lands Registry System pending file, prints the Application for Registration from the pending file, and completes the Transaction Checklist.</p> | | | | X | | |
| 36 | <p>Forwards the Land Transaction Information Report and registration package to region for approval by Regional Delegated Authority. The registration package includes:</p> <ul style="list-style-type: none"> • the executed copies of the lease; • the original BCR; • locatee consent (if applicable); • supporting documentation referred to in the lease; • the Transaction Checklist; | | | | X | | |

APPENDIX D10

***Leases for Agricultural or Grazing Purposes
pursuant to Sections 58(1)(b) and 58(1)(c)***

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|---------------------------|--|-----|----|-----|--------------|--------|----|
| | <ul style="list-style-type: none"> the Application for Registration. | | | | | | |
| 37 | Region receives and reviews the registration package and the Land Transaction Information Report. | | | | | X | |
| 38 | The Departmental Representative, authorized to execute the lease under the current regional delegation, will execute/approve the original copies of the lease. | | | | | X | |
| 39 | Region completes Part B of the Transaction Checklist. | | | | | X | |
| 40 | Region forwards the registration package to the Indian Lands Registry and retains the Land Transaction Information Report on file. The registration package includes: <ul style="list-style-type: none"> the executed copies of the lease; the original BCR; locatee consent (if applicable); supporting documentation referred to in the lease; the Transaction Checklist; the Application for Registration | | | | | X | |
| REGISTRATION PHASE | | | | | | | |
| 41 | Indian Land Registry receives registration package and ensures compliance with the Indian Land Registration Manual. | | | | | | X |
| 42 | Indian Land Registry registers the interest. | | | | | | X |
| 43 | Indian Land Registry forwards lease with registration particulars to applicant. | | | | | | X |
| DISTRIBUTION PHASE | | | | | | | |
| 44 | Executed document with registration | | | | X | X | |

APPENDIX D10

***Leases for Agricultural or Grazing Purposes
pursuant to Sections 58(1)(b) and 58(1)(c)***

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|-------------------------|--|-----|----|-----|--------------|--------|----|
| | particulars affixed thereon is received and distributed to all parties i.e., Proponent, Lessee, Locatee, First Nation and /or AANDC etc. If applicable, a copy is kept on file. | | | | | | |
| COMPLIANCE PHASE | | | | | | | |
| 45 | Provide (computer generated) documents (with suitable disclaimers) to agreement holders and locatees (if applicable) at time of signing or before, to explain in simple language: <ul style="list-style-type: none"> • primary obligations found in Terms and Conditions (e.g., payment of rent and GST, provision of insurance certificates, payment of taxes and utilities); • First Nation by-laws; • land use plan (zoning etc.); • roles and responsibilities of Indian and Northern Affairs and First Nation; • enforcement penalties and remedial actions. | | | | X | | |
| 46 | Prepare an annual monitoring strategy based on an assessment of the risks, costs and benefits on monitoring options for all active land and resource instruments. (i.e., monitor based on priorities (major risk to health, safety, land, resources, environment)). | | | | X | | |
| 47 | Enter monitoring items (i.e., leasing, licensing and permitting information) and monitoring schedule into NetLands and/or other appropriate systems (i.e., environmental management system), | | | | X | | |

APPENDIX D10

***Leases for Agricultural or Grazing Purposes
pursuant to Sections 58(1)(b) and 58(1)(c)***

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|--|-----|----|-----|--------------|--------|----|
| | which may include such items as: -for leasing and permit purposes <ul style="list-style-type: none"> • insurance • rent collection • building code compliance • crop inspection • inspection requirements (site inspection, desk audit) • -for individual land holding purposes <ul style="list-style-type: none"> • band by-laws • zoning • -for Certificates of Occupation <ul style="list-style-type: none"> • foundation is constructed • building code compliance -for set asides and band allotments <ul style="list-style-type: none"> • environmental compliance -environmental legislative requirements <ul style="list-style-type: none"> • CEAA • CEPA • SARA | | | | | | |
| 48 | Schedule monitoring site inspections and desk audits. | | | | X | | |
| 49 | Forward notices of upcoming requirements to agreement holder based on monitoring schedule (when applicable): <ul style="list-style-type: none"> • rent review; • annual payments, etc.; • self-monitoring reports; • third party monitoring; • audits and inspections. | | | | X | | |
| 50 | Record inspection findings resulting from site inspections and desk audits in | | | | X | | |

APPENDIX D10

***Leases for Agricultural or Grazing Purposes
pursuant to Sections 58(1)(b) and 58(1)(c)***

| | Activity | Yes | No | N/A | First Nation | Region | HQ |
|----|---|-----|----|-----|--------------|---------------|----|
| | NetLands and provide copies of findings to all parties involved. | | | | | | |
| 51 | Where a breach or default of an agreement is identified or reported, the responsible officer: <ul style="list-style-type: none"> will verify details of the report and obtain any additional information needed to determine best course of action (i.e., consult enforcement agencies, DOJ, etc.) | | | | X | Advisory Role | |
| 52 | The responsible officer will decide on course of action based on facts of the situation. This may require the officer to: <ul style="list-style-type: none"> give notice to agreement holder and locatee and seek to remedy default or breach; take appropriate action under the terms of the instrument, First Nation by-laws, etc.; report to appropriate authority (i.e., Environment Canada, Health Canada etc., if applicable). | | | | X | | |
| 53 | Document offences and enforcement actions taken, as well as the rationale for action taken. | | | | X | | |
| 54 | The responsible officer will assess results of action taken to determine if: <ul style="list-style-type: none"> breach, default, dispute has been resolved and any damage done has been repaired; conduct follow-up investigations to assess the results of remediation taken to resolve contraventions. | | | | X | | |

LAND INSPECTION REPORT (determines whether the land can be used for the purposes intended by the instrument)

1. Description of site (general location, proximity to water frontage, river etc.)

2. Topography: (soil, ground cover etc.)

3. Land Features

Available Services (check box - may select more than one)

- Access to public road
- Water
- Sewer
- Power
- Natural Gas
- Telephone
- Garbage Collection

Land Use

Existing land use _____

Proposed land use _____

Adjacent land uses

East _____
West _____
North _____
South _____

Existing and proposed structures on the subject property

4. Distance to nearest community

5. Additional Comments:

6. Land Management Planning

a) The proposed land instrument has been identified in (check box - may select more than one):

- RLEMP Work Plan
- Community's land management goals and objectives
- Other site specific land management projects & land management objectives (i.e., EcDev, Capital, Housing etc.)
- Approved or pending development plans or zoning by-laws
- Agreed to Community land use plan

b) The proposed land instrument should be executed and have regard for applicable real property requirements and federal environmental legislation

LAND TRANSACTION INFORMATION REPORT

PART 1 - APPLICATION FOR USE OF LAND WITHIN AN INDIAN RESERVE

To be completed by:

the proponent – *for leases and permits*

the First Nation member who has the interest in the land – *for Individual Land Holdings*

First Nation: _____ Code: _____

Reserve Name _____ No. _____ Code: _____

Property applied for:

Indian Land Parcel Identification No. (PIN#): _____

Lot: _____ Plan Type: _____ No. _____
(Lot number, applicable Section, Township, Range, etc) (RS/CLSR)

Textual Land Description _____

Proposed Instrument Type and Purpose

Instrument Type: _____

Purpose: _____

Applicable *Indian Act* Section: _____

Term (to be completed when applicable)

1. Commencement Date: (yyyy/mm/dd) _____

2. Expiry Date: _____

3. Term: _____

AREA

Acres _____

Hectares _____

Grantor: (individual(s) granting interest in reserve lands)

Interest being granted:

- whole interest
- undivided interest (specify) _____

- First Nation (whereby the First Nation has the right to grant an interest in the lands - **Allotments**)

- Crown (whereby the Department of Indian and Northern Affairs grants an interest in the reserve lands on behalf of the First Nation or First Nation member - **Leases, Permits and Licenses**)

- Other (whereby an individual has the right to grant an interest in the lands through existing registered interests; i.e., Company, corporation etc. – **Sub-lease**)

- First Nation Member(s) (whereby the First Nation member is in lawful possession of land and has the right to grant an interest in the land - i.e., **Transfer**)

Form of Lawful Possession being held:

- Joint Tenancy (not applicable in Quebec)
- Tenancy in Common

1. First Name _____ Last Name _____ No. _____
(As it corresponds to Indian Registration System, and/or membership records)

Confirmation of Lawful possession:

- Certificate of Possession No. _____
- Notice of Entitlement No. _____
- No Evidence of Title Issued (N.E.T.I.)
- Cardex

Indian Lands Registry Registration No. _____

APPENDIX D11A

2. First Name _____ Last Name _____ No. _____
(As it corresponds to Indian Registration System, and/or membership records)

Confirmation of Lawful possession:

- Certificate of Possession No. _____
- Notice of Entitlement No. _____
- No Evidence of Title Issued (N.E.T.I.)
- Cardex

Indian Lands Registry Registration No. _____

3. First Name _____ Last Name _____ No. _____
(As it corresponds to Indian Registration System, and/or membership records)

Confirmation of Lawful possession:

- Certificate of Possession No. _____
- Notice of Entitlement No. _____
- No Evidence of Title Issued (N.E.T.I.)
- Cardex

Indian Lands Registry Registration No. _____

Grantee: (individual(s) receiving an interest in reserve lands)

Interest being granted:

Form of lawful possession to be held:

- Joint Tenants (see Annex A attached for required form to be completed)
- Tenants in Common (see Annex A attached for required form to be completed)

First Nation Name _____ No. _ Code: _____

whole of lot

undivided interest (specify) _____

APPENDIX D11A

First Nation Member(s) (when dealing with issuance of lawful possession)

1. First Name _____ Last Name _____ No. _____
(As it corresponds to Indian Registration System, and/or membership records)

- whole of lot
- undivided interest (specify) _____

2. First Name _____ Last Name _____ No. _____
(As it corresponds to Indian Registration System, and/or membership records)

- whole of lot
- undivided interest (specify) _____

- Other (i.e., Non-First Nation Member, Company, Corporation, First Nation Member when dealing with leasing and permitting of reserve lands, etc.)

Name: _____

Company name (if applicable): _____

Address: _____

Company Number (if applicable): _____

Telephone Number: _____

Contact Name, title (if applicable) _____

SIGNATURES

Leases and Permits/Licenses - Signature by the applicant (lessee/permittee) consents to having the Department of Indian Affairs conduct, or cause to be conducted, a personal credit investigation.

Individual Land Holdings - Signature by the applicant (i.e., lawful possessor) consents to preparation of the appropriate land transaction.

Associated Land Management Transactions (i.e., Assignments, Mortgages etc.) - Signature by the applicant consents to the preparation of the appropriate land transaction.

Dated _____ day of _____ 20 _____ .

WITNESS _____ APPLICANT _____

WITNESS _____ APPLICANT _____

First Nation Member Information - for Lease and Permits requests

1. First Name _____ Last Name _____ No. _____
(As it corresponds to Indian Registration System, and/or membership records)

Please indicate how interest was acquired:

Indian Lands Registry Registration No. _____
(or instrument identifying evidence of title)

Confirmation of Lawful possession:

- Certificate of Possession No. _____
- Notice of Entitlement No. _____
- No Evidence of Title Issued (N.E.T.I.)
- Cardex
- Oka Letter

Signature by the locatee consents to the negotiation and preparation of the appropriate land transaction. Upon review of all Terms and Conditions in the instrument, locatee consent will be required. (See Annex B attached for required form to be completed.)

Signature of First Nation Member _____

Dated this _____ day of _____ 20 _____ .

LAND TRANSACTION INFORMATION REPORT

PART 2 - LAND STATUS REPORT

First Nation Land (not Designated or Surrendered);

Indian Lands Registry Registration No. (If applicable) _____

Designated Land;

Order-in-Council No.: P.C. _____

Date of Order-in-Council: _____

Indian Lands Registration No. _____

Term/Period of Designation: (yyyy/mm/dd) From _____ To _____

Purpose(s) of Designation: _____

Conditions of Designation: _____

Land in lawful possession of a First Nation Member

* **Leases and Permits - Require consent of lawful possessor for negotiation purposes - see Signature Portion of Part 2 - Application for Use of Land in an Indian Reserve**

* **Individual Land Holdings - Complete "Grantor" portion of Part 2 - Application for Use of Land in an Indian Reserve**

Encumbrances

List of registered instruments which may affect this parcel of land: (check box)

- Lease ILR Registration No.: _____
-
- Permit ILR Registration No.: _____
-
- Surrender ILR Registration No.: _____
-
- Easement ILR Registration No.: _____
-
- Section 35 ILR Registration No.: _____
-
- R/W ILR Registration No.: _____
-
- Notice ILR Registration No.: _____

Comments and/or matters to be dealt with:

Land Description - Refer to Framework Agreement between Lands and Trust Services, Department of Indian Affairs and Northern Development and Legal Surveys Division, Earth Sciences Sector, Natural Resources Canada for appropriate legal land description.

- Adequate Legal Description exists for the proposed transaction type and purpose
- Adequate Legal Description **does not** exist for the proposed transaction type and purpose. Survey will be required.

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I have reviewed the proposed land transaction and have searched the Indian Lands Registry records relating to the parcels affected by this transaction and other appropriate sources of information. According to these records, the proposed transaction: (check box)

- Will **not** cause a conflict with existing registered interests;
- Will cause a conflict with existing registered interests as identified herein, and must be dealt with as per identified comments or actions listed below.

Name, Title

Signature

Date

TRANSACTION CHECKLIST

Part A - General Requirements

- Document is an original or a copy as per Part 1 section 11(2) of the ILR Manual.
- Document is dated and legible.
- Parties (and addresses for leases and permits) are identified and consistent (names spelled exactly the same throughout document).
- Document is signed and witnessed.
- Affidavit of Witness or Acknowledgement of Corporation attached, Corporate Seal is affixed to document (if applicable).
- Signatures are consistent with identification of the parties.
- Alterations have been initialed by pertinent parties.
- Provision for consideration has been included.
- Access has been provided.
- Land Description meets minimum requirements set out in Framework Agreement between Lands and Trust Services, Department of Indian Affairs and Northern Development and Legal Surveys Division, Earth Sciences Sector, Natural Resources Canada.
- Encumbrances have been identified (i.e., mortgage) and dealt with (assumption, discharge, letter of undertaking).
- Documentation attached.
- Documentation pending ILR Pending File No. _____
- Documentation registered ILR Registration No. _____
- Land Transaction Information Report completed.
- Application for Registration completed (Part 1 of Land Transaction Information Report).

Part B - Approval and Execution of Document

- Document has been executed by proper delegated authority under the *Indian Act* (To be completed by Region or First Nation with delegated authority under sections 53 and 60 of the *Indian Act*).

Part C - Specific Transaction Requirements

BCR - Allotment

- Section 20(1) of the *Indian Act* has been identified.
- Full formal name and First Nation number of the person(s) to whom the allotment is being made corresponds to Indian Registration System, and/or membership records (First Nation certification attached if applicable).
- First Nation has the right to convey an interest in the land (i.e., Band land).
- Land has reserve status (i.e., not surrendered, designated or expropriated).
- Compatibility of third party rights (if applicable).
- Allotment has no adverse effect on First Nation and is within the best interest of First Nation.
- Conforms to Development Plans and/or Zoning Bylaws.
- Lawful possessor has been made aware of third party interests.
- Conflict of interest concerning allotments to council members or their immediate family has been addressed (if applicable).
- Status of lawful possession.
- Possessory right identified (attach joint tenancy/tenancy in common Agreement) (see Annex A attached) [joint tenancy not applicable in Quebec].
- No possessory right elected - lands to be held by tenancy in common.
- Number constituting quorum of First Nation Council.
- Signatures of a quorum of the First Nation Council.
- General Requirements checklist (Part A) completed and attached.

Transfer of Individual Interest

- Section 24 of the *Indian Act* has been identified.
- Full formal name and First Nation number of the person(s) transferring and receiving parcel of land corresponds to Indian Registration System, and/or membership records (First Nation certification attached if applicable).
- Individual(s) doing the conveyance have an interest in the land.
- Individual(s) doing the conveyance is/are minor(s) (Appointment of Guardianship attached or Indian Land Registration Number identifying Appointment of Guardianship).
- Interest being conveyed has been indicated on Transfer document (i.e., undivided 1/2 interest).
- Land has reserve status (i.e., not surrendered, designated, expropriated).
- Status of Lawful possession.
- Possessory right identified (attach joint tenancy/tenancy in common Agreement) (see Annex A attached) [joint tenancy not applicable in Quebec].
- No possessory right elected - lands to be held by tenancy in common.
- Document has been signed by transferor and witnessed (Affidavit of Witness attached).

