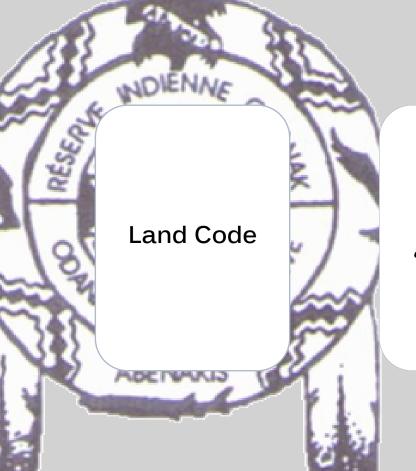
# First Nation land management act



## Components of the Framework Agreement on First Nation Land Management



*Individuel* agreement

First Nation land management act

# Framework Agreement

Framework Agreement on First Nation Land Management provides First Nations with the opportunity to exercise control over their lands and resources for the benefit of their members.



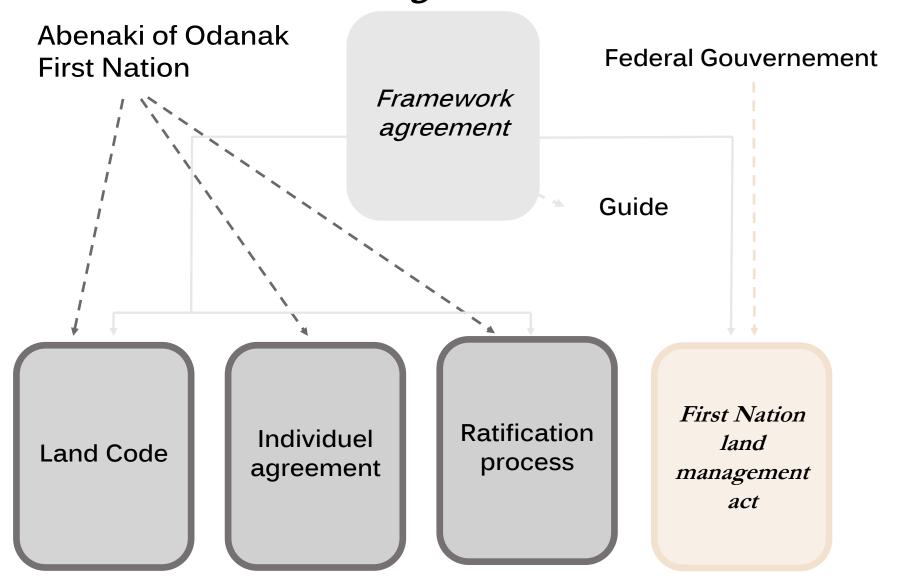
# Framework Agreement on First Nation Land Management

- From Nation to Nation: The Framework Agreement was negotiated between 14 First Nations and the Government of Canada in 1996;
- Replaces approximately 35 land management provisions of the Indian Act;
- Identifies the powers that will be conferred on the First Nation;
- First real recognition of First Nations' right to manage their reserve lands and resources;
- and The Framework Agreement may not be amended without the consent of the First Nations.

# Framework Agreement on First Nation Land Management

- The First Nations Land Management Act received Royal Assent on June 17, 1999.
- As part of its obligation to ratify the Framework Agreement, Canada has adopted Bill C-49 (First Nations Land Management Act).
- The federal legislation must be in conformity with the Framework Agreement and can not be changed without the signing First Nations modifying the Framework Agreement.

# Framework Agreement on First Nation Land Management



## **Land Code**

- A First Nation ratifies the Framework Agreement by adopting a land code;
- The land code is drafted by the First Nation according to the provisions of the Framework Agreement;
- Defines the powers and obligations of the First Nation regarding the management of reserve lands.

## Contents of the Land Code

- Preliminary Questions
- Land Laws of the First Nation
- Community Assemblies and Community Approvals
- Land Protection
- Accountability
- Land Management and Natural Resources
- Land rights and permits on land
- Dispute settlement
- Other questions

WHAT ARE THE DIFFERENCES BETWEEN THE FRAMEWORK AGREEMENT AND THE INDIAN ACT?