- General Requirements Checklist (Part A) completed and attached.

Lease

- Appropriate section of the *Indian Act* has been identified (refer to Roles and Responsibilities for appropriate sections of *Indian Act*).
- Instrument is on band land. Surrender/designation has been registered (applicable to section 53 of the *Indian Act*).
- Instrument is on locatee land - locatee consent attached.
- Other encumbrances affecting the instrument have been mentioned and adequately addressed in the instrument (i.e., Easements, etc).
- Form of Lawful Possession.
- Possessory right identified (joint tenancy/tenancy in common) (see Annex A attached) [joint tenancy not applicable in Quebec].
- No possessory right elected - lands to be held by tenancy in common.
- Identify lease area with agricultural or grazing purposes:
_____ Acres _____ Hectares (complete following page if required)
- Identify term of transaction:
Effective Date _____ Expiry Date _____ Term _____
- General Requirements Checklist (Part A) completed and attached.

Permit

- Appropriate section of the *Indian Act* has been identified (refer to Roles and Responsibilities for appropriate sections of *Indian Act*).
- Instrument is regarding band land.
- Surrender/designation has been registered (applicable to section 53 of the *Indian Act*).
- Instrument is regarding locatee land - locatee consent attached.
- Band Council consent attached (for Permits with term longer than 1 year).
- Other encumbrances affecting the instrument have been mentioned and adequately addressed in the instrument (i.e., Easements, etc.).
- Form of Lawful Possession.
- Possessory right identified (joint tenancy/tenancy in common) (see Annex A attached) [joint tenancy not applicable in Quebec].
- No possessory right elected - lands to be held by tenancy in common.
- Identify permit area with agricultural or grazing purposes:
_____ Acres _____ Hectares (complete following page if required)
- Identify term of transaction:
Effective Date _____ Expiry Date _____ Term _____
- General Requirements Checklist (Part A) has been completed and attached.

Leases/Permits for Agricultural or Grazing Purposes

| | | |
|--------------|-------------------------|----------------------------|
| <u>PIN #</u> | <u>Land Description</u> | <u># of Acres/Hectares</u> |
| <u>PIN #</u> | <u>Land Description</u> | <u># of Acres/Hectares</u> |
| <u>PIN #</u> | <u>Land Description</u> | <u># of Acres/Hectares</u> |
| <u>PIN #</u> | <u>Land Description</u> | <u># of Acres/Hectares</u> |
| <u>PIN #</u> | <u>Land Description</u> | <u># of Acres/Hectares</u> |
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| <u>PIN #</u> | <u>Land Description</u> | <u># of Acres/Hectares</u> |
| <u>PIN #</u> | <u>Land Description</u> | <u># of Acres/Hectares</u> |

Sublease

- Ministerial consent or other consent as per the Terms and Conditions for the lease has been provided (if applicable).
- Term of sublease is at least one day less than expiration of lease.
- Form of Lawful Possession.
- Possessory right identified (joint tenancy/ tenancy in common) (see Annex A attached) [joint tenancy not applicable in Quebec].
- No possessory right elected - lands to be held by tenancy in common.
- Identify term of transaction:
Effective Date _____ Expiry Date _____ Term _____

- General Requirements Checklist (Part A) completed and attached.

AGREEMENT FOR JOINT TENANCY / TENANCY IN COMMON

- ***Joint tenancy is Not Applicable in the Province of Quebec. (Except for those joint tenancies already in existence, all parcels of land in the province of Quebec shall be held in tenancy in common (as per paragraph 55 of the 2004 version of the Indian Lands Registration Manual). Therefore, this Joint Tenancy/Tenancy in Common agreement should not accompany Quebec transfer documents).***

JOINT TENANCY: We, the undersigned, _____
agree to hold the following reserve land as joint tenants.

LAND DESCRIPTION: _____

We fully understand that joint tenancy is a form of lawful possession in which two or more Band members jointly hold equal undivided shares in the whole of a parcel of reserve land. The distinguishing feature of an interest held in joint tenancy is that, upon the death of one joint tenant his or her interest in the land passes to the surviving joint tenant(s) by the right of survivorship. The right of survivorship takes precedence over any testamentary disposition of land made by a joint tenant. An interest held in joint tenancy cannot pass by devise or intestacy to any other person or persons except the surviving joint tenant(s).

Joint Tenancy can be severed (changed to a tenancy in common) in the following ways:

- a) a joint tenant may transfer his/her interest to any other Band member or to the band without the consent of the other joint tenant(s) (a joint tenant may not transfer the interest to his/her self in order to sever a joint tenancy).
- b) all joint tenants may enter into a written agreement to hold their interests as tenants in common.
- c) all joint tenants may enter into a written agreement to partition their interest (divide the parcel of land into smaller parcels of land and each take one or more of the smaller parcels) and sever the joint tenancy. This would require approval pursuant to section 24 of the *Indian Act*.

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TENANCY IN COMMON: We, the undersigned, _____ ,
agree to hold the following reserve land as tenants in common.

LAND DESCRIPTION: _____

We fully understand that tenancy in common is a form of lawful possession in which two or more band members, or one or more band members and the band, hold equal or unequal undivided shares in a parcel of reserve land and that this form of lawful possession does not create the right of survivorship. This means that on the death of one of us, his/her interest in the land passes to his/her estate or heirs.

Tenancy in common may be changed at any time to joint tenancy [not applicable in Quebec] by two or more of the tenants in common transferring to two or more band members as joint tenants their undivided shares in a parcel of reserve land. This transfer would require approval pursuant to section 24 of the *Indian Act*.

- Despite the tenancy in common default created by sub-paragraph 58(4) of the 2004 version of the Indian Lands Registration Manual, the Registrar of Indian Lands encourages the practice of executing this Tenancy in Common agreement and attaching it to each transfer document which creates a tenancy in common (except Quebec transfer documents) unless doing so would cause undue hardship (e.g., the expense of appointing a guardian ad litem for a minor).

Witness

Signature

Date

Witness

Signature

Date

LOCATEE CONSENT FORM

I/We _____ Band No. _____ ,

of the _____ First Nation hereby acknowledge and declare the following:

1. I am/We are now in lawful possession of the lands described as Lot _____ Plan No. _____ and hold a _____ (Certificate of Possession, Notice of Entitlement) which is registered in the Indian Lands Registry under number _____.

2. I/We now apply to the Minister of Indian Affairs and Northern Development pursuant to s.s. _____ of the Indian Act, to grant a _____ for (Lease, Permit)

these lands for a proposed term of _____ years for my benefit, under Terms and Conditions described in Schedule __ (attach Terms and Conditions of lease as Schedule “__”) attached.

3. I/We hereby undertake to vacate such lands to enable the lessee/permittee to take possession of them prior to the execution of the lease/permit.

4. (Insert other applicable clauses)

Dated this _____ day of _____ 20_____

Witness

Signature of Locatee

Witness

Signature of Locatee

APPENDIX E
RLEMP PLANNING PACKAGE

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RESERVE LAND AND ENVIRONMENT MANAGEMENT PROGRAM

COMMUNITY LAND USE PLANNING GUIDE

PURPOSE:

The purpose of this guide is to inform First Nation Lands Managers of the standards and criteria for funding First Nations that have reached the Operational or Delegated Authority level and who possess a land use plan. It is also intended to inform First Nations of the benefits of land use planning for their community.

INTRODUCTION:

Over the years, AANDC sector programs have funded and continue to fund various types of community plans without integration in an overall planning strategy. These include but are not limited to housing and capital plans, resource management (forestry and mineral) plans, land use plans, economic development plans, tourism plans, human resource plans.

AANDC has recognized the need for a co-ordinated and integrated approach in community planning and supports the development of comprehensive community plans by First Nations to help them meet the challenges as their communities grow and change. Comprehensive community planning includes developing and carrying out strategies to reach a balancing act of environmental stewardship, resource management, standard of living, cultural and traditional values and socio-economic conditions.³

AANDC has recently produced a series of “Sharing the Story” publications, including “Experiences in First Nations, Inuit and Northern Communities, Comprehensive Community Planning” which demonstrate that community planning does work.⁴

A RESERVE LAND AND ENVIRONMENTAL MANAGEMENT PROGRAM (RLEMP):

Following an evaluation of existing land management Programs, it was determined that a modernized program would incorporate a land use planning function with the intention of supporting AANDC and First Nations in meeting their respective obligations with

³ What is Comprehensive Community Planning: AANDC Publication, 2004, Sharing the Story - Comprehensive Community Planning

⁴ AANDC Publication 2004 - Comprehensive Community Planning

APPENDIX E1

respect to managing reserve lands, its natural resources and the environment as it is very much one of the missing tools in the current land management regimes.

In order to support these obligations, the new RLEMP has established four key functions that are central to the Program. They are:

- Community Land Use Planning
- Lands and Natural Resources Transactions
- Environmental Management
- Compliance Management

Community Land Use Planning (LUP) is unique among the RLEMP functions in that it is not a mandated departmental Lands Branch activity yet given the long-term benefits planning will bring, it has been included as a key component of RLEMP.

As an incentive to get First Nations at the Operational or Delegated Authority levels to consider developing land use plans, an additional 5% in funding is made available.

WHAT IS LAND USE PLANNING?

Land use planning has many definitions depending on which authority is identifying the need to plan, but essentially all capture the same concept that land use must be developed and managed through a process of establishing long term goals and meeting those goals in order to achieve what is best for the community.

Land use planning affects almost every part of life in all communities. It is a process about how decisions are made on where houses, parks and schools will be built and how infrastructure and other essential services will be provided.

Land use planning means managing lands and resources. It helps each community to set goals about how it will grow and develop and work out ways of reaching those goals while keeping important social, economic and environmental concerns in mind. Good planning leads to an orderly community growth and the efficient provision of services. It involves the whole community to ensure that the interests of the collective.

A land use plan will describe a community's policies on how lands and resources should be used. It is prepared with local community input to ensure that future planning and development will meet the immediate and long term needs of the community. It is a document that identifies existing land uses, plans for future land uses and identifies processes to ensure a sustainable future.

APPENDIX E1

It usually starts with an overall vision for the community. It will be open to all of the membership to participate in the process of establishing a vision, to be part of data collection and development of options, to provide input on policy development to ensure the land use plan meets the needs of the community.

The components of a land use planning process may include:

- community consultation
- inventory and data collection
- preparation of a land use plan
- preparation of a land use policy document
- development of a dispute resolution mechanism
- development of an implementation strategy
- establishing an on-going review and management process

To help identify where specific uses are contemplated, mapping is a tool used to show where existing and future uses and services are/will be located.

LAND USE PLANNING ON RESERVES

Though there is currently no requirement for land use planning on reserves, the overall land use planning principles should form part of planning at the First Nation community level.

The general process for developing a community land use plan remains the same whether it is a Strategic Plan, a Physical Plan, a Corporate Plan or a Comprehensive Community Plan. It requires engagement, commitment and capacity. A land use plan also needs to be linked to other community initiatives which are established based on longer-term goals set by the community and for the community.

LINKAGE WITH OTHER DEPARTMENTAL INITIATIVES

Target 2.1.1 of AANDC's Sustainable Development Strategy (SDS) 2004-2006 commits this department to develop a Comprehensive Community Planning (CCP) strategy, in cooperation with First Nations. RLEMP's land use planning function will be this program's major link to other departmental initiatives through a proposed department-wide CCP strategy.

The objective of the AANDC's CCP strategy is to determine how it will support First Nations in the development of their comprehensive community plans that meets their overall needs. It seeks to integrate all AANDC sector programs in assisting First Nations in the development of their comprehensive plans.

ROLES AND RESPONSIBILITIES:

There is not a one-model process that will apply to all First Nations in developing land use plans. However, there exist a number of common elements in the process that will help determine if it will have a measurable chance of success.

The responsibilities for land use planning cannot be attributed to one person but will involve the whole community. For the purposes of the RLEMP land use planning activity, First Nation Lands Managers will ensure that a land use plan is in place and that it meets the criteria for funding under the program. To access the additional 5% for having a land use plan in place, she/he will then submit an application to the AANDC Regional Lands Office for approval.

Regional Lands Staff will review the First Nation application against the funding criteria for a land use plan, as set out in the section entitled Land Use Planning Standards and in the Approval Criteria Checklist For Land Use Planning Funding and provide the appropriate approval.

FUNDING FOR LAND USE PLAN DEVELOPMENT

RLEMP is not designed to fund First Nations in the development of a land use plan. For those First Nations that do not already have a land use plan but wish to create one, other sources of funding are available while other sources of funding may be linked to the CCP strategy. RLEMP supports AANDC's proposed CCP strategy and will provide an additional 5% of total land management funding to participating First Nations that possess an eligible land use plan. Once a plan exists, it is important to keep it "alive" by using it, referring to it, reviewing it and updating it as required. In order to sustain the 5% additional funding, the First Nation must be able to demonstrate the plan has been updated at a minimum every 3 years. These key ongoing activities will greatly benefit from the additional funds being provided by RLEMP.

Comprehensive Community-Based Planning and Community Physical Development Plans are included in the definitions of planning projects that may be eligible for funding from funds appropriated by Parliament for capital purposes.⁵

A further potential source of funding, if the proposal has an economic development aspect, is the Community Economic Opportunities Program (CEOP) and the Community Economic Development Program (CEDP) out of the Economic Development Branch.

These programs may provide First Nations interested in community planning the opportunity to obtain the funding resources required to carry it out.

⁵ AANDC Capital Program Directives 20-1, Volume 1, Chapter 6, PD 6.13

SUPPORT

Just as important as funding is the availability of real resources for undertaking community planning. Resources can include publications, presentations, training materials, workshops, existing community plans and models, amongst others.

First Nations wishing to develop land use plans may benefit from AANDC's CCP strategy which will generate a CCP inventory of available resources for First Nations interested in CCP. That inventory will form the basis of the CCP Toolbox. The inventory can also be used to assess what gaps exist and what tools and resources are missing.

In addition, First Nations who participated in the Sharing the Story-Comprehensive Community Planning project are willing to share the lessons learned and experiences gained as a means to improve opportunities for other First Nations to start and carry-out their own community-based planning processes.

LAND USE PLANNING FUNDING STANDARDS

RLEMP has established the criteria necessary for accessing the additional 5% for having a community land use plan. This is in the form of a checklist that will be used by regional officials to evaluate whether a land use plan created and submitted by a First Nation under RLEMP is eligible for the 5% additional funding. The funding criteria checklist is attached as Annex A hereto. The following general eligibility requirements for funding will apply:

First Nations participating in the new RLEMP that have reached the Operational or Strategic level must have an active land use plan and:

- the First Nation will have to demonstrate that it has a land use plan developed by the community;
- the Council of the First Nation adopts the plan;
- the land use follows principles of land use planning generally supported by the Canadian Institute of Planners;⁶
- the land use plan must incorporate compliance measures for the protection of the environment;
- that the land use plan is integrated within the principles of a comprehensive community planning approach;⁷
- that the land use plan has a regular review and approval process.

⁶ See Annex B- 'Statement of Values: Canadian Institute of Planners'

⁷ See AANDC's SDS 2004-2006, target 2.1.1

| | | |
|---------------|---------|----------------|
| First Nation: | Region: | Program Level: |
|---------------|---------|----------------|

APPROVAL CRITERIA CHECKLIST FOR LAND USE PLANNING FUNDING

A First Nation who has a community land use plan in place and it has reached the Operational or Delegated level will be entitled to an additional 5% of funding provided that it meets the criteria set out below.

General Criteria

- The First Nation has demonstrated that it has an operational land use plan developed by the community and that it has been adopted by Council
- The First Nation has adopted, either separately or as part of the land use plan itself:
 - a process for the regular public review and evaluation of the land use plan
 - a process for the evaluation and monitoring of projects carried out pursuant to the land use plan
 - a process for the amendment or modification of the plan (with community approval)
 - a redress or dispute resolution mechanism
- The land use plan follows and was developed following the principles of land use planning generally supported by the Canadian Institute of Planners⁸, including but not limited to that of community participation.

Land Use Plan Criteria

- Vision
- Statement that establishes the community’s direction or what it wants to achieve
- Principles
- Statement that presents the community’s values and principles
- Goals and Objectives
- Achievable targets that incorporate the community’s priorities
- Data and Analysis - what exists already

⁸ See Annex B – ‘Statement of Values: Canadian Institute of Planners’

Land Use Plan Criteria

- Review of Socioeconomic Elements (e.g., demographics - for housing requirements, schools and other services). Some First Nations may have this in the form of pre-existing capital and other plans that may be useable with little or no changes.
- Brief history of land use and the economy
- What issues and requirements exist within the community that may have a bearing on land use (needs relating to schools, health centres, etc.)
- Data such as but not necessarily limited to the following presented on map(s) and in accompanying documentation:
 - Topography (streams & rivers, wetlands, flood plains/hazards, coastal/riparian areas, steep slopes/cliffs, soils)
 - Existing land uses (agriculture, resource extraction pits, quarries, forestry, housing, industry/commercial, waste disposal/landfill sites, well sites, etc.)
 - Biophysical information (e.g., habitats of rare, threatened and endangered species/fish stocks, wildlife corridors, trapping & fishing areas, areas of {suspected} contamination)
 - Review of economic opportunities (land uniquely suited to particular economic uses - i.e., marinas, golf courses, industrial parks, natural resource identification, etc.)
 - Inventory of access and infrastructure (e.g., utilities, water/sewer, roads, railways, rights-of-way/easements, airstrips, community facilities), including where underutilised or unused
 - Traditional and Cultural sites (burial grounds, pow wow grounds)
 - Land tenure issues - both existing and potential (CPs, designations, provincial or federal ownership)
- Assessment of Developability - Determination and identification of areas that are suited to development based on constraint information from the previous section
- Constraints to new development may include environmental factors (topography, good soil, flood plains), cultural sites, existing development, etc.
- A Land Use Plan - a map that identifies areas suited for specific types of uses and the type and form of development those lands are suited for:
 - Projected types and location of roads/paths/trails
 - Nature, location and type of installations and infrastructure for the community's use
 - Nature and projected location of main water supply systems, drainage systems, etc.
 - Identification and location of zones to re-develop restore and protect (residential, commercial, public, industrial, etc.)
- Land Use Policies - the policy documentation addresses the general guidelines and strategies for all development within the study area (additional policies may be added to the Land Use/Community Plan as needs evolve during implementation and as these reviews are carried out):
 - provide direction for anyone who wants to develop or use the land
 - address water, sanitary sewer, storm sewer and roads

APPENDIX E1

- address referrals of projects under the *Canadian Environmental Assessment Act* (CEAA) and other review processes

It may also include:

- subdivision and building regulations (usually in separate land use bylaw document(s))
- housing policies and land allocations
- policies on non-membership use of the land
- direction for co-operative ventures with adjacent municipalities, AANDC, landowners and provincial agencies (esp. conservation authorities where they exist)
- policies regarding new and existing legislative requirements
- Addition to Reserve and/or off-reserve band land ownership considerations
- linking into a Community Environmental Sustainability Plan (also an RLEMP function)

First Nation Applicant

Date

Regional AANDC Representative

Date

Canadian Institute of Planners**Statement of Values:¹**

1. To respect and integrate the needs of future generations. CIP members recognize that their work has cumulative and long-term implications. When addressing short-term needs, CIP members acknowledge the future needs of people, other species and their environments, and avoid committing resources that are irretrievable or irreplaceable.
2. To overcome or compensate for jurisdictional limitations. CIP members understand that their work has a potential impact on many jurisdictions and interests. They must therefore practice in a holistic manner, recognizing the need to overcome the limitations of administrative boundaries.
3. To value the natural and cultural environment. CIP members believe that both natural and cultural environments must be valued. They assume roles as stewards of these environments, balancing preservation with sustainable development.
4. To recognize and react positively to uncertainty. CIP members believe that the long-term future is unpredictable and that adaptable and flexible responses to deal positively with this uncertainty must be developed.
5. To respect diversity. CIP members respect and protect diversity in values, cultures, economies, ecosystems, built environments and distinct places.
6. To balance the needs of communities and individuals. CIP members seek to balance the interests of communities with the interests of individuals, and recognize that communities include both geographic communities and communities of interest.
7. To foster public participation. CIP members believe in meaningful public participation by all individuals and groups and seek to articulate the needs of those whose interests have not been represented.
8. To articulate and communicate values. CIP members believe in applying these values explicitly to their work and communicating their importance to clients, employers, colleagues and the public.

¹ Source: Canadian Institute of Planners: <http://www.cip-icu.ca/English/members/practice.htm>

RLEMP COMPLIANCE FRAMEWORK

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- 6) Compliance Management Strategies:
 - a) First Nations Compliance Strategy
 - b) Specific Compliance Programs

B. Promotion and communication

- 1) AANDC's LTS Regional Communication Guidelines:
 - a) First Nation's Council and membership
 - b) Permittees, Lessees and Licensees
- 2) RLEMP First Nation's Practices:
 - b) a) Target audiences Delivery vehicles

C. Monitoring:

- 1) RLEMP First Nations:
 - a) Detecting offences/ Allegations
 - b) Methods of Compliance
- 2) RLEMP First Nation "Best Practices"
 - a) RLEMP First Nation's Reporting Mechanisms

D. Enforcement:

- 1) Deputy Minister's Directive on Enforcement
- 2) RLEMP First Nations Implementation:
 - a) Crown prosecutor's criteria and RLEMP understandings
 - b) Working relationship with enforcement agencies
 - c) Skilled Staff/Training
- 3) Non-compliance:
 - a) Risk Assessment:
 - i) Gather evidence
 - ii) Assess harm
 - iii) Consult Band Council
 - iv) Warnings
 - v) Encourage RLEMP First Nation Council action
 - vi) Minister's or Peace officers' seizure power
 - vii) Court injunction or civil litigation
- 4) Legal advice
 - a) DOJ's role
 - b) RLEMP and 53/60 First Nations

E. RLEMP Funding:

Worksheet # 1 – "5% Additional Funding for Compliance Framework"

RLEMP Compliance Framework**A. AANDC Compliance:****1) Issue:**

How can the Lands and Economic Development Sector (LED) of the Aboriginal Affairs and Northern Development Canada (AANDC), First Nation Councils, members, permittees, lessees and licensees best address compliance with the enforceable provisions of the *Indian Act* and regulations and other applicable laws?

Crown's and First Nation's duties and obligations, interests, current workload, limited resources and transfer of responsibility to First Nations through RLEMP are considered in this Guide.

2) Purpose of the RLEMP Compliance Framework:

The funding component of RLEMP is centred around land management activities and results based accountability structures. A 30% funding component of RLEMP is allotted for compliance functions.

Furthermore, and in order to receive an additional 5% funding for having a Compliance Framework under the RLEMP, the First Nation must complete the attached Worksheet appended to this Guide which requests an in-depth analysis and the publication of an annual report including the results.

To sustain the 5% additional funding level, the RLEMP Compliance Framework must be revised and the Worksheet updated every 3 years.

3) Who should comply:

Compliance can take many forms, will vary with the laws or terms which are being enforced and will affect the following key players:

- a) **Public and First Nation membership:** compliance by the public and First Nation membership with federal environmental legislation such as the *Fisheries Act*, the *Canadian Environmental Protection Act* or the *Transport of Dangerous Goods Act*;
- b) **First Nation Councils:** compliance by First Nation Councils with the Terms and Conditions of funding agreements with AANDC and all applicable laws;

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- c) **AANDC:** compliance by AANDC with federal laws such as the *Financial Administration Act* (FAA), the *Canadian Environmental Protection Act* (CEPA), the *Canadian Environmental Assessment Act* (CEAA) or, the *Species at Risk Act* (SARA);
- d) **Grantees:** compliance by holders of leases, licenses and permits issued by RLEMP First Nations with the Terms and Conditions in those instruments.

4) Benefits to RLEMP First Nations on completing compliance:

Compliance is a critical function and the main benefits to RLEMP First Nations are related to the following options:

- **Protecting First Nation interests:** This objective encompasses preserving land and resources, protecting health and safety and collecting revenues.
- **Protecting Crown interests:** To ensure that the compliance function is managed in a manner which minimizes negative impacts on the Crown (e.g., litigation, etc.).
- **Fulfilling legal obligations:** To focus on upholding the law, fulfilling contracts and meeting fiduciary obligations.
- **Supporting self-government:** To manage compliance in a manner which facilitates the transfer of this function to First Nation control and its inclusion in self-government regimes.
- **Effectively managing resources:** This objective focuses on effective management of reserve and designated lands and the resources located on these lands.

5) Risk Management: Objectives and tools

Generally, a compliance program is a risk management system intended to address professional liabilities issues but also a series of legal and regulatory risks.

a) **Objectives:** Address contraventions to *Indian Act* and regulations, environmental legislation and other applicable laws.

RLEMP First Nations' compliance objective in addressing contraventions of the *Indian Act* and its regulations should be to achieve the implicit purposes of the *Indian Act* and by upholding legal obligations. These implicit purposes include achieving land and resource administration objectives; securing economic benefits for First Nations; protecting First Nations lands, resources and environment; fostering the health and safety of First Nations residents; strengthening First Nations governance; protecting the personal property of individual Indians; and protecting First Nation property of spiritual or cultural significance.

b) **Tools:**

1) **Alternative Dispute Resolution:**

Alternative dispute resolution involves methods of resolving disputes other than through litigation. RLEMP First Nations should consider the three following methods:

i) **Mediation:**

Mediation is a process of dispute resolution focused on effective communication and negotiation skills. The mediator acts as a facilitator assisting the parties in communicating and negotiating more effectively, thereby enhancing their ability to reach a settlement. It generally enjoys a high success rate as the resolution is created by the parties and is focused in resolving the problem quickly and at low cost.

ii) **Arbitration:**

Arbitration is a procedure for the resolution of disputes on a private basis through the appointment of an arbitrator, an independent, neutral third person who hears and considers the merits of the dispute and renders a final and binding decision called an award.

iii) **Mini-trial:**

The Mini-trial is not really a trial but a combination of negotiation, mediation and adjudication processes. In this process, the parties select a mutually acceptable adjudicator, to preside over an abbreviated hearing and to render an opinion as to the likely outcome of the matter at trial. The adjudicator has no authority to make a binding decision other than on procedural matters relating to the mini-trial. Counsels for each disputant make a summary presentation of their case to the adjudicator. The adjudicator will render an opinion as to the likely outcome of the matter at trial if the parties are unable to negotiate a settlement.

2) **Monitoring and enforcement actions:**

Enforcement, or taking action against persons who are not in compliance, is only one tool for achieving the implicit purposes of the *Indian Act* and other applicable laws. Monitoring, for the purposes of detecting contraventions, is also important. It is impossible to take enforcement action when one is not aware of an offence. Voluntary compliance with the *Indian Act*, regulations and other applicable laws through the terms of tenancy instruments and communication/promotion initiatives reduces the need for monitoring, enforcement and remedial actions. Achieving First Nations' compliance objective would normally require the balancing of educational, communication, monitoring and enforcement activities.

In many cases, people would be prepared to comply if they: a) knew the law b) understood the purposes of the law c) saw how the law benefited them d) knew how to comply e) understood the penalties for non-compliance, and believed that non-compliant activity would be detected.

6) **Compliance Management Strategies:**

A key step in managing compliance is the compliance management strategy that should be developed at the RLEMP First Nation's level.

i) **First Nation Compliance Strategy:**

Treasury Board recommends a systematic process for developing compliance policies. The process involves, among other things, identifying the desired or undesired types of behaviour, the regulated group and the factors that determine whether they will comply, and developing a balanced strategy that includes promotion/communication, education, monitoring and enforcement activities.

ii) **Specific Compliance Programs:**

(Environment, Economic Development, Capital, Community Planning, Finance/Funding, etc.)

RLEMP First Nations' officials face a variety of compliance situations requiring that a strategic approach be envisaged with clear roles and responsibilities for key authorities (enforcement agencies, Crown prosecutors, AANDC sectors and RLEMP officials). A strategic RLEMP approach also envisages the identification of the regulated group and a clear understanding of the factors that affect their compliance. These factors can be summarized as follows:

- . Understanding of regulatory objectives
- . Acceptance of regulatory objectives
- . Enforce ability of rules
- . Capability of compliance
- . Social and psychological factors
- . Economic considerations
- . Capacity of regulatory program to monitor and enforce compliance

B. Promotion and communication:

1) AANDC's LTS Regional Communication Guidelines:

a) First Nation's Council and membership:

To support First Nation self-reliance in the management of their lands and resources under RLEMP. On communications, the AANDC's LTS Guidelines for Dealing with *Indian Act* Offences issued April 30, 1998, states:

"LTS should support the development of adequate capacity with First Nations governments to exercise increasing self-reliance in the management of their affairs. Therefore, on a regional basis and in consultation with First Nations, LTS should develop and implement plans, as appropriate, to address the following purposes":

- (i) create an awareness of required behaviours under the *Indian Act* and its regulations;
- (ii) explain the benefits of compliance with the *Indian Act* and its regulations, and the consequences of non-compliance;
- (iii) provide information on how to comply;
- (iv) facilitate reporting of offences;
- (v) increase First Nations capacity to comply;
- (vi) increase First Nations capacity to monitor for offences by others; and
- (vii) increase First Nations capacity to take enforcement action when required.

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b) Permittees, Lessees and Licensees:

Wherever possible, RLEMP First Nations will seek grantees' compliance through promotion and cooperation in making every effort to:

- Share information and views by making key players and grantees aware of relevant facts and positions while maintaining confidentiality.
- Encourage and rely on voluntary compliance by preserving the value of community land and resources.
- Address breaches and defaults on a cooperative basis by repairing damages through cooperation with grantees and other key players.
- Resolve disputes through consensus by making every reasonable effort to first resolve them on an informal or cooperative basis.
- Reserving arbitration and the courts as a last resort by using processes which avoid or minimize any adversarial approach.

2) RLEMP First Nation's Practices:

Federal legislation deals with specific issues. The *Indian Act*, however, deals with a wide range of issues, including land administration, environment, natural resources, waste sites, traffic, elections, and items of cultural and spiritual value. Since resources are limited, RLEMP First Nations should identify those issues of strategic importance to their particular areas. Factors to consider include potential for harm for the First Nation from acts of non-compliance, the frequency of these acts, the effectiveness of compliance remedies, the role of the RLEMP First Nation in compliance remedies, potential liabilities for the First Nation or Federal Crown, and alternative mechanisms for dealing with the issues.

Target audiences:

For any issue, the strategy should address the seven communication themes identified in the above AANDC's LTS Regional Communication Guidelines (April 30, 1998). For each theme, the strategy should articulate key messages to be communicated and target audiences for those messages. Target audiences are generally First Nation's members, administrators and councils, companies seeking or holding permits, leases or licenses, associations, AANDC sectors and provinces.

Delivery vehicles:

An RLEMP First Nation's communication strategy should also outline the key vehicles to deliver key messages to target audiences. There may be scope to consolidate these key messages under different themes, and deliver the consolidated information on an integrated basis through a limited number of delivery vehicles. The delivery vehicles that are most often used are workshops, conferences, seminars, courses, meetings, telephone conversations, advertisement, newspaper articles, mail outs and speeches.

C. Monitoring:

1) RLEMP First Nations:

i. **Detecting offences/ Allegations:**

The AANDC's LTS Guidelines on Dealing with *Indian Act* Offences of April 30, 1998 states:

"LTS should rely on First Nation Councils and members to report offences under the Indian Act and its regulations. "

Regarding monitoring/detecting offences, RLEMP First Nations typically face a range of scenarios. Examples include:

- a) RLEMP First Nations have no obvious reason to suspect an offence has been committed. An example: illegal activities occurring in a remote area of the Reserve.
- b) RLEMP First Nations suspect or should suspect an offence is being committed. An example: a First Nation development corporation is involved in logging, but does not have timber permits or licenses.
- c) RLEMP First Nations know an offence is being committed but do not know who is committing the offence.
- d) RLEMP First Nations have received an allegation and are handling written material such as correspondence in relation to the allegation.
- e) RLEMP First Nations receive a request from an enforcement agency to turn over information about a person that is in First Nation's possession.