Framework Agreement

VS

Indian Act

Came into force 1999

Came into force 1839

First Nations consent needed to change / amend legislation

No consent required

The content of the First Nations Land Management Act is developed and adopted by and for First Nations

The content of the Indian Act is determined by Canada for First Nations

Framework Agreement

VS

Indian Act

Several approaches and tools have been developed for the individual needs of First Nations Rigid land management manual and instruments for all First Nations

Accountability to First Nation Members

Accountability for the government of Canada

Members play an important role in land management

Members can not get involved

Framework Agreement

VS

Indian Act

No municipal or provincial expropriation of First Nation lands

Very limited federal expropriation

Expropriation possible

First Nation's consent is not required

Instant registration system recognized by financial institutions

The approval period is very long and bureaucratic

Framework Agreement

VS

Indian Act

Status / legal capacity of the First Nation to acquire and hold a property, borrow and contract, expand and invest is recognized Legal status ambiguous and uncertain at the level of possession and ability to contract.

Result: discouragement of financial partners and creditors

# WHAT ARE THE ARTICLES OF THE ///D/A/V ACT WILL BE IMPROVED UNDER THE FRAMEWORK AGREEMENT?



#### According to the Framework

# 21. Agreement Inapplicability of Certain Sections of the Indian Act and Regulations

- a) 18 to 19 RESERVATIONS20, 22 to 28 POSSESSION OF LAND IN RESERVES
- b) 30 to 34 INFRINGEMENT OF PROPERTY RIGHT ON RESERVES
  - 35 LANDS INVOLVED FOR CAUSE OF PUBLIC UTILITY

# According to the Framework 21. Agreement Inapplicability of Certain Sections of the Indian Act and Regulations

- c) 37 to 41 ASSIGNMENT AND DESIGNATION
- d) 49, 50.4 DISTRIBUTION OF GOODS AB INTESTAT, 53 to 60 ADMINISTRATION OF RESERVES AND LANDS DESIGNATED OR DESIGNATED

# According to the Framework 21. Agreement Inapplicability of Certain Sections of the Indian Act and Regulations

e) 66, 69 - ADMINISTRATION OF INDIAN MONEY 71 - FARMS

f) 93 - REMOVAL OF OBJECTS ON RESERVES

#### According to the Framework

# 21. Agreement Inapplicability of Certain Sections of the Indian Act and Regulations

g) 57 - ADMINISTRATION OF RESERVES AND LANDS DESIGNATED OR DESIGNATED

- h) 42 TRANSMISSION OF GOODS BY SUCCESSION LAW
  - 73 REGULATIONS

To the extent that they are inconsistent with the land code

# WHAT EXPLAINS THE SUCCESS OF THE FRAMEWORK AGREEMENT?

ABENAKIS

## **FIRST**

It was developed and led by First Nations and not by Canada, and continues to be led by First Nations.

## SECONDLY

The status of reserve lands is maintained and mandatory, as they can not be surrendered or sold.

They must be protected for future generations.

## **THIRDLY**

Land ownership, decisionmaking and control are community's responsability, not Canada's.

## **FOURTH**

The conclusion of the Harvard study:

"... when First Nations have self-regulatory and self-government tools, they are more likely to succeed."



## **AVANTAGES**

- First real recognition of First Nations' right to manage their reserve lands and resources; and thus correct the deficiencies of the Indian Act.
- Community control over the management and development of First Nation lands;
- More efficient management of First Nation land;
- Economic and community development; and
- Greater accountability to First Nation members.

## **AVANTAGES**

- Recognition of the legal capacity of First Nations to acquire and hold property, to borrow, to enter into contracts, to expend funds and to make investments, to institute legal proceedings and to exercise its powers;
- Canada's transfer of land revenues to First Nations;
- Recognition of the right to receive income from interest on First Nation land; and
- Protection from arbitrary expropriation of First Nation lands.

## **AVANTAGES**

- Ability of First Nations to address current gaps in land rules in the event of marriage breakdown;
- Eliminating the need for ministerial approval for First Nations legislation; and
- Establishment of a First Nations-led Land Advisory Council to provide technical assistance to First Nations.



ABENAKIS

The Framework Agreement and the land code will force members to abdicate their indigenous status.



The Framework Agreement and the Land Code have no effect on Aboriginal status.