The document "INAC's Managing Legal and other Obligations", issued in September 1999, provides further guidelines on how to deal with these scenarios.

ii. **Methods of Compliance:**

Compliance monitoring consists of a wide range of activities in six basic categories, as follows, which may overlap:

- Surveillance**
Surveillance is generally a pre-inspection activity which consists of obtaining general site information prior to actually entering the facility. Examples may include ambient sampling at the property line or observations of activity at the site.
- Inspections (on site)**
Inspections may include record reviews, observations, sampling, interviews, etc., and may be single or multi-media, facility or industry sector-based, or have a geographic or ecosystem focus.
- Investigations**
Investigations are generally more comprehensive than inspections and may be warranted when an inspection or record review suggests the potential for serious, widespread, and /or continuing civil or criminal violations.
- Records review**
Review of computerized monitoring systems (i.e., NetLands) and record reviews may or may not be combined with field work. Records may be derived from routine self-monitoring requirements, inspection reports, citizen/employee tips, or remote sensing.
- Targeted information gathering**
Targeted information gathering may be used to provide or acquire more accurate information on the status of compliance and/or environmental conditions.
- Remediation compliance monitoring**
Remediation compliance monitoring of work required by regulation, permit, order or settlement includes ensuring timely submissions, review of submittals for adequacy, and oversight of remedial activities (may include sampling, sample analysis, observations, issuance of information requirement letters or subpoenas and ensuring data quality).

2) RLEMP First Nation “Best Practices”:

- ❑ **Self-Monitoring:** Enforcement of all terms which require grantees to submit acceptable evidence of compliance at their own expense. Encourage grantee groups to monitor their agents, sub-tenants and other invitees allowed under the terms of the instrument, or face possible penalties under the terms of the instrument.
- ❑ **Third Party Monitoring:** Wherever possible, ask other groups and agencies with an interest in monitoring a particular item to do so. This would normally include enforcement and regulatory agencies, beneficiaries, First Nation Councils, and interested third parties.
- ❑ **Monitoring by the federal, provincial or municipal authorities:** There is often potential for support by other authorities. Willingness of other parties to participate or play a role in monitoring and enforcement should be investigated.
- ❑ **Whistle Blowing:** Encourage all those with an interest in enforcing any item to report any information which may assist with the monitoring of the instrument.
- ❑ **Cost Recovery:** Wherever possible, seek to recover inspection costs from grantees, beneficiaries or other interested parties.
- ❑ **Audit and inspection programs:** These should be designed to supplement and take maximum advantage of other compliance monitoring systems that may be established. By focusing programmed inspections on high risk areas or on members of a regulated group who have poor records of compliance, the effectiveness and efficiency of a regulatory program can be increased. With more people monitoring, more violations are more likely to be detected. If the likelihood of detection is increased, and an effective response from officials is assured, compliance should be enhanced.

RLEMP First Nation’s Reporting Mechanisms:

- ❑ establishment and promotion of hot-lines or other mechanisms so that First Nations members and third parties can report unauthorized activities.
- ❑ establishment of RLEMP First Nation’s procedures for acting on reported activities.
- ❑ making the reporting of offences the responsibility of all RLEMP First Nation’s employees.
- ❑ encouragement of RLEMP First Nations to develop monitoring and detection programs through the provision of “how-to” information.
- ❑ establishment of arrangements with third parties who are both in a position to determine whether offences are occurring and to encourage those who have an interest in reporting offences to report offences (Canadian Forest Service, provincial transport, environment and forestry departments, etc.).
- ❑ establishment of RLEMP First Nation MOUs with enforcement agencies (tribal police, provincial or RCMP) on respective roles of RLEMP First Nations and the agencies with respect to monitoring and enforcement.

D. Enforcement:

1) Deputy Minister's Directive on Enforcement:

On May 8, 1998, AANDC's Deputy Minister, Scott Serson, articulated AANDC policy with respect to enforcement in a letter to Regional Directors General and stated:

When officials of the Department of Indian Affairs and Northern Development (DIAND) become aware that one or more persons, Councils or other organizations have contravened the *Indian Act* or its regulations, DIAND must consider enforcement action in all circumstances.

It is also important that DIAND document a) offences that it becomes aware of; b) enforcement actions that it took; and c) the rationale for the enforcement actions taken.

2) RLEMP First Nation Implementation:

a) Crown prosecutor's criteria and RLEMP understandings:

It is often difficult to pursue prosecution options because Crown prosecutors are reluctant to prosecute, given, in particular, the low fines under the *Indian Act* and regulations. A meeting is suggested.

In dealing with prosecutors, you may wish to make some key points:

- Consequences of illegal activities (land or agricultural activities, timber harvesting, mineral removal, waste disposal or buckshee arrangements, etc.). Unregulated activities typically lead to the First Nation's loss of revenues (stumpage fee, mineral royalty, rent, other fees), loss of jobs to the extent that outside contractors carry out the work, environmental damage related to non sustainable or non professional practices, road construction, and inadequate closure and rehabilitation of the site at the end of the activity or operation.

RLEMP First Nations should base enforcement actions on theft under the Criminal Code, or civil action, or seizure of goods, rather than the relatively minor penalties allowed under the *Indian Act*, or some regulations.

b) Working relationship with enforcement agencies:

It is a good idea to attempt to establish a working relationship with enforcement agencies (First Nation's police forces, RCMP, Provincial, Municipal, other departments, etc.) and RLEMP First Nations. Issues include:

- What are the respective roles and responsibilities of the enforcement agencies;
- To what extent and in what circumstances should RLEMP First Nations investigate contraventions of the *Indian Act* before turning files over to the enforcement agencies;
- When RLEMP First Nations should carry out the seizure and when should the enforcement agencies carry out the seizure;
- Where RLEMP First Nations carry out the seizure, what support can they expect from the enforcement agencies;
- What is the process for turning files over to the enforcement agencies.

In many instances, RLEMP First Nations are often in the best position to investigate the incident site, either because they observe illegal activity (e.g., non-licensed land or agricultural activities, timber harvesting, illegal removal of sand, gravel, and timber from a reserve, or non-permitted operation of a waste site, or the illegal discharge of hazardous materials into fish bearing waters, etc.), or can readily access the incident site as part of their jobs. In these situations, RLEMP First Nations would normally be in a better position to investigate the site than any other enforcement authorities.

However, RLEMP First Nations are not trained in interviewing witnesses, and would not normally be expected to interview witnesses, except when the witnesses and RLEMP First Nations are both at the incident scene, in which case it may be convenient for RLEMP First Nations to collect witness statements.

RLEMP First Nations would not normally be expected to interview accused persons and are not trained in search and seizure procedures, particularly as they relate to the gathering of evidence.

c) Skilled Staff/Training:

Options include hiring persons with compliance management experience and enforcement training, training existing staff members, and using non-training techniques to upgrade staff skills and knowledge. Non-training techniques include provision of how to guides, access to qualified sources of advice, conferences and workshops.

3) Non-compliance:

a) Risk Assessment:

i) Gather evidence:

RLEMP First Nations would ideally function in an environment in which the First Nations have negotiated arrangements with the enforcement agencies to sort out relative responsibilities for gathering evidence.

Evidence gathering activities would normally include investigating the scene of an incident. Investigative techniques would likely include management of the incident scene, still and video photography, note taking, taking of witness statements, handling of physical evidence, anger management, etc. Upon receiving a request for assistance or investigation of an incident, contact persons at the scene to ensure that they are protecting and securing it to preserve physical evidence (see Compliance with the *Indian Act* - Field Guide for DIAND Staff, Feb. 2001, p. 23).

ii) Assess harm:

How RLEMP First Nations would assess harm (damage or hurt) depends on the section of the *Indian Act*, its regulations or other applicable legislation which has been contravened, and the implicit purpose of these sections. Examples of harm are summarized below.

Where someone has carried out an activity without a lease, license, permit or other form of authorization where a lease, license, permit or other form of authorization is required under the *Indian Act* or other applicable legislation, RLEMP First Nations should assess harm in terms of what would have occurred under the lease, license, permit or other authorization by addressing questions such as whether an environmental assessment was carried out, whether revenues were adequate and utilized for community purposes, and whether activities were carried out in accordance with industrial and other relevant standards reflected in leases, licenses, permits or other authorizations.

Where there is no harm, and where it is unlikely that prosecution would deter future non-compliance, there may be little point in further action. In this case, RLEMP First Nations should document the harm, provide an explanation why prosecution of the offence would not be useful, and close the file.

iii) Consult Band Council:

In some situations a Council or First Nations member might be guilty of an offence or has permitted someone to exercise rights not in compliance with the *Indian Act*. AANDC should notify RLEMP First Nation Council and seek the Council's written assessment as to whether harm has occurred, and if so, the Council's plan to rectify past harm and prevent future harm.

As a general rule, AANDC should communicate with RLEMP First Nations regarding enforcement actions, and should take unilateral action as a last resort only where there is harm, and where one or more First Nation Council members have benefited personally from non-compliance, or where First Nation Councils do not respond or respond inadequately to AANDC requests for input into enforcement decisions.

Where Councils do not respond within a reasonable period of time, AANDC should assess whether harm has resulted or will result. Where there is no past harm or likelihood of future harm, AANDC does not need to take further action unless exceptional circumstances warrant further action. Where there is harm, AANDC could utilize its enforcement powers unilaterally as follows:

- (i) notify the appropriate enforcement agency or police department of the offence or lay a charge,
- (ii) exercise its seizure powers if appropriate,
- (iii) issue close orders or clean-up orders if appropriate and if a conviction is secured.

iv) Warnings:

Telephone conversations should be documented so that if further actions are required, it is clearly documented on the file. Warnings, whether verbal or written, can be effective where those contravening the *Indian Act*, its regulations or applicable legislation are unaware that they are contravening the legislation, or believe their contraventions are going undetected, or if detected will not be acted upon. Generally, written warnings are preferred to verbal warnings, because they can be used more readily as evidence in any subsequent trial. In many cases, a verbal warning can be followed by a written warning.

It will generally be easier to deal with specific cases quickly and promptly if there is an RLEMP First Nation understanding with enforcement agencies regarding enforcement of the *Indian Act*. Because enforcement agencies deal extensively with Crown prosecutors in deciding whether to prosecute particular offences, it is equally important to have an understanding with Crown prosecutors about the importance

of prosecuting *Indian Act* offences, despite the low fines.

v) **Encourage RLEMP First Nation Council action:**

RLEMP First Nation Council actions can include civil action, or the laying of charges with a court, or the referral of the matter to enforcement agencies, or the carrying out of other measures available to Councils, against those who have contravened the *Indian Act*, its regulations or other applicable laws.

In some instances, Councils have the same enforcement options as AANDC (e.g., turning the file over to an enforcement agency). Often, civil action is an enforcement option that is more readily available to RLEMP First Nations than AANDC as the First Nations are better placed to win natural resources related actions. They have been directly impacted in terms of the loss of an asset.

Where Councils wish to address contraventions, they should generally be encouraged to do so.

vi) **Minister's or Peace officers' seizure power:**

Seizure has two roles in enforcement situations. Seizure is often important in gathering evidence. Where seizures are not carried out properly, the evidence so gathered is jeopardized. Such seizures should normally be carried out only with search warrants.

Under the *Indian Act*, seizure is often a tool for capturing mobile assets such as timber, minerals, agricultural products and property that is being inappropriately traded, before it disappears.

Under section 103(1) of the *Indian Act*, a peace officer, superintendent or person authorized by the Minister may seize goods and chattels when there are reasonable grounds to believe that offences have been committed. This raises the possibility of either a department compliance officer, an RLEMP or a peace officer carrying out the seizure.

Where a person is convicted of an offence in relation to the goods and chattels, the convicting judge may order that the seized goods and chattels be forfeited to the Crown to be disposed as the Minister of Indian Affairs directs.

Where RLEMP First Nation enforcement agreements with agencies are in place, this issue should be addressed within those agreements.

vii) Court injunction or civil litigation:

Court injunctions can order individuals to stop carrying out particular activities. Consult with legal services regarding the appropriate use and circumstances for seeking injunctions.

A primary advantage of civil action by RLEMP First Nation or AANDC is that a successful action is likely to impose a significantly higher damage award on the defendant than a fine in a prosecution under the *Indian Act*, which provides for maximum fines of \$1,000.

The fact that the RLEMP First Nation is more often the injured party or having lost potential revenue from illegal activities, the First Nation is in a better position to win civil actions than AANDC.

Factors to consider in deciding whether to launch a civil action include:

- What is the basis and likelihood of RLEMP First Nation or AANDC winning the action?
- What is the likelihood that the defendant would be able to pay damages?
- What will the litigation cost?
- What precedents or consequences, if any, would be set by an RLEMP First Nation or AANDC outcome?
- What messages would be communicated by the launching of the action, regardless of the outcome? Would the launching of the civil action deter future contraventions of the *Indian Act* and its regulations?

4) Legal advice:

a) **Department of Justice (DOJ)'s role:**

DOJ's role is to provide effective stewardship of the justice system in providing high quality legal service and policy advice, and counsel to AANDC. However, DOJ advice is not directly available to RLEMP and s.53/60 First Nations.

b) **RLEMP and 53/60 First Nations:**

a) *Indian Act*. RLEMP First Nations with delegated authority and 53/60 First Nations can be agents of the Crown.

b) *Canadian Environmental Assessment Act*. Even if those First Nations can be agents of the Crown, they are not federal authorities within the meaning of CEAA. Therefore, CEAA would not apply to projects on their reserves unless the First Nation Council is caught by an EA regulation or the projects are triggered in some other way (i.e., federal funding, CEAA triggers as outlined in the AANDC Lands Management Manual – Chapter 12 or certain federal authorizations under the *Fisheries Act* or *Navigable Waters Act*).

In federal funding cases, AANDC may delegate the performance of the Environmental Assessment (EA) to the First Nation, but cannot transfer the environmental decision-making authority to the First Nation.

E. RLEMP Funding:

The funding formula is based on the following compliance considerations:

1. A 30% calculation has been allotted for compliance functions (promotion, monitoring, enforcement and remedial action)
 - a) to be performed by the First Nation with respect to land management activity.
 - b) with respect to roles and responsibilities to be performed by the First Nation which are not tied directly to land management activity (i.e., mediation/dispute resolution, inquiries, etc.).

APPENDIX E2

2. In order to receive the additional 5% funding for having a Compliance Framework under the RLEMP, the First Nation must do the following:

- conduct an in-depth analysis on how the First Nation intends to manage their lands and natural resources:
 - a) outline objectives or what factors will influence its success,
 - b) outline the activities that must be complied with and the enforcement criteria to be used (i.e., warnings, sanctions, cancellation of agreements, court injunctions, etc.):
 - i) promotion/communication
 - ii) monitoring
 - c) outline what tools they have or will need to obtain to achieve enforcement (systems, records, templates, equipment, etc.),
 - d) outline how they will assess compliance performance (service standards),
- publish an annual report recording the results of the in-depth analysis.

(See Worksheet # 1 – “5% Additional Funding for Compliance Framework”)

The RLEMP Compliance Framework is valid for a 3 year period. Thus, to sustain the additional funding level, the RLEMP First Nation will have to revise and update the attached **Worksheet # 1 – “5% Additional Funding for Compliance Framework”** at the end of the three year period.

Worksheet #1

“5% Additional Funding for Compliance Framework”

1.0. **Conduct an in-depth analysis on how you intend to manage your lands and natural resources. Provide a comprehensive description of how your community will develop and implement your strategy.**

a) **Objectives:**

- Outline the objectives or factors that will address liability issues and legal obligations;

b) **Promotion:**

- How will you create community awareness of required behaviours under the *Indian Act*, Regulations, By-laws and all other pertinent legislation?

- How will you communicate the benefits of compliance and the potential consequences of non-compliance?

- How do you plan to increase community capacity to take enforcement action when required?

- How will you make monitoring for offences and reporting a community responsibility?

c) **Monitoring:**

- How will you facilitate the reporting of unauthorized activities - development of reporting mechanisms?

- How will you develop enforcement procedures for reported offences?

- How will you develop monitoring and detection programs?

- How will you establish cross agency contacts / agreements for offences (Environment, Fisheries, Natural Resources, Transportation, etc.)?

- How will you establish MOUs with local law enforcement agencies?

d) **Enforcement:**

- How will you assess damage or harm?

- How will you develop mitigative/corrective measures?

- How will you report offence to appropriate agencies?

- How do you plan to investigate - gather evidence?

- How do you plan to consult Band Council and secure action on offences?

- What is your plan to mediate or secure voluntary compliance?

- How do you plan to issue warnings (verbal/written)?

- What is your plan in respect to referring offences to appropriate agency?

- How do you plan to lay an information/ charge before a Court?

- What is your plan to stop illegal activities - Court injunction?

- What is your plan in respect to the Minister’s seizure powers to capture mobile assets?

- When do you plan to seek the use of enforcement agency seizure powers?

- How will you negotiate offender agreement?

- What is your plan for testifying in Court?

- What is your plan for the issuance of close/clean orders(waste)?How do you plan to cancel agreements?

- How do you plan to cancel agreements?

- How will you take other action (specify)?

- How do you plan to close files?

2.0. Publish an annual report to membership indicating the results of compliance performance;

Appendix E3

The following are instrument based compliance activities that a First Nation / First Nation Land Manager needs to ensure are conducted. However, it should be noted that they are not limited to the following activities as there may be other activities that need to be performed in addition to the activities identified in the following checklist.

PROMOTION CHECKLIST

| | |
|---|---|
| ✓ | With respect to the reserve environment: |
| | 1. Promote education and communication initiatives that seek to secure voluntary compliance because this reduces the need to monitor and enforce. |
| | 2. Promote an awareness of the benefits of a land management system and land use plan to First Nation Council (e.g., have another First Nation share their experience with their land management system or land use plan). |
| | 3. All interested parties should have the chance to offer their views and assist in planning and executing monitoring strategies. |
| | 4. Ensure First Nation Council is aware, at the time of developing leases, licenses and permits, that the revenues derived from this activity should not be considered unencumbered revenues, but that the First Nation will likely face costs related to these activities for roads, sewers, water supplies, etc. |
| | 5. Use information systems which will allow the First Nation to determine if potential lessees, licensees and permittees have good compliance records or poor track records. |
| | 6. Require that qualified assessors conduct an environmental site assessment to determine the condition of the land prior to issuing any instrument. Land tenure should not be approved until such time as the condition of the land is suitable to support the proposed activity. As well, require developers to summarize past history on reserve lands, as a condition of being considered for a lease, license or permit. |
| | 7. Communicate what Terms and Conditions should be included in agreements via pamphlets, letters, newsletters, and, if available, via First Nation website. |
| | 8. Establish a compliance framework for the First Nation. |
| | 9. Ensure monitoring and enforcement procedures exist and are followed. |
| | 10. Ensure the First Nation Land Manager receives the basic training required to be able to recognize when professional advice is necessary and how to use it. |

Appendix E3

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| ✓ | With respect to Terms and Conditions in leases, licenses and permits: |
| | 11. Build sanctions into leases, licenses and permits to come into effect in the event of breach of a covenant such as remediation provisions for damages, penalty clauses, more stringent reporting requirements, personal guarantees, performance bonds, etc. |
| | 12. Build low-cost alternative dispute resolution mechanisms into agreements (e.g., mediation and arbitration). |
| | 13. Before issuing or renewing an instrument: - ensure the terms are manageable and that the ability to monitor is available - assess the existing infrastructure for wear and tear and determine whether or not it will last for the term of extension - modify the instrument to reflect current conditions and any additional monitoring requirements that may now apply. |
| | 14. When an instrument has expired or will expire: ensure that all terms of the instrument have been fulfilled and that any de-commissioning has or will be done to an acceptable standard. |
| | 15. Complete environmental assessments/utilize First Nation expertise in the completion of environmental assessments. |
| | 16. If environmental assessments are being completed by a professional on behalf of the First Nation, encourage the individual who will be completing environmental assessments to utilize the First Nation's traditional ecological knowledge to ensure adequate environmental mitigation measures are built into leases, licenses and permits. |
| | 17. If the First Nation will be collecting rents based on negotiated agreements (leases, licenses and permits), ensure that procedures are established in those agreements clarifying the obligation of the lessees, licensees and permittees to pay GST as a federal requirement. |
| | 18. Build Terms and Conditions in leases, licenses and permits to require agreement holders to secure and pay for the services of independent third parties (e.g., lawyers, engineers, accredited foresters) to verify Terms and Conditions have been complied with (<u>because monitoring compliance is expensive</u>). |
| | 19. Create longer-term agricultural leases versus shorter ones to give farmers incentive to adopt good agricultural practices. |
| | 20. Include provisions in agreements clarifying the monitoring and enforcement roles. |

Appendix E3

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| ✓ | With respect to knowledge, skills and perceptions of agreement holders: |
| | 21. Provide general (computer generated) information packages to prospective agreement holders on leasing, licensing and permitting on reserve lands. |
| | 22. Provide general (computer generated) information packages to the First Nation Councils, for possible distribution at information meetings related to designations, to inform community members about the purpose of key provisions in the instruments and how they will be enforced. |
| | 23. Conduct workshops and seminars for prospective developers on leasing, licensing and permitting. |
| | 24. Advise prospective lessees, licensees and permittees to seek independent legal and other advice on agreements. |
| | 25. Draft agreements in plain language so that lessees, licensees and permittees are aware of their obligations in the agreements. |
| | 26. Use bold type to highlight primary obligations in the agreements OR create a separate supplemental one-page document to be presented to agreement holders at the time of signing, to explain in simple language: - their primary obligations (e.g., payment of rent and GST, provision of insurance certificates, Canadian Environmental Assessment Agency (CEAA) mitigation requirements and payment of taxes and utilities - the roles and responsibilities of AANDC and First Nations - third party responsibilities (e.g., to monitor activities within their jurisdiction and report any breaches). |
| | 27. Explain verbally, during the negotiation process, the agreement holder obligations under the agreement. |
| | 28. Provide information on good practices to lessees, licensees or permittees either through computer-generated sources or available government materials. |
| | 29. Take measures to convey the impression that compliance will be monitored. |
| | 30. Take measures to convey the impression that detected non-compliance (as per the original Terms and Conditions inserted in the instrument) will be dealt with aggressively. |
| | 31. Convey to agreement holders that AANDC and/or the First Nation will be particularly monitoring for compliance in key areas (e.g., storage tanks, waste disposal) to encourage agreement holders to adopt good practices. |
| | 32. Encourage prospective lessees, licensees and permittees to meet with the First Nation Council to clarify respective roles and responsibilities. |
| | 33. Ensure lessees, licensees and permittees are aware of policies and |

Appendix E3

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| | procedures related to responding to non-compliance. |
| 34. | Utilize NALMA Gateway which would potentially allow problems to be posted and solutions put forward to solve complex compliance problems. |
| 35. | Make First Nation Councils aware of the objectives of licenses, leases and permits for natural resources, namely economic benefits to the First Nation, environmental protection and stewardship and provide technical information on specific concerns (e.g., over-cutting of timber on community lands, clearcutting, environmental impacts of mining, etc.). |
| 36. | Make First Nation Councils and locatees aware of the provisions of the <i>Indian Act</i> , the <i>Indian Timber Regulations</i> , and the <i>Indian Timber Harvesting Regulations</i> related to natural resource offences through letters, meetings, etc. |
| 37. | Encourage First Nation Councils and locatees to negotiate solutions for revenue sharing from natural resources on locatee land in advance of specific developments through meetings, letters, etc. |
| 38. | Make First Nation Council aware of purposes, consequences and AANDC requirements with respect to logging plans or mine development and rehabilitation plans well in advance of actual projects. |
| 39. | Speed up agreement processing time by having departmental pre-approved standard documents for land natural resource instruments. |
| 40. | Publicize the detection of unauthorized activities, to create the impression that these activities are being detected regularly, as well as the enforcement procedures to be put into action and successful enforcement actions taken to create the impression that those who break the law will be punished. |
| 41. | Provide (computer generated) reports to locatees on the status of their leases, licenses and permits, including rents collected, rents due, inspections carried out, inspections planned, etc. |

Appendix E3

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| ✓ | With respect to detecting non-compliance: |
| | 42. Promote use of land management systems (e.g., land use plans, zoning, by-laws, etc.) to control developments on locatee lands. |
| | 43. Encourage First Nation agreements with providers of key services (e.g., electricity, gas, water, sewer, roads, telephone, cable) to not provide such services without First Nation confirmation that First Nation by-laws and lease terms have been complied with. |
| | 44. Address overall monitoring responsibilities and opportunities during the lease, license or permit negotiations, and formalize any agreements made in writing. |
| | 45. Promote the benefits of monitoring, and the costs of not doing so. |
| | 46. Include provisions in agreements clarifying the enforcement roles (e.g., negotiation of remediation measures to be played by First Nations, rather than AANDC). |
| | 47. Establish and promote a hotline for reporting breaches and formally acknowledge reported breaches to create confidence that the report is being acted on. |
| | 48. Put Terms and Conditions in agreement compelling the lessees, licensees and permittees to deal with the First Nation, rather than AANDC, to resolve monitoring and enforcement issues quickly. |

The following are instrument based compliance activities that a First Nation / First Nation Land Manager needs to ensure are conducted. However, it should be noted that they are not limited to the following activities as there may be other activities that need to be performed in addition to the activities identified in the following checklist.

MONITORING CHECKLIST

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| ✓ | With respect to monitoring: |
| | 1. Consider statutes (e.g., <i>Indian Act, Fisheries Act, Canadian Environmental Protection Act (CEPA)</i> , etc.) and compliance policies. |
| | 2. Consider First Nation by-laws and zoning requirements. |
| | 3. Utilize established monitoring procedures. |
| | 4. Prepare an annual monitoring strategy that will meet the following requirements: <ul style="list-style-type: none"> - must be based on an assessment of the risks, costs and benefits on monitoring options for all active land and resource instruments; - must cover off all basic and legal requirements and address the highest priorities within existing resources; - ensure that the timing and frequency of monitoring will be effective in preventing or correcting problems; - include activities aimed at gaining, keeping or using the support of other parties to monitor effectively; - consider the best use of resources to meet monitoring goals (<i>Note: First Nations funded for instrument administration must prepare an annual monitoring strategy according to Land Management Manual, Directive 8-3</i>). |
| | 5. Create/use a checklist for monitoring purposes to avoid overlooking some critical elements, especially in major incidents. |
| | 6. Monitor based on priorities (e.g., major risk to health, safety, lands, resources, environment or personal liability; legal requirements under an applicable statute or the Terms and Conditions of an instrument which direct or promise that monitoring will take place; issues which could have a major impact on the First Nation; benefits of monitoring outweigh the costs of not monitoring; action taken is likely to prevent or correct problems). |
| | 7. Identify potential allies with an interest in reporting non-compliance and include activities to enable these parties to report non-compliance. |
| | 8. Develop an inventory of services which AANDC or other federal or provincial departments can provide, along with contact information. |
| | 9. Ensure you have appropriate tools for monitoring (camera, measuring devices, notebook, etc.). |

APPENDIX E4

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| | <p>10. Contract for services with PWGSC, private companies, tribal councils, other First Nations, etc., if you do not have the technical expertise to monitor compliance (e.g., with building codes, development plans, boundaries, environmental requirements, good practices, tank management, waste management) or to assess damage and determine remediation measures in the event of non-compliance in areas such as damage to roads and the environment.</p> |
| | <p>11. Set up processes to encourage grantees and others to comply with the terms of instruments, such as: - making initial contact with the grantee when the executed instrument is provided to them in order to instruct the grantee to familiarize themselves with the terms of the instrument and to contact their own legal counsel should they require interpretation - send out reminder notices of upcoming requirements such as insurance certificates, self-monitoring reports or annual payments.</p> |
| | <p>12. Inspect the land on a periodic basis to confirm that grantees meet the conditions of the instrument, by:</p> <ul style="list-style-type: none"> - checking the condition of the land, buildings and the environment or other applicable items; - record the facts and, if necessary, gather evidence and take appropriate action under the terms of the instrument; - use reports to make decisions and advise those involved of the consequences for failure to comply. In very serious cases (e.g., toxic waste spills), report immediately to an agency (e.g., Environment Canada) that has the authority to take the necessary action under the legislation. |
| | <p>13. Inspect the instrument file through desk inspections on a periodic basis to confirm that grantees meet the conditions of the instrument by:</p> <ul style="list-style-type: none"> - checking for certificates of valid insurance, for compliance of terms, or for certification of corporate or financial status; - record the facts and, if necessary, gather evidence and take appropriate action under the terms of the instrument; - use reports to make decisions and advise those involved of the consequences for failure to comply. |

APPENDIX E4

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| | <p>14. Conduct site visits to inspect the location, environment, physical condition and use of the land and resources OR contract out specific site inspections and generic types of inspections (e.g., cottage lots) to persons better placed to carry out the work in order to ensure that the following is not occurring:</p> <ul style="list-style-type: none"> - non-licensed timber harvesting; - illegal mineral extraction activities (extraction, stockpiling, transportation and end use activities); - illegal removal of sand, gravel and timber; - unauthorized waste sites or operation of waste sites; - illegal discharge of deleterious substances or hazardous materials into fish bearing waters; - activities that are environmentally dangerous. |
| | <p>15. Ensure site visits include monitoring the health of land, regardless of whether or not there is land management activity being conducted under the terms of a lease, license or permit.</p> |
| | <p>16. Base site visits on risk factors such as lease characteristics, location, frequency/severity of occurrence and lessee characteristics for all agreements with Terms and Conditions requiring inspections (related to land use; compliance with environmental requirements; Canadian Environmental Assessment Agency (CEAA) mitigation measures; nuisance, waste and rubbish; improvements, construction in accordance with plan and applicable standards, site restoration and clean-up upon termination; removal of improvements; etc.) <u>because it is expensive and time consuming to detect non-compliance with Terms and Conditions which require site inspections.</u></p> |
| | <p>17. Determine if instrument provides for an alternative to Federal Court for resolution of disputes over the terms of the instrument.</p> |
| | <p>18. Schedule and carry out monitoring site visits early on during the agreement period to convey the impression that activities will be rigorously monitored over the lifetime of the agreement.</p> |
| | <p>19. Use NetLands to track and report on site visit requirements and completion dates related to: land use; compliance with environmental requirements; CEAA mitigation measures; nuisance, waste and rubbish; improvements; construction; site restoration and clean-up upon termination; removal of improvements; over-holding.</p> |
| | <p>20. Enter leasing, licensing, and permitting information into NetLands using this system as a monitoring tool to track agreement holder payments due and made, insurance, breaches, disputes, etc.</p> |
| | <p>21. Generate regular computer reports from NetLands on the status of agreements, upcoming key events, and on monitoring specific aspects of transactions.</p> |

APPENDIX E4

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| | 22. Use NetLands for recording and reporting on the following: insurance certificates, development plans, evidence of performance bond, security deposit, certificate of completion, termination dates, lead time for removing improvements, self-monitoring reports (e.g., CEEA mitigation measures, compliance report, site clean-up and restoration), to determine if they are due, received and reviewed. |
| | 23. Develop and utilize a computer system which monitors when audited financial statements, statutory declarations and reports are due and received. |
| | 24. Inform AANDC or enforcement agencies of compliance offenses. |
| | 25. Ensure lessees, licensees and permittees are aware of all instances where non-compliance has been detected. |
| | 26. Ensure lessees, licensees and permittees are aware of all instances where non-compliance has impacted significantly on the agreement holder's interest. |
| | 27. Provide locatees with information (workshops, how-to guides, help-lines, etc.) on why they should take an interest in developments on their lands, what to look for, and what to do in the event of a breach. |
| | 28. Coordinate activities with the management of estates so that when locatees acquire possession of land through an estate, they are provided with information about interests on that land, the Terms and Conditions, what they can do to monitor Terms and Conditions, and why they should do so. |
| | 29. Have lessees, licensees and permittees provide proof of payment of rent, royalties or stumpage paid and report to AANDC on revenue collection, including accounts in arrears. |
| | 30. Oblige lessees, licensees and permittees to get and pay for confirmation from reliable sources (e.g., auditors, licensed scalars, provincial highway departments) of production amounts for timber, minerals, agricultural production, etc. to determine whether rents and royalties are paid in full. |
| | 31. Require the developer, at the developer's expense, to provide an independent compliance audit to ensure that development plans have been complied with. |
| | 32. Conduct follow-up investigations to assess the results of remediation taken to resolve contraventions. |
| | 33. Monitor activities following a breach, default or dispute to ensure the issue is resolved and any damage done is repaired. |
| | 34. Monitor individual land holdings to ensure lawful possessors are complying with all applicable legislation. |

APPENDIX E4

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| | 35. Monitor Terms and Conditions of Certificates of Occupation to ensure they are met (e.g., construction of a foundation, compliance with building codes, etc.). |
| | 36. Monitor land to ensure it is being used for purposes specified in BCR's (i.e., set asides, band allotments) and that environmental laws are being complied with. |
| | 37. With respect to penalties for unauthorized removal of natural resources, make potential offenders aware that the <i>Indian Act</i> , the <i>Indian Timber Regulations</i> and the <i>Indian Timber Harvesting Regulations</i> give authority to seize goods resulting from unauthorized activities, and that the economic costs of seizure far outweigh the monetary fines under the <i>Indian Act</i> , the <i>Indian Timber Regulations</i> and the <i>Indian Timber Harvesting Regulations</i> . Also make them aware of the legal sanctions and non-legal sanctions which could be applied. |

The following are instrument based compliance activities that a First Nation / First Nation Land Manager needs to ensure are conducted. However, it should be noted that they are not limited to the following activities as there may be other activities that need to be performed in addition to the activities identified in the following checklist.