The Framework Agreement and the land code have the effect of transforming the First Nation into a municipality.



The Framework Agreement and the Land Code maintain the status of reserve land and does not create a Municipality.

The Framework Agreement and the Land Code do not affect reserve land.

# TRUE

Maintenance of the status of reserve lands is mandatory.

They must be protected for future generations

The Framework Agreement and the land code result in the surrender of First Nation lands.



Under the Framework Agreement, maintaining the status of reserve lands is mandatory, as they can not be surrendered or sold



# First Nations in developpement 2015-2016

#### Colombie-Britanique

- 1. Akisqnuk
- 1. Chawathil
- 2. Cheam
- 3. Cowichan
- 4. Haisla
- 5. Homalco
- 6. Katzie
- 7. Komoks
- 8. Lower Nicola
- 9. Kwantlen
- 10. Lil'Wat
- 11. Metlakatla
- 12. Nak'adzli
- 13. Neskonlith
- 14. Scowlitz
- 15. Shuswap
- 16. Shxw'ow'hamel
- 17. Soowahlie
- 18. Tahltan

#### **Alberta**

- 1. Tsuu T'ina
- 2. Alexis Nakota

#### Nouvelle-Écosse

1. Membertou

#### Terre-Neuve-et-Labrador

1. Miawpukek

#### Nouveau-Brunswick

1. Madawaska Maliseet

#### Ontario

- 1. Chippewas of Kettle & Stony
- 2. Chippewas of the Thames
- 3. Long Lake #58
- 4. Magnetawan
- 5. M'Chigeeng
- 6. Temagami
- 7. Beausoleil

- 8. Pikwaknagan
- 9. Shawanaga
- 10. Wasauksing

#### Manitoba

- 1. Long Plain
- 2. Fisher River
- 3. Nelson House
- 4. Norway House
- 5. Sagkeeng

#### Saskatchewan

- 1. George Gordon
- 2. English River
- 3. MistawasisYellowquill

#### Québec

- 1. Mashteuiatsh
- 2. Abénakis de Wôlinak
- 3. Abénakis d'Odanak

## **Operational First Nations**

#### Colombie-Britanique

- 1. Skowkale
- 2. Aitchelitz
- 3. Campbell River
- 4. St. Marys
- 5. Yakweakwioose
- 6. Beecher Bay
- 7. Kitselas
- 8. Leq' a: mel
- 9. Lheidli T'enneh
- 10. Malahat
- 11. Matsqui
- 12. Musqueam
- 13. Seabird Island
- 14. Shx'wha:y Village
- 15. Skawahlook
- 16. Sliammon
- 17. Snaw Naw As (Nanoose)
- 18. Songhees
- 19. Squiala
- 20. Stz'uminus
- 21. Sumas
- 22. Tsawout

- 23. Tsawwassen
- 24. Tsekani (Mcleod Lake) Manitoba
- 25. Ts'kw'aylaxw (Pavilion) 1. Opaskwayak Cree
- 26. T'sou-ke
- 27. Tsleil-Waututh
- 28. Tzeachten
- 29. Westbank
- 30. We Wai Kai (Cape Mudge)
- 31. We Wai Kum (Campbell River)
- 32. Williams Lake

#### Saskatchewan

- 1. Flying Dust
- 2. Muskeg Lake
- 3. Muskoday
- 4. Whitecap Dakota
- 5. Kinistin
- 6. Kahkewistehaw
- 7. One Arrow

- Nation
- 2. Chemawawin
- 3. Swan Lake
- 4. Brokenhead

#### Ontario

- 1. Mississaugas of Scugog Island
- 2. Chippewas of Georgina Island
- 3. Dokis
- 4. Henvey Inlet
- Mississauga First Nation
- 6. Nipissing
- 7. Whitefish Lake
- 8. Anishinaabeg of Naongashiing
- Bingwi Neyaashi Anishinaabek





Vote: May 9, 2003

**NIPISSING First Nation** 

North Bay, Ontario





The Nipissing First Nation has 2,400 members.

The Nipissing First Nation lands now represent approximately 68% of the size of the land base surveyed in 1850, or approximately 58,000 acres.