ENFORCEMENT CHECKLIST

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| ✓ | With respect to responding to non-compliance: |
| | 1. Uphold legal obligations required by statutes and the terms of your instruments. |
| | 2. Ensure zoning in land use plans and in by-laws is enforced. |
| | 3. Where a breach is identified, advise the lessee, licensee or permittee what action will be taken if they are still in breach. |
| | 4. Develop and utilize (computer generated) standard forms for warnings, demand letters, notice of breach, and notice of cancellation, to speed up the process for responding to breaches. |
| | 5. Issue verbal or written warnings where warranted. |
| | 6. Assess every breach or default, review options, consult enforcement agencies, and decide on the best course of action given the facts of the situation. Assess risks, costs, and benefits of each option, and act on decisions as fairly as possible based on the principle of 'minimal response' for all parties concerned (consider principles outlined in the Land Management Manual, Chapter 8, 8-4). |
| | 7. Ensure appropriate enforcement action is taken. Address breaches and defaults on a co-operative basis and resolve disputes through consensus and win-win negotiations wherever possible, reserving arbitration and the courts as a last resort. Include results in amendments to agreements. |
| | 8. Ensure all legal actions are taken in consultation with the proper agencies (e.g. AANDC Regional Office, etc.). |
| | 9. Use sanctions other than cancellation of the agreement to secure compliance (e.g. penalties for violation under First Nation by-laws or other laws; increased restrictions and short term renewals; non-renewal of a lease; notification of bankers and other investors that the agreement holder is in default; termination of utilities and local services; stopping the activity; increased or more stringent reporting requirements, more intensive inspection and cost recovery for additional inspections; seizure of goods and chattels; forfeiture of security deposits required by instruments issued, collection of tax arrears; asking police department to lay charges where offences are involved, fines and imprisonment; etc.) <u>Need to determine precisely</u> |

APPENDIX E5

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| | <u>how each type of enforcement response is to be used.</u> |
| 10. | Where necessary, support and enforce First Nation by-laws by cancelling leases, licences and permits for non-compliance with by-laws, where Terms and Conditions allow this. |
| 11. | Track the timeliness of enforcement actions using NetLands, and report on initiatives where enforcement is slow. |
| 12. | Provide letters to third parties indicating AANDC support for enforcement decisions. |
| 13. | Where practical, enter into agreements with enforcement agencies and other regulatory authorities to clarify the authority the First Nation Council has with regard to enforcement actions related to land and natural resource management. |
| 14. | Maintain awareness of other appropriate authorities involved in enforcement activities beyond your jurisdiction, such as Environment Canada and Health Canada. |
| 15. | In extreme cases, take enforcement measures to compel compliance through court action such as injunctions, ticketing, prosecution, court orders, civil action, cancellation of instrument and remedial action for recovery of costs (act quickly if prosecution is a viable option as the accused has a constitutional right to a trial without unreasonable delay). |
| 16. | Document offences that the First Nation becomes aware of, enforcement actions that were taken and the rationale for the enforcement actions taken. |
| 17. | For non-compliance with environmental legislation that is or could be environmentally dangerous, advise appropriate authorities. |
| 18. | For buckshee arrangements where a non-member of the First Nation exercises rights in a reserve with the permission of a First Nation member, advise the First Nation Council and the non-member in writing that the agreement is invalid and offer to assist with taking measures to bring future dealings in compliance with the <i>Indian Act</i> . |
| 19. | Theft should be under the Criminal Code, or civil action, or seizure of goods, rather than the <i>Indian Act</i> . |

REMEDIAL ACTION CHECKLIST

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| ✓ | With respect to remedial action: |
| | 1. Correct the problem when there is damage or harm as a result of a breach. |
| | 2. Stop or contain the damage or harm, and repair it, where possible. |
| | 3. Seek to recover the costs from those responsible for the breach or default. |

COMMUNITY ENVIRONMENTAL SUSTAINABILITY PLANNING GUIDE

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WHAT IS A COMMUNITY ENVIRONMENTAL SUSTAINABILITY PLAN (CESP)?

A Community Environmental Sustainability Plan (CESP) is a written document that outlines a systematic approach to identifying environmental issues of concern, and finds ways to resolve these environmental issues. The plan will assist in managing environmental responsibilities and lessening the impact of current environmental issues. Using a strategic planning process, a CESP has the following objectives:

- outlining and publicizing the community's commitment to improving the environment;
- setting goals and objectives to achieve environmental commitment;
- identifying barriers and challenges to achieving the commitment (environmental problems/concerns/issues);
- establishing priorities.

The World Commission on Environment and Development (the Brundtland Commission) defined sustainable development as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs." This definition provides an important point of reference when preparing a CESP.

The CESP itself must:

- be understandable to community members
- have the approval of the community
- be reviewed and updated regularly

WHAT ARE THE BENEFITS?

A CESP is a forum for creating a community network, with the goal of encouraging effective action. The purpose of a CESP is to encourage individuals to act for the environment, either by making changes in their own lives, or by participating in community based projects. The plan facilitates a First Nation in managing their environmental responsibilities associated with both their land transactions, as well as requirements with other departmental program environmental management responsibilities and other federal responsible authorities.

Through the development and implementation of a CESP, the First Nation community can ensure that, from an environmental point of view, its operations, activities and decision-making processes are effectively managed and demonstrate due diligence in protecting the health and safety of the community and the environmental integrity of reserve lands. A CESP outlines an array of follow-up actions which provide for the sound environmental management of a project or activity so that adverse environmental impacts are minimized and mitigated; beneficial environmental effects are maximized and sustainable development is ensured.

ROLES AND RESPONSIBILITIES

The responsibilities for environmental management planning cannot be attributed to one person but it will involve the whole community. For the purpose of RLEMP, the First Nation will ensure that the CESP is in place and that it meets the criteria for funding under the program.

The Reserve Land and Environment Management Program (RLEMP) is not designed to fund First Nations in the development of a CESP. RLEMP will provide an additional 5% of funding to participating First Nations that possess an eligible CESP and submit an application to the AANDC Regional Office for approval.

Regional Staff will review the First Nation's CESP against the funding criteria and provide the appropriate approval.

FUNDING FOR THE DEVELOPMENT OF A COMMUNITY ENVIRONMENTAL SUSTAINABILITY PLAN (CESP)

RLEMP is not designed to fund First Nations in the development of a CESP. For those First Nations that do not already have a CESP but wish to create one, other sources of funding will need to be sought.

STEP ONE: PREPARATION: BUILDING SUPPORT IN YOUR COMMUNITY

Before starting a CESP, it is a good idea to take a moment to think about the strengths of your community. Every community is different. These differences will contribute to how you want to organize your environmental management plan.

Is your community ready for a CESP? Here are some suggested steps to help prepare your community for environmental action:

- identify your community (urban, rural, agriculture, fishing, forestry etc.)
- find out who is interested
- identify or establish a coordinating committee
- identify your environmental profile
- identify or establish a community group network
- identify your community needs and resources

The environmental management process must be community-driven to be successful. There may also be a need for external assistance (contractors, consultants, government departmental officials, etc.). Community decision makers should be clear on who will be administering the planning process in the community. The planning process and the final written CESP must be approved by the Chief and Council.

Public Involvement

Public consultation has been identified as a critical component in both environmental and land use decision-making. As part of your CESP, you will need to identify a core group of individuals and organizations with a vested interest. Identifying key individuals in the community may seem easy; you may be surprised at just how many community-based organizations, agencies, and associations, individuals and elders exist in your community that will want to participate in the process.

Both collectively and individually, the First Nation community has a wealth of information, knowledge and expertise that can help guide the CESP process.

Find out who is interested

The first step in initiating a CESP is to generate interest. Take it one step at a time and build the momentum. Start the process of the CESP by making a list of the individuals, organizations or agencies that may want to work on the CESP. Try to include representatives from all areas of the community, including elders, local groups, schools, businesses and community leaders.

Identify or establish an Environmental Coordinating Committee

Some First Nations may already have a formal environmental office in the community. Others may be represented through an environmental office of the tribal council or other organization. If the First Nation has already established an environmental focus in the community, chances are that procedures are already in place for getting started and this stage can be completed quickly.

For First Nations who do not have a formal environmental representation in the community, this stage will take more time to complete. It is vital to the long-term success of the project that it be successfully completed.

The role of a coordinating committee is to oversee the preparation, implementation and monitoring of the CESP. The committee should include representatives from all sectors of the community including Chief and Council representatives, key staff, interested or knowledgeable First Nation members, cultural groups, groups or individuals who might be particularly affected by the project activity (trappers, hunters, medicine gatherers, guides, maple sugar producers, etc., local marina operators, commercial fisherman), elders and business leaders.

The committee should ensure that all relevant community groups, although not necessarily represented on the committee, have an opportunity to contribute to the drafting of the CESP. Members of the coordinating committee should be selected for their ability to work with and understand the priorities of each of the community groups.

A community-based Environment Coordinating Committee should:

- ensure that the community is well represented
- ensure that there is a good understanding of community issues and concerns and of provincial, federal priorities
- be able to identify and create opportunities for community involvement
- be able to assist in drafting the CESP
- be able to assist in implementing the CESP through promotional activities, work with local organizations or other skills
- be prepared to meet in order to monitor and revise the plan as required

Getting Approval

At the very beginning of the planning process, approval from Chief and Council should be requested. Whether you are building on an existing committee or starting from scratch, make sure the coordination committee has the mandate to:

- draft terms of reference for Environmental Coordinating Committee
- consult with the public on environmental priorities
- coordinate and support public meetings
- draft a CESP

STEP TWO: GOING PUBLIC

The task of making a CESP fit the needs of the community rests mostly with the Environmental Coordinating Committee. The initial public consultation event will serve to identify community concerns and priorities. The process of developing the CESP should not be rushed. All members of the Environmental Coordinating Committee should be comfortable with the process before involving the public.

Solicit input from the Community

In preparing your CESP, it is important to involve as many community members and groups as possible. There are many ways to canvass the community:

- issue a press release to announce the planning process, introduce the coordinating committee and request public involvement;
- hold focus groups and meetings to introduce the CESP and to discuss environmental priorities.

As part of community involvement, questionnaires, public meetings, workshops as well as interviews with elders and specific community groups will assist in determining the community's needs and concerns. These methods should be used for:

- developing a vision statement
- defining goals and objectives
- identifying issues and concerns

Developing a Vision Statement

When beginning the CESP process, visioning comes first. It is important that vision statements for a community be done as a group, so that individuals at all levels of the community are involved. Once written, a vision statement helps to define the direction in which to proceed. The environmental values of a First Nation need to be identified in order for the community to gain a common understanding of what they feel are important beliefs to move forward and to pass on to future generations. These values may include: encouraging the revitalization of traditional values, protection of traditional ways of life, etc.

The Vision statement should include:

- Where the community is going
- A statement of the community's values
- A public/visible declaration of expected outcomes

Defining Goals and Objectives

Goals are general statements that describe what your First Nation wants its overall environmental impact to be. Your goals should articulate specific, time bound, measurable targets for environmental performance. When writing goal statements keep in mind:

- Goal statements provide us with motivation, energy, and enthusiasm
- Goal statements provide direction and keep the community on track
- Goal statements ensure greater success
- Goal statements build confidence within the community

Goals should be specific to what the First Nation community wants to accomplish and should be written in a positive manner. Ensure that you are specific about your goals. Vague statements introduce all types of problems when trying to obtain the goals. Placing a timeframe in your goal statement will help make the goal more specific.

It is important that you include the timeframe in the goal statement, whether it be one week, three months or two years. Make the goal statement measurable in order to know you have succeeded in obtaining your goal.

Objectives are concrete action statements enabling action on your goal statements. They identify measurable targets for the actions that the business will take to decrease its environmental impacts within a specific timeframe. Meeting these objectives will bring the First Nations environmental performance in line with its stated environmental goals.

Identifying Environmental Concerns

Workshops can be used to identify environmental concerns held by members of the general community.

In workshops, participants should be asked to identify/describe the following:

- what are the priority issues for our community
- any significant environmental values (e.g., traditional uses)
- any environmental changes in the community/territory

Recording workshop proceedings in a workshop report and distributing it to the participants, committee members and Chief and Council facilitates communication and provides for confirmation of the accuracy of the understandings from the workshops. It also assists with the final writing of the plan.

STEP THREE: ASSESSING THE COMMUNITY ENVIRONMENTAL PROFILE

A combination of scientific and aboriginal knowledge provides the best picture of the environmental condition of the community.

The assessment stage of the planning process answers the question, "Where are we right now?", but also goes on to answer, "Why are we not yet realizing our vision?" Answering these questions helps the Environmental Coordinating Committee and community decide what they need to do to reach the goals and objectives.

Defining the Environmental Profile

Everyone may have specific areas in the community that are of environmental concern to them. It will be important to gather information on the community's environmental interests. The Environmental Coordinating Committee can initiate this process, but it should be confirmed with the community as a whole. Environmental interests can include traditional territories as well as reserve lands (and water). It may include treaty areas or larger areas in recognition of the fact that all areas of the environment are related. It is important to establish scope to determine what kind of information to seek and what questions to ask when speaking with aboriginal knowledge holders.

Resources

Taking maps to workshops or when visiting or interviewing key individuals results in better identification of areas of concern. Some First Nations may already have maps and/or the ability to produce them. Generally, all First Nations have some maps in their possession, such as reference plans provided by the Department of Aboriginal Affairs and Northern Development Canada, land use maps (for reserve and nearby off-reserve lands), traditional land use maps (both on and off reserve), and maps that are used for land claims, etc. It is also a good idea to acquire some good base maps (e.g., from Natural Resources Canada, Provincial Mapping Agency, or local resource-based companies such as timber and mining operations).

It is important to obtain any information specifically describing the environmental conditions in which First Nations find themselves (reports, studies etc.). Sources for this information may include Indian and Northern Affairs or other government departments, government reports, local industry reports, academic/scholarly reports (often found in University libraries), Aboriginal organizations, community reports (comprehensive planning reports, land use plans, traditional land use studies), consultants' reports done on behalf of the community and Aboriginal knowledge.

Traditional Environmental Knowledge (TEK)

TEK is a body of knowledge and beliefs transmitted through oral tradition and first-hand observation. It includes a system of classification, a set of empirical observations about the local environment and a system of self-management that governs resource use. Ecological aspects are closely tied to social and spiritual aspects of the knowledge system. The quantity and quality of TEK varies among community members, depending upon gender, age, social status, intellectual capability and profession (hunter, spiritual leader, healer, etc.). With its roots firmly anchored in the past, TEK is both cumulative and dynamic, building upon the experience of earlier generations and adapting to the new technological and socio-economic changes of the present. (Dene Cultural Institute 1995, cited in Stevenson 1996)

The importance of Aboriginal knowledge and the involvement of key individuals in the community (Elders, resource users, etc.) are crucial. Summarizing this knowledge through interviews with such individuals can yield a wealth of information for producing an environmental profile.

STEP FOUR: LEGISLATIVE AND REGULATORY REQUIREMENTS

First Nations should have a basic understanding of what legislative and regulatory requirements are applicable to reserve lands and activities. This step is important for understanding compliance obligations and how these obligations affect the overall CESP. First Nations will also want to ensure compliance with a number of codes of practice, guidelines and by-laws.

The Environmental Coordinating Committee can commence with listing the regulations, policies and guidelines. This list should be affirmed by the community and Chief and Council.

The CESP should include:

- a statement of the First Nation's commitment to compliance with legislative, regulatory and other requirements (best management practices);
- a listing of legislative and regulatory requirements that are applicable to environmental aspects of activities on reserve lands;
- a registry of sources of environmental information, maintained and available to all employees.

First Nation Reserves come under the jurisdiction of federal environmental legislation. Although First Nations are not subject to provincial legislation, they may choose to meet provincial environmental requirements where these exceed the standards set out in federal legislation. Compliance with provincial legislation standards is voluntary but many First Nations recognize the potential for increased environmental protection.

STEP FIVE: PRIORITIZING ISSUES AND IDENTIFYING SOLUTIONS

The purpose of this stage is to manage identified environmental challenges in a meaningful and realistic way.

Since most First Nations do not currently have the resources to reach an environmental vision, choices and decisions have to be made as to which environmental issues will be addressed.

Environmental Issues: Establishing Criteria and Priority Setting

The first step after identifying environmental issues is to establish criteria for the prioritization of those issues. This process may begin with the Environmental Coordinating Committee and then move on to workshops with the First Nation community. The process involves: establishing criteria, subdividing each criterion into levels, assigning points to each level within each criterion, summing the points and assigning a total score. The committee and community will need to decide what the criteria for priority environmental issues will be. Possible criteria may be that the issue causes impacts to legislation, regulations, policies and by-laws or causes a health and safety issue to community members. The priorities should then be ranked from highest to lowest score and it may be necessary to determine a cut off point. It is important that the First Nation community affirms the priorities set.

Taking Corrective Action

Goals and objectives were defined earlier to address the First Nation's overall environmental performance. Criteria have been established for issues and priorities have been ranked. It is now time to determine what action the First Nation will take concerning the environmental priorities. Each of the environmental priorities which have been identified by the First Nation Community and Environmental Coordinating Committee need to be recorded. Each environmental priority should include a clear and concise description of the issue, the action(s) to be taken to reduce the environmental impact, the area or individual(s) responsible for accomplishing the tasks and a timeframe which will facilitate in measuring and evaluating results.

STEP SIX: FINALIZING THE CESP

It is now time to put pen to paper. The written CESP serves as a record of committee and community decisions and plans. It provides an excellent communication tool both internally and externally for the First Nation community.

Elements of the CESP

Each plan will be unique as it reflects the process followed according to the needs of each community. Each plan should contain the following elements:

1. **Introduction:** provides a brief description of the First Nation, describes the CESP and planning process. The introduction should include the terms of reference of the Environmental Coordinating Committee.
2. **Vision Statement:** states the community's environmental vision. The definition of environment, the First Nation's environmental values and goals and objectives identified during the visioning process should also be documented in this section.
3. **Environmental Profile:** describes the existing environmental situation and the areas of interest and importance to the First Nation Community. A map of the areas of interest/concern covered by the environmental scan would be beneficial as a communication aid.
4. **Legislative and Regulatory Requirements:** states the community commitment to compliance with all applicable environmental legislation. This portion includes a listing of the legislative requirements, regulations, First Nation policies and by-laws which need to be considered when determining environmental priorities and proposed actions.

5. **Environmental Priorities List:** includes a description of the evaluation criteria and the process used to arrive at this list. Each priority environmental issue/concern should be identified along with specific action steps for its resolution. This section should be clear and concise and is best presented in table format. This section facilitates implementation of the plan as well as monitoring, evaluation and follow-up.
6. **Community Involvement:** identifies participants and the activities they were involved in (workshops, public meetings, interviews, etc.). Environmental Coordinating Committee members and activities of the Committee (meetings held, etc.) should also be noted. This section also records communications (letters, posters, bulletins, etc.) that were used in community involvement.

Internal Review

Once a copy of the plan has been completed, circulating a draft to the committee members and to community participants for comment ensures it is an accurate record of the planning process and decisions made. A draft should go to the Environmental Coordinating Committee for comment as well as to Chief and Council. Ideally, Chief and Council approve the CESP.

Communicating the Plan

A summary of key actions may be shared with the general community. A brief summary or bulletin in a local newspaper may be sufficient to indicate that the plan is complete and describe where the plan itself can be accessed.

MONITORING AND REVISION

To ensure that the expectations of the CESP are met, a review should be conducted annually. This review will ensure that the CESP is meeting the First Nations goals and objectives and to assess its overall effectiveness.

If changes are identified, an amendment may be necessary. These changes should be assessed by the Environmental Coordinating Committee and appropriate actions needed to establish compliance with the CESP should be taken.

If the First Nation is provided with an additional 5% RLEMP funding, it will be required to report on the CESP performance measures annually.

SUMMARY

The process itself can be as simple or as complex as a community chooses. Each plan should be community owned and executed. Some outside assistance may be required from time to time, but every stage of the process should be community driven, and community skills should be utilized whenever possible.

The final plan may be only a few pages or can be quite lengthy depending on the community and its priorities. The important thing is that the actual written plan is readily understandable and useable and reflects community goals and concerns and legislative and regulatory requirements.

RLEMP FUNDING STANDARDS

RLEMP has established the criteria necessary for accessing the additional 5% for having a CESP (see Annex A). This checklist will be used by regional officials to evaluate whether a CESP is eligible for the additional 5% funding.

***COMMUNITY ENVIRONMENTAL SUSTAINABILITY PLAN
WORKSHEETS***

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STEP ONE: PREPARATION AND BUILDING SUPPORT IN YOUR COMMUNITY

WORKSHEET No. 1: Public Involvement

Identify a core group of individuals and organizations that may have a vested interest in the environmental management of the First Nation. This will provide a starting point for establishing or enhancing the Environmental Coordinating Committee.

Organizations (health care, schools, churches, agricultural, fishing, etc.)

Businesses (hotels, gas stations, industries, etc.)

Individuals (Chief and Council, Elders, key staff, farmers, fisherman, etc.)

STEP ONE: PREPARATION AND BUILDING SUPPORT IN YOUR COMMUNITY

WORKSHEET No. 2: Identifying or Establishing an Environmental Coordinating Committee

Check off each task below as it is completed:

- Environmental Coordinating Committee in place which reports to Chief and Council and/or Tribal Council
- Establishment of an Environmental Coordinating Committee if none currently exists
- Existing and/or proposed Committee members: (Worksheet No.1 can be used to identify proposed committee members)

- Chief and /or councilor(s)

Name(s): _____

- key staff person(s)

Name(s): _____

- interested and knowledgeable community members (who possess aboriginal and/or scientific knowledge about the local environment)

Name(s): _____

- groups and/or individuals who might be affected by project activities

Name(s): _____

- other important contributors

Name(s): _____

STEP ONE: PREPARATION AND BUILDING SUPPORT IN YOUR COMMUNITY

WORKSHEET No. 2: Identifying or Establishing an Environmental Coordinating Committee (Continued)

Once the initial list of Committee members has been established (others can be added as appropriate at later dates):

- Environmental Coordinating Committee has obtained a mandate from Chief and Council and/or Tribal Council to:
 - Draft terms of reference for committee for approval
 - Consult with the public on environmental priorities
 - Coordinate and support public meetings
 - Coordinate and support meetings with regulatory agencies (establish roles and support)
 - Draft a CESP

- Meeting held to formally establish the Committee, define specific roles of various Committee members (chairperson, secretary, etc.), and provide a background orientation to all members.

STEP TWO: GOING PUBLIC

WORKSHEET No. 3: DEVELOPING AN ENVIRONMENTAL VISION STATEMENT

QUESTIONS TO BE ANSWERED BY COMMUNITY MEMBERS

What does "environment" mean to me/my community?

What are some of the key values related to the environment that I/we believe defines our community as a whole? (medicine gathering, etc.)

For developing a vision statement:

What kind of future do I want for myself, my community, my First Nation and for future generations? List key elements of this desired future.

STEP TWO: GOING PUBLIC

WORKSHEET No. 4: IDENTIFYING THEMES FROM COMMUNITY RESPONSES

Using responses received from Worksheet No.3, identify common themes and concerns expressed by community members. Group responses into more inclusive themes until all major ideas and/or concerns have been represented. Avoid being too general.

Summarize the themes into draft community statements. The draft statements should then be made available to community members for review and revision. Final versions should be inserted following the draft versions.

A) Definition of Environment

Theme no. __ :

Theme no. __ :

Theme no. __ :

STEP TWO: GOING PUBLIC

WORKSHEET No. 4: IDENTIFYING THEMES FROM COMMUNITY RESPONSES
(Continued)

B) A Set of Environmental Values for the Community

Theme no. __ :

Theme no. __ :

Theme no. __ :

Theme no. __ :

STEP TWO: GOING PUBLIC

**WORKSHEET No. 4: IDENTIFYING THEMES FROM COMMUNITY RESPONSES
(Continued)**

C) A Vision Statement

Theme no. __ :

Theme no. __ :

Theme no. __ :

Theme no. __ :

STEP THREE: ASSESSING THE COMMUNITY'S ENVIRONMENTAL PROFILE

WORKSHEET No. 6: Resources

These resources will serve as a source of information and as useful tools throughout the CESP planning process. These resources should be reviewed by the Environmental Coordinating Committee and be made available at workshops and meetings. Possible resources which should be made available to all interested parties include:

Maps

- Current and traditional Land Use Maps
- Maps from the Department of Natural Resources Canada
- Maps from Provincial Mapping Agency
- Timber, Mining and Tourism Operation Base Maps
- GIS Data

Reports

- Environment Canada
- Aboriginal Affairs and Northern Development Canada: Environmental Issues reports
- Health Canada: water testing reports
- land use, forestry reports, water quality reports

Local Industry Reports

- Timber companies: forest management plans
- Mining companies: geological surveys, operations plans
- Other: _____

Community Reports

- Comprehensive planning reports
- Forest management plans
- Land use plans
- Traditional land use studies

Other

- Environmental organizations
- Academic/Scholarly Reports (sometimes prepared on behalf of First Nations and often found in University libraries)
- Aboriginal Organizations
- Consultants' reports (sewage studies, infrastructure studies, environmental assessment hearing briefs)
- Knowledge holders (Elders, hunters, trappers, farmers, fishermen, etc.)

STEP FOUR: LEGISLATIVE AND REGULATORY REQUIREMENTS

WORKSHEET No. 9: LEGISLATIVE AND REGULATORY REQUIREMENTS TABLE

In this stage, the First Nation must identify applicable requirements (legal and otherwise) to ensure that the CESP will meet compliance obligations. This listing should include the Legislative and Administrative authorities and the Responsible Agency (i.e., Health Canada, Environment Canada) and can then be used in collaboration with the Environmental Priorities and Proposed Actions Table.

The following table provides a list of environmental legislation, regulations and policies that apply to _____ First Nation’s activities. The specific operation(s) to which each regulation applies (is)are also shown.

*** Note: This is only an example of a possible listing of legislative and regulatory requirements. It is not a conclusive list.**

| Legislative and Administrative Authorities | Responsible Agency | Operations to which Provision Applies (i.e. Housing, Lands etc.) |
|--|--|--|
| <i>Canadian Environmental Assessment Act</i> | Canadian Environmental Assessment Agency | |
| <i>Canadian Environmental Protection Act</i> | Environment Canada | |
| <i>Transportation of Dangerous Goods Act</i> | Transport Canada | |
| Canada Labour Code <ul style="list-style-type: none"> • Workplace Hazardous Materials Information System • Canadian Occupational Safety and Health Regulations | Labour Canada | |
| <i>Fisheries Act</i> | Department of Fisheries and Oceans | |
| Canadian Drinking Water Quality Guidelines | Health Canada | |
| First Nation By-Laws (Specify) | | |
| <i>Species at Risk Act</i> | | |
| Other, etc. (Please identify all other authorities which apply i.e., Provincial Legislation) | | |

STEP FIVE: PRIORITIZING ISSUES AND IDENTIFYING SOLUTIONS

WORKSHEET No. 11: DEVELOPING CRITERIA FOR THE PRIORITIZATION OF COMMUNITY ENVIRONMENTAL ISSUES

Criteria must be developed to determine which environmental issues should be addressed first. Examples of such criteria might include the requirement that in order to be considered "a priority" the issue must directly impact the health and safety of community members, or must follow the First Nation's commitment to compliance with Legislative and Regulatory requirements. In order of importance, record the criterion below. On the line beside the number, provide a brief descriptive title of the criterion and any comments or descriptions as needed.

Criterion no. _____ . Brief title: _____
Comments/Description: _____

Criterion no. _____ . Brief title: _____
Comments/Description: _____

Criterion no. _____ . Brief title: _____
Comments/Description: _____

STEP FIVE: PRIORITIZING ISSUES AND IDENTIFYING SOLUTIONS

WORKSHEET No. 12: PRIORITIZING ISSUES

Once a final set of ranked criteria has been agreed upon by consensus, each environmental issue identified by the community should be evaluated against the established criteria.

| PRIORITY | LIKELIHOOD |
|-----------------|---------------------|
| 5 | Common |
| 4 | Likely to Occur |
| 3 | Moderate Occurrence |
| 2 | Unlikely Occurrence |
| 1 | Rare to Occur |

| PRIORITY | CONSEQUENCE |
|-----------------|---|
| 5 | Catastrophic: Disaster – major irreversible impact on environment |
| 4 | Major: Major reversible impact on environment |
| 3 | Moderate: Minor reversible impact on environment |
| 2 | Minor: Minimal effect – contained in a small area |
| 1 | Insignificant: Insignificant impact |

Using these two tables a total score can be used to assist in determining priority issues:

Example: **Risk Ranking = Likelihood x Consequence**

Risk ranking 16-25: High – Unacceptable, activity to be stopped unless risk is reduced

Risk Ranking 7-15: Medium – Conditionally Acceptable

Risk Ranking 1 – 6: Low - Acceptable

The higher the total score is the higher the importance of the priority will be to the First Nation Community.

This is only one type of method that could be used to determine priority. The Environmental Coordinating Committee will need to reach an agreement on the methodology that will be applied to determine the prioritization of environmental issues.

STEP FIVE: PRIORITIZING ISSUES AND IDENTIFYING SOLUTIONS

WORKSHEET No. 13: PRIORITIZED LIST OF COMMUNITY ENVIRONMENTAL ISSUES

For each issue below, record a priority number (ideally put them in order of importance) followed by a title and a brief description.

ISSUE TITLE: _____
PRIORITY no.: _____
Brief Description: _____

ISSUE TITLE: _____
PRIORITY no.: _____
Brief Description: _____

ISSUE TITLE: _____
PRIORITY no.: _____
Brief Description: _____

ISSUE TITLE: _____
PRIORITY no.: _____
Brief Description: _____

APPENDIX E9

STAGE FIVE: PRIORITIZING ISSUES AND IDENTIFYING SOLUTIONS

WORKSHEET No. 14: TAKING CORRECTIVE ACTION

Identify action steps for addressing priority environmental issues.

(use one of these for each environmental issue)

MAJOR ACTION STEP(S) NECESSARY TO ADDRESS THIS ISSUE:

| | |
|--|---------------------|
| ENVIRONMENTAL ISSUE | PRIORITY no. |
| TARGET(S) (including measurable time frames): | |
| TASKS: (to be completed in order to resolve or monitor issue) | |
| LEGAL AND OTHER REQUIREMENTS (SPECIFY): | |
| PERFORMANCE INDICATOR(S): (Issue will have been resolved when...) | |
| BUDGET (Resources): | |
| PARTY(IES) RESPONSIBLE | |

STEP SIX: FINALIZING THE CESP

WORKSHEET No. 15: FINALIZATION CHECKLIST

The plan document must be well-written and clearly organized in a way that makes it accessible to the community. It should be easy to follow and to skim for the main ideas.

CESP Main Elements Checklist

- Introduction:** provides a brief description of the First Nation, describes the CESP project and planning process. The introduction should include the Terms of Reference of the Environmental Coordinating Committee.
- Vision Statement:** states the community's environmental vision. The definition of environment, the First Nation's environmental values and goals and objectives identified during the visioning process should also be documented in this section.
- Environmental Profile:** describes the existing environmental situation and the areas of interest and importance to the First Nation Community. A map of the areas of interest/concern covered by the environmental scan would be beneficial as a communication aid.
- Legislative and Regulatory Requirements:** states the community commitment to compliance with all applicable environmental legislation. This portion includes a listing of the legislative requirements, regulations, First Nation policies and by-laws which need to be considered when determining environmental priorities and proposed actions.
- Environmental Priorities List:** includes a description of the evaluation criteria and the process used to arrive at this list. Each priority environmental issue/concern should be identified along with specific action steps for its resolution. This section should be clear and concise and is best presented in table format. This section facilitates implementation of the plan as well as monitoring, evaluation and follow-up.
- Community Involvement:** identifies participants and the activities they were involved in (workshops, public meetings, interviews, etc.). Environmental Coordinating Committee members and activities of the Committee (meetings held, etc.) should also be noted. This section also records communications (letters, posters, bulletins, etc.) that were used in community involvement.
- Monitoring and Revision:** describes the monitoring and review process that the First Nation will conduct in order to ensure effectiveness of the CESP and its continual improvement. Checklists, evaluations, etc. should be included to facilitate with the review of the CESP.