The land code allowed the Nipissing First Nation to develop partnerships with surrounding municipalities and establish beneficial relationships for all.

North Bay Mayor Al McDonald said on November 3, 2011: "The City of North Bay shares an outstanding relationship with the Nipissing First Nation, which I think is a model to follow. On behalf of the citizens of North Bay, I want to thank you warmly for your leadership."







Financial institutions have also developed loan programs on the reserve.

In this regard, the Nipissing First Nation has entered into a partnership with the Royal Bank of Canada as part of its on-reserve loan program.

This gives members of the community access to the same opportunities as off-reserve people.

The Nipissing First Nation now has the power to guarantee mortgages under the Framework Agreement.

The Nipissing First Nation has established its own housing loan program.







The number of businesses owned by members of Nipissing First Nation has increased.

## In 2010:

- Employ 377 people and have an estimated employment value of close to \$ 15 million;
- Jobs offer equal opportunity because they are 1/3 members of the First Nation, 1/3 by other First Nations, and 1/3 by non-First Nations from neighboring communities;
- These businesses generated capital assets valued at just over \$ 10 million.

These figures are astounding in a relatively short time.

To encourage First Nation entrepreneurship and diversification, several First Nations such as Nipissing are issuing land use permits and leases for commercial and industrial facilities.

This allows members to obtain commercial loans from financial institutions while offering guarantees to the lender.





Vote: December 7, 2009

**HENVEY INLET First Nation** 

Pickerel, Ontario

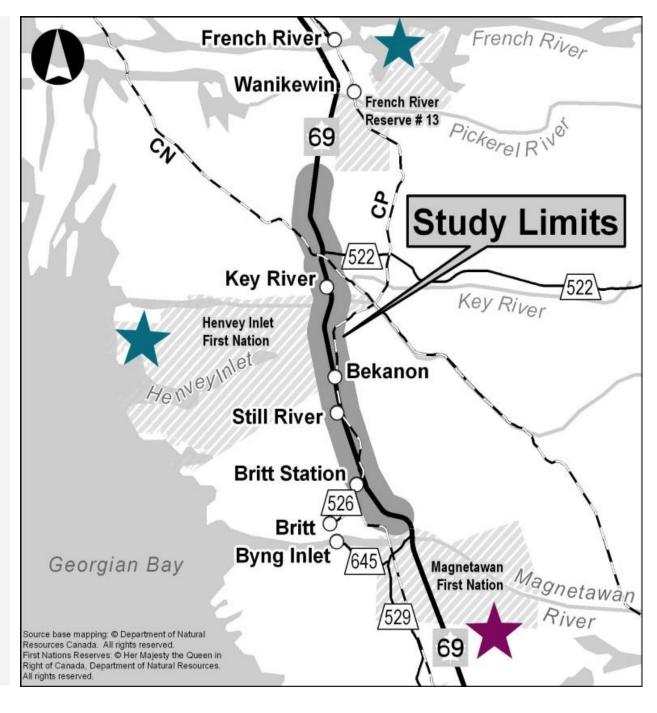




Henvey Inlet First
Nation and three
other First Nations
have land in the
Highway 69 corridor.

Henvey Inlet is the only First Nation whose lands CAN NOT be expropriated by the province.

(The blue stars illustrate Henvey Inlet's 2 reserves, while the purple star illustrates the Magnetawan First Nation which could be expropriated because it is still governed by the Indian Act ).



Henvey Inlet First Nation entered into a contract on guaranteed feed-in tariffs with the Ontario Power Authority (OPA) for a 300 MW wind farm project.

This project will produce enough electricity each year to power approximately 70,000 households.

The land code is essential to meet the timetable set out in the contract with the OPA. Construction of 108 wind turbines is planned.

This is a major economic development project for Henvey Inlet.

This is the largest guaranteed feed-in tariff contract in Ontario among 23,000 projects.





Vote: September 13, 2010 S

**WAN LAKE First Nation** 

Swan Lake, Manitoba

ABENAKIS



- 7 new units owned by the band.
- The Swan Lake First Nation made headlines about the good management of its housing program, its finances and its schools.
- The community in southern Manitoba is attracting attention because it was facing a \$ 3 million debt not so long ago.
- Several residences were in poor condition, and the band council office was heavily deteriorated.
- The financial situation has been restored. Almost all the houses have been renovated.
- The Band Council gave priority to improving living conditions.



A new office was built for the band council, a new health center (pictured in the photo) and a new school.

Band members attributed this improvement to strong leadership.

The band has put in a lot of effort over the past few years to clear a \$ 2.8 million debt and has used the various economic development opportunities to significantly improve the reserve situation.



Spirit Sands Casino inauguration ceremony.

The Swan Lake First Nation is a key player in the province's newest casino project to be located near Carberry.

The community held the ratification vote on its land code on September 13, 2010.

If the land code had not been approved, the casino would have been built in another community.

The land code came into effect on October 1, the same day as the Spirit Sands casino inauguration ceremony.



WHITECAP DAKOTA First Nation

Whitecap, Saskatchewan





As of January 25, 2012, the Whitecap Dakota First Nation has taken steps to become the third First Nation governed by the Umbrella Agreement wishing to achieve self-government by signing an agreement with Canada to undertake negotiations effect.

Article 55.1 of the Framework Agreement allows for an increase in sectoral self-government towards a broader self-government agreement.

The Whitecap Dakota First Nation has enjoyed great economic success since its land code came into force in 2003.





Chief Darcy Bear was invested with the Order of Merit of Saskatchewan in 2011.

Throughout his mandate, Darcy Bear, leader of the Whitecap Dakota First Nation, has played a key role in the development of her community, and in doing so has become a source of positive spirit, pride and confidence in her entourage.

His commitment to the Whitecap Dakota First Nation has contributed to the positive development of the community and the growth of self-government throughout Saskatchewan and Canada.

The Dakota Dunes Project is one of a number of economic development initiatives that have been underway since the 2003 adoption of the Whitecap Dakota First Nation Land Code under the Framework Agreement.





Dakota Dunes Casino opened in the summer of 2007.

This 80,000 square foot casino features a conference center and a restaurant.



## Economic Impacts:

More than \$ 100 million in capital investment

Creation of more than 700 jobs (population of 257 on reserve)

\$ 90 million in revenue per year

More than 1.4 million tourists per year

Reduction in the number of social assistance recipients from 87 clients in 1993 to 8 in

2011

Reduction of the unemployment rate from 67% in 1993 to 5% in 2011

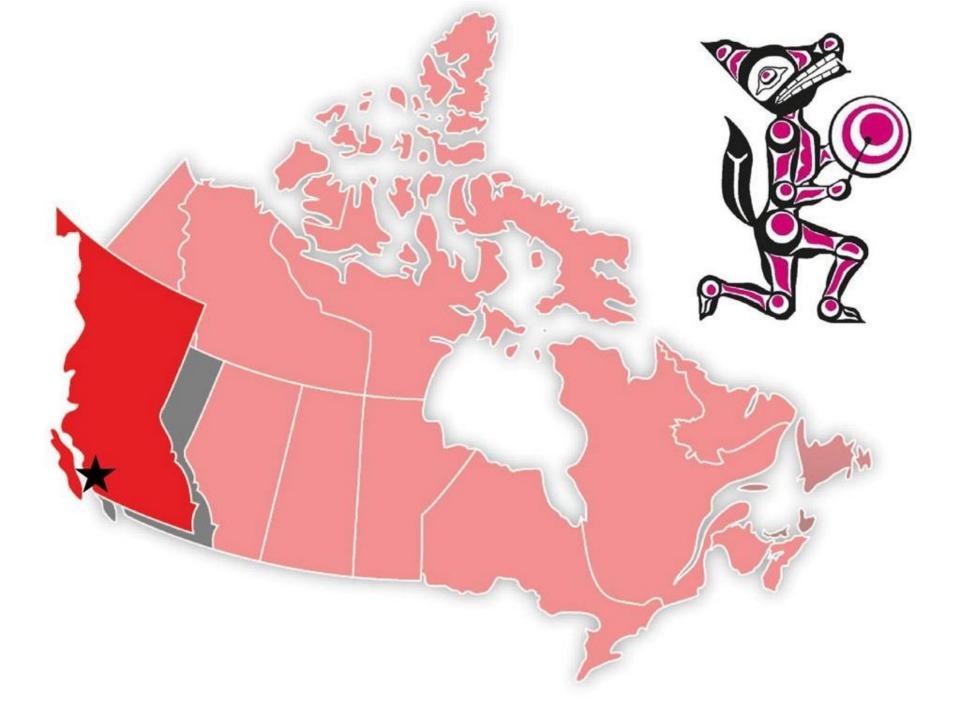
Vote: April 22, 2007

**TSLEIL-WAUTUTH First Nation** 

North Vancouver in British Columbia

ABENAKIS

The Tsleil-Waututh Nation is a small and growing community of 500 members located in the greater Vancouver area.