Internal Review

Most First Nations have in place an approval process for final documents. This process should be adhered to. At a minimum, the following key steps towards obtaining final CESP approval should be taken:

Check off each task below as it is completed:

- reviewed and comments obtained on the draft by:
 - Environmental Coordinating Committee members
 - community participants
 - Chief and Council
 - revision and editing of the draft as required, based on the above review and comments
- final plan submitted to Chief and Council for approval
- final approval received from Chief and Council

Communicating the CESP

Once final approval has been achieved, the community should be informed of its completion and at least the major highlights of its contents. In particular, those activities which will have a significant profile or effect on community members should be communicated. The following few steps should be taken:

Check off each task below as it is completed:

- CESP summary prepared, highlighting key action steps, particularly those which will have the most impact on community members.
- CESP summary published (or if necessary an even shorter version of it) in a widely read local newspaper and/or bulletin.

in conjunction with publishing the plan summary, advertisement of where and when the plan itself may be accessed by interested community members who wish to read it.

**COMMUNITY ENVIRONMENTAL
SUSTAINABILITY PLAN (CESP)**

TEMPLATE

_____2_____

Prepared by:

(Environmental Coordinating Committee)

Approved and Authorized by:

(Chief and Council)

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Introduction

CESP Responsibilities

Community Vision

Environmental Profile

Legislative and Regulatory Requirements

Environmental Priorities

Action Plan

Community Involvement

Monitoring and Review

Introduction

[One or more paragraphs introducing the Community Environmental Sustainability Plan. The introduction should describe the First Nation community, the project and the planning process for developing the CESP]

Insert Terms of Reference of the Environmental Committee

CESP Responsibilities

[Several paragraphs describing how the overall responsibility for maintaining the CESP is distributed within your First Nation]

_____ First Nation has established a CESP management representative and/or coordinator, and an Environmental Coordinating Committee with the following responsibilities:

- *Management representative.* The CESP management representative is responsible for the functioning of the CESP. It is his or her job to ensure that all tasks relating to the CESP are identified and completed in a timely manner. He or she is also responsible for reporting periodically to the First Nation Chief and Council on the progress and results of the CESP.
- *Coordinator.* The CESP coordinator's responsibility is to identify, assign, schedule, provide the necessary support for, and ensure completion of all tasks relating to the CESP. The coordinator works closely with the management representative and with the Environmental Committee. The CESP coordinator is also responsible for maintaining this document, under the leadership of the management representative and/or Chief and Council. The functions of coordinator and management representative may be filled by the same person.
- *Environmental Coordinating Committee.* The Environmental committee consists of (insert number of persons) comprising First Nation employees, elders, etc.. The committee itself undertakes certain CESP activities such as the selection of significant environmental aspects to be acted upon. The committee meets to discuss the CESP at least (insert time frame – twice a year, annually, etc.)

APPENDIX E9

CESP Responsibilities

The following table lists the _____ First Nation's CESP management representative and/or coordinator, and Environmental Coordinating Committee:

| CESP Function | Name | Regular Position |
|---|-------------|-------------------------|
| Management Representative | | |
| Coordinator | | |
| Environmental Committee (see Worksheet no. 2 of Guide) | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

APPENDIX E9

Community Vision

[One or two paragraphs about the importance of the environmental vision in your First Nation's CESP]

Insert Environmental Vision Statement – **Worksheet no. 4 Part C Final Version**

Insert Definition of Environment – **Worksheet no. 4 Part A Final Version**

Insert Guiding Principles – **Worksheet no. 4 Part B Final Version**

Insert Goals and Objectives identified in visioning process – **Worksheet no. 5**

APPENDIX E9

Environmental Profile

[Several paragraphs describing the existing environmental situation and areas of interest and importance to your First Nation, its location(s), and the environmental situation of the community]

Insert Community Environmental Profile – **Worksheet no. 8**

Insert map of areas of interest/concern covered by the environmental scan as a communication aid

Legislative and Regulatory Requirements

[Paragraph(s) stating the First Nation's commitment to compliance with all applicable environmental legislation]

Example:

_____ First Nation is committed to complying with all applicable environmental legislation. The following describes how _____ First Nation identifies applicable legislation, regulations, etc.

1. The First Nation (identify appropriate area/unit/office) is responsible for tracking applicable environmental laws and regulations and evaluating their potential impact on the First Nation's activities.
2. The First Nation (identify appropriate area/unit/office) compiles and maintains updated copies of applicable environmental laws and regulations.
3. The First Nation (identify appropriate area/unit/office), working with the Environmental Coordinating Committee, compares these regulations to the First Nation activities and environmental issues and concerns associated with them for incorporation in an action plan.
4. The Environmental Coordinating Committee identifies all environmental legislation and regulations that apply to activities within the First Nation (see attached – Worksheet no. 9 – Legislative and Regulatory Requirements Table).

APPENDIX E9

Applicable Legal Requirements

The following table provides a list of environmental legislation, regulations and policies that apply to _____ First Nation's activities. The specific operation(s) to which each regulation applies is (are) also shown.

| Responsible Agency | Legislation/Regulation/Policy and Specific Provision | Operation(s) to which Provision Applies (i.e. Housing, Lands etc) |
|---------------------------|---|--|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

Environmental Priorities

[See CESP STEP 5 in the Guide]

Example:

In order to understand and manage its actual and potential environmental impacts _____ First Nation focused its efforts on the most significant of its environmental aspects. Environmental aspects and their priority to the community were based on the environmental issues and concerns raised by the community during workshop (see Appendix ___ attached detailing workshop reporting).

It was not feasible to simultaneously address all of the environmental concerns raised by the community. A prioritization of the issues was conducted to determine which issues would be addressed in the short term, long term and on an ongoing basis. As part of this process, specific solutions and action steps toward the resolution of issues were established.

Procedure

1. The Environmental Coordinating Committee compiled a master list of environmental concerns and issues as summarized in the Local Environmental Profile.
2. The Environmental Coordinating Committee developed criteria in collaboration with community members to determine the priority and importance of the environmental issues and concerns (see Appendix___ (this could be a copy of Worksheet No. 9 - Legislative and Regulatory Requirements Table and Worksheet No. 11- Developing Criteria for the Prioritization of Community Environmental Issues and Worksheet No. 12 – Prioritizing Issues)). The Environmental Coordinating Committee then rated each aspect according to the following criteria:
 - Regulatory concerns
 - Pollution
 - Risk
 - Health and Safety
 - Other: Specify

APPENDIX E9

3. Each of the environmental concerns and issues were ranked against a rating between 1- 5 (1 being rare to occur and 5 being common) for the likelihood of occurrence and consequence of the impact (1 being Insignificant and 5 being Catastrophic /Major irreversible impact).
4. A “Total Ranking” is developed for each aspect by multiplying the scores for each category (detail the ranking system used by the First Nation).
5. The committee makes a final determination as to which aspects are significant. As a general guide, the aspects that score the highest number of points are considered significant. The committee, however, should use its best judgment in determining significance.
6. Environmental issues/concerns currently being addressed by the CESP are attached (Insert Worksheet No. 13 – Prioritized List of Community Environmental Issues).

Action Plan

_____ First Nation is committed to addressing the environmental priorities identified in this CESP.

The Environmental Coordinating Committee has identified specific action steps necessary to address the specific environmental priorities.

This portion of the CESP details the environmental issues, tasks, responsibilities and performance indicators necessary to resolve these environmental priorities.

Attached is the Implementation Plan for the Environmental Priorities addressed by this CESP (Insert Worksheet No. 14 – Taking corrective Action).

Community Involvement

The CESP is endorsed by the _____ First Nation community. The CESP has been developed based on community desires and aspirations.

The community played an active role in the CESP process. The Environmental Coordinating Committee provided the community with a mechanism with which to make decisions. Choices and decisions in formulating the CESP were obtained through workshops, identifying environmental issues and setting an Environmental Vision for the community.

[Insert workshop reports, communication tools, etc. as an Appendix to the CESP.]

Monitoring and Review

Example:

To ensure the effectiveness of the CESP and its continual improvement, the _____ First Nation will review the important elements and outcomes of the CESP on an annual basis.

Procedure

1. The Environmental Coordinating Committee (or other representative identified) will review the following:
 - Environmental Vision (to ensure adherence to commitments)
 - List of Responsible Parties for the Action Plan
 - List of Priority Environmental Issues/Concerns (Progress, implementation of action steps)
 - Evaluation of compliance status of First Nation activities concerning legislative requirements (see attached Compliance Tracking Log)
 - Environmental Performance Results (from monitoring performance indicators of Environmental Priorities and Action Steps)
 - Analysis of the costs and benefits of CESP implementation

The Environmental Coordinating Committee (or other representative identified) will conduct an internal assessment of the CESP to ensure that it is being implemented and operated according to the Implementation Plan (see attached Checklist).

[Include any other checklists, Performance Evaluations, Reporting Requirements necessary to pursue the continuous development of the CESP.]

APPENDIX E9

| Person Responsible | Regulation | Issue | Compliance Check Date | Results | Corrective Action /Date | Compliance Verified /Date |
|---------------------------|-------------------|--------------|------------------------------|----------------|--------------------------------|----------------------------------|
| | | | | | | |
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Internal Assessment Checklist

Date of Internal Assessment:

Signature: _____

Check each item assessed

- Environmental policy (adherence to policy commitments)
- Environmental objectives (progress; implementation of action plans)
- CESP responsibilities (from Implementation Plan)
- Identification of Environmental Priorities
- Identification of Legal Requirements (Legislative and Regulatory Requirements)

CESP Performance

- Achieved objective no. 1 (Specify)
- Achieved objective no. 2
- Achieved objective no. 3

Internal Assessment Record

| | |
|--|--|
| Date of Internal Assessment | |
| Signature | |
| <i>Major Non-Conformities Observed</i> | |
| 1. | |
| 2. | |
| 3. | |
| <i>Minor Non-Conformities Observed</i> | |
| 1. | |
| 2. | |
| 3. | |
| Is _____ First Nation making progress in meeting its CESP objectives? | |
| Is _____ First Nation adhering to the commitments in its environmental vision? | |
| Suggestions for Improving the CESP | |

**APPENDIX F
RLEMP REPORTING**

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ANNUAL REPORT ON TRAINING AND DEVELOPMENT LEVEL WORKPLAN

- First Nation hired a Land Manager within two months of the date of the letter of acceptance into the RLEMP.
- First Nation's Land Manager successfully completed the Professional Land Management Certification Program training (post secondary certificate program and technical training) in land and environmental management with mentoring/coaching provided by AANDC Region.
- First Nation's Lands Office has been approved by AANDC Regional Staff.
- First Nation Land Manager performed the following reserve land and environment management activities in partnership with AANDC Region:
 - Participate in the negotiation of leases
 - Participate in the negotiation of permits
 - Drafted simple, straightforward land instruments such as BCR allotments and individual land holding transactions
 - Confirmed survey requirements were met
 - Ensured appraisals were conducted, as necessary
 - Entered transaction particulars in NetLands
 - Prepared the following reports for any transaction type and forward them to the region:
 - a) Land Transaction Information Report
 - b) Land Inspection Report
 - c) Transaction Checklist
 - d) Locatee Consent (if applicable)
- Managed environmental management processes associated with each of the above for review and approval by AANDC Region.
- Conducted compliance related activities associated with each of the above for review and approval by AANDC Region.
- First Nation continues to maintain a three consecutive year history of good financial management and audits immediately proceeding entry into RLEMP and is in a sound financial position.

APPENDIX F1

- AANDC Region verified and agreed that the First Nation met the requirements for progression from Training and Development Level to Operational Level.
- First Nation is on target to progress from Training and Development Level to Operational Level within two years of entry.
- (Other)

Name and Title of First Nation
Representative

Signature

Date

Name of First Nation

AANDC Regional Representative

Signature

Date

_____ Region

ANNUAL REPORT ON OPERATIONAL LEVEL WORKPLAN

- First Nation continues to retain a Land Manager who successfully completed the Professional Land Management Certification Program training (post secondary certificate program and technical training).
- OR**
- First Nation continues to retain a Land Manager who successfully completed the post secondary certificate program and the technical training equivalency exam administered by NALMA thereby obtaining certification in land and environmental management.
- First Nation had their Lands Office approved by NALMA. (This involved having their Land Manager certified in land and environmental management and obtaining AANDC Regional Office approval for entry at/progression to this level.).
- First Nation assumed responsibility for RLEMP Key Functions (land and natural resources transactions, community land use planning, environmental management and compliance management) and performed the reserve land and environment management activities associated with this level.
- First Nation Land Manager performed the following reserve land and environment management activities:
 - Negotiated and drafted all land management instruments
 - Confirmed survey requirements were met
 - Ensured appraisals were conducted, as necessary
 - Entered transaction particulars in NetLands
 - Prepared the following reports for all transaction types and had them approved:
 - a) Land Transaction Information Report
 - b) Land Inspection Report
 - c) Transaction Checklist
 - d) Locatee Consent (if applicable)
- Managed environmental management processes associated with each of the RLEMP key functions and provide the necessary environmental information to the Regional Land Manager as required.
- Conducted compliance related activities associated with each of the RLEMP key functions and provided the necessary environmental information to the Regional Land Manager, as required.

APPENDIX F2

- Completed registration requirements checklist, entered transactions into ILRS and forwarded completed registration packages to AANDC Region.
- Received registration particulars from AANDC Region and sent executed documents to proponents, retaining a copy on file.
- First Nation continues to maintain a three consecutive year history of good financial management and audits immediately proceeding entry into RLEMP and is in a sound financial position.
- AANDC Regional Representative verified and agreed that the First Nation met the requirements for progression from Operational Level to Delegated Authority Level (if the First Nation has obtained 53/60 delegated land management authority during the year).

(Other)

Name and Title of First Nation
Representative

Signature

Date

Name of First Nation

AANDC Regional Representative

Signature

Date

_____ Region

APPENDIX F3

ANNUAL REPORT ON DELEGATED AUTHORITY LEVEL WORKPLAN

For First Nations who progressed from Operational Level to Delegated Authority Level:

- First Nation continued to retain a Land Manager who successfully completed the Professional Land Management Certification Program training (post secondary certificate program and technical training).
- OR**
- First Nation continued to retain a Land Manager who successfully completed the post secondary certificate program and the technical training equivalency exam administered by NALMA thereby obtaining certification in land and environmental management.

- First Nation continued to assume responsibility for RLEMP Key Functions (land and natural resources transactions, community land use planning, environmental management and compliance) and performed the reserve land and environmental management activities associated with this level.

- First Nation gained additional skills and experience to eventually achieve full management and control of their reserve land and environmental resources, if they so desire.

- First Nation Land Manager performed the following reserve land and environment management activities associated with this level:
 - Negotiated, drafted and finalized all land management instruments
 - Signed off all land instruments and submitted them for registration
 - Confirmed survey requirements were met
 - Ensured appraisals were conducted, as necessary
 - Entered transaction particulars in NetLands
 - Prepared the following reports for any transaction type and forwarded them to the region:
 - a) Land Transaction Information Report
 - b) Land Inspection Report
 - c) Transaction Checklist
 - d) Locatee Consent (if applicable)

- Managed environmental management processes associated with each of the above for review and approval by AANDC Region and provided the necessary environmental information to the regional Land Manager as required.

APPENDIX F3

- Conducted compliance related activities associated with each of the above for review and approval by AANDC Region.
- Completed registration requirements checklist, entered transactions into ILRS and forwarded completed registration packages to the Indian Lands Registry.
- Received registration particulars from Indian Lands Registry and retained a copy on file.
- First Nation continues to maintain a three consecutive year history of good financial management and audits immediately preceding entry into RLEMP and is in a sound financial position.

In addition to the above, for 53/60 First Nations who entered RLEMP at the Delegated Authority Level:

- First Nation hired a Land Manager within two months of the date of the letter of acceptance into the RLEMP or already had one on staff.
- First Nation had its Land Manager certified in land and environmental management within two years of entry.
- First Nation had its Lands Office approved by AANDC Regional Staff.

Name and Title of
First Nation Representative

Signature

Date

Name of First Nation

Name and Title of AANDC
Regional Representative

Signature

Date

_____ Region

APPENDIX F3