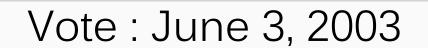
## TWN WIND POWER INC.

A TSLEIL-WAUTUTH NATION COMPANY



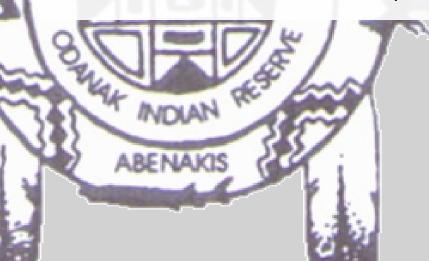
The Tsleil-Waututh Nation Nation created TWN Wind Power in partnership with endurance Wind Power.

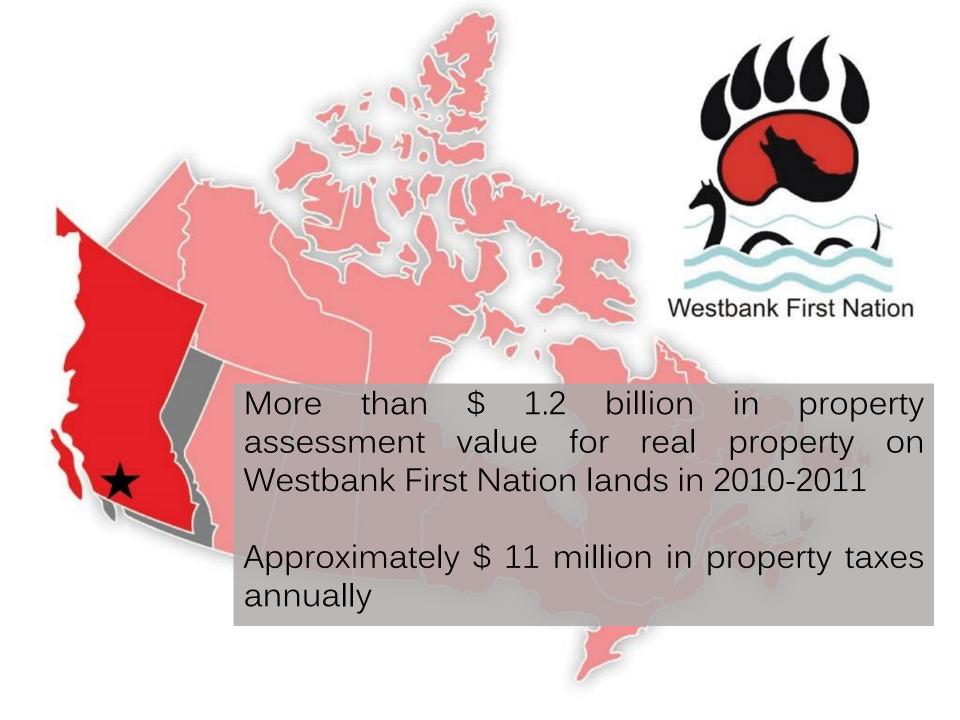
It acts as a distributor of community wind turbines for small residential or commercial uses such as schools, nursing homes, band council offices or other similar entities.

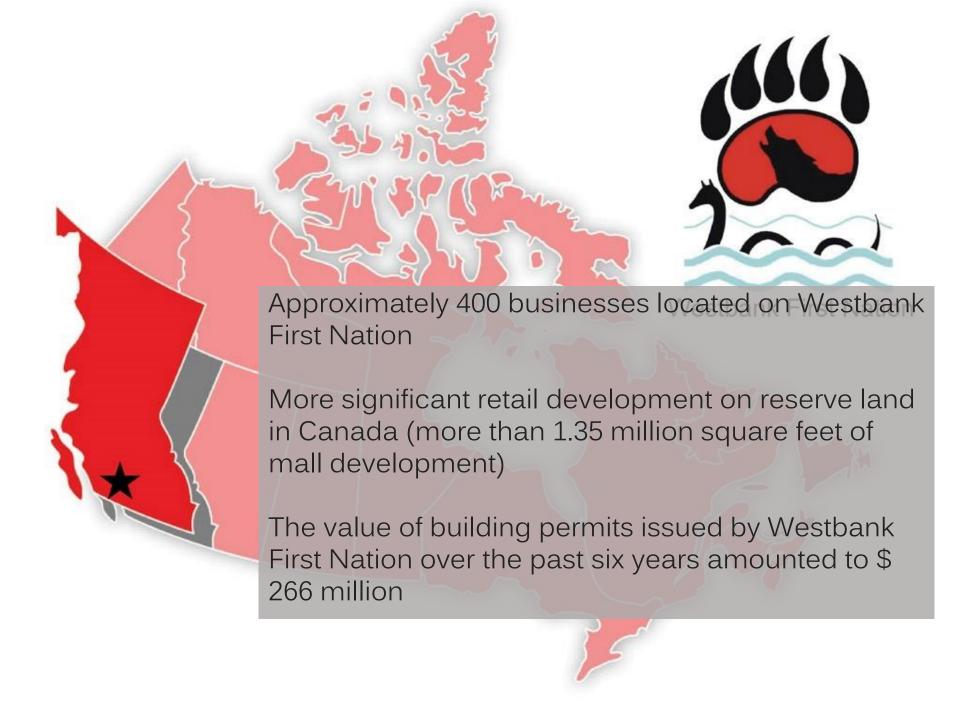


WESTBANK First Nation

Kelowna, British Columbia



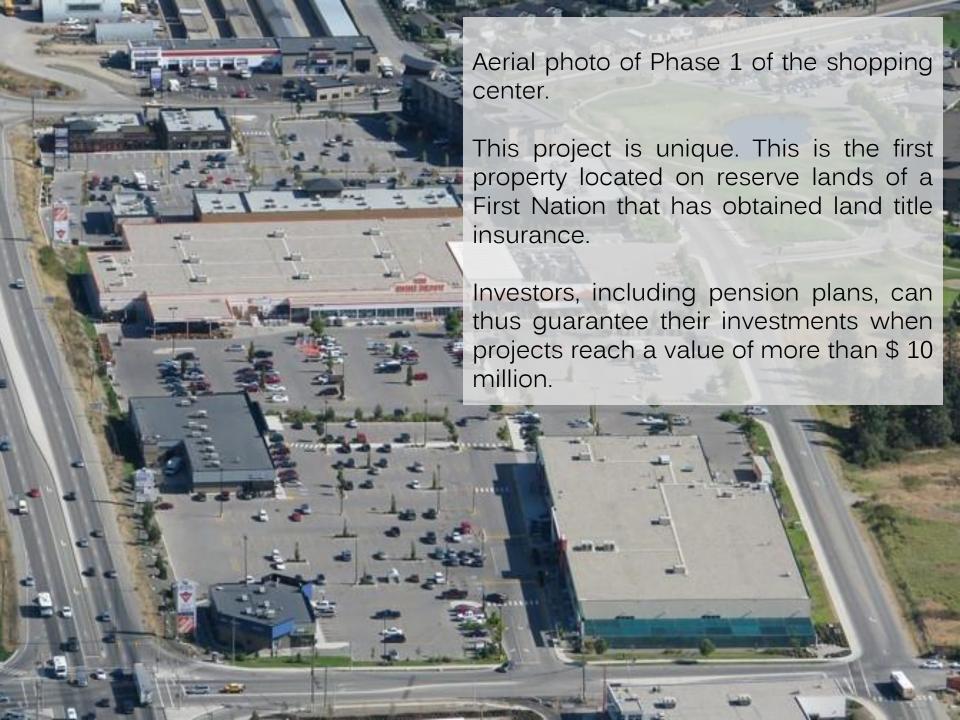
















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## Thank you

