



DEMA
LAND SERVICES

Indigenous Consultation

A Practitioner's Perspective

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DUTY TO CONSULT

- ▶ **THE LEGAL DUTY TO CONSULT IS AN OBLIGATION THAT RESTS WITH THE CROWN**; however, the law permits the Crown to delegate procedural aspects of consultation to project proponents.
- ▶ A **PROPONENT** is defined as: an entity or person who is either seeking a Crown decision related to land and natural resource management or seeking an approval from the Alberta Energy Regulator (AER) under the specified enactments. Proponent-led consultation is the term used to describe a proponent who is carrying out procedural aspects of consultation delegated to them by the Crown.

WHO to CONSULT

IN ALBERTA, AT THE PRESENT TIME, CONSULTATION OCCURS WITH TWO MAIN INDIGENOUS GROUPS:

▶ FIRST NATIONS

In Alberta there are 45 First Nation in three Treaty Areas (Treaty 6 (Central Alberta); Treaty 7 (Southern Alberta); and Treaty 8 (Northern Alberta))

▶ MÉTIS SETTLEMENTS

There are eight Métis Settlements in Alberta (northern Alberta)

Alberta First Nations

Treaty 6
Treaty 7
Treaty 8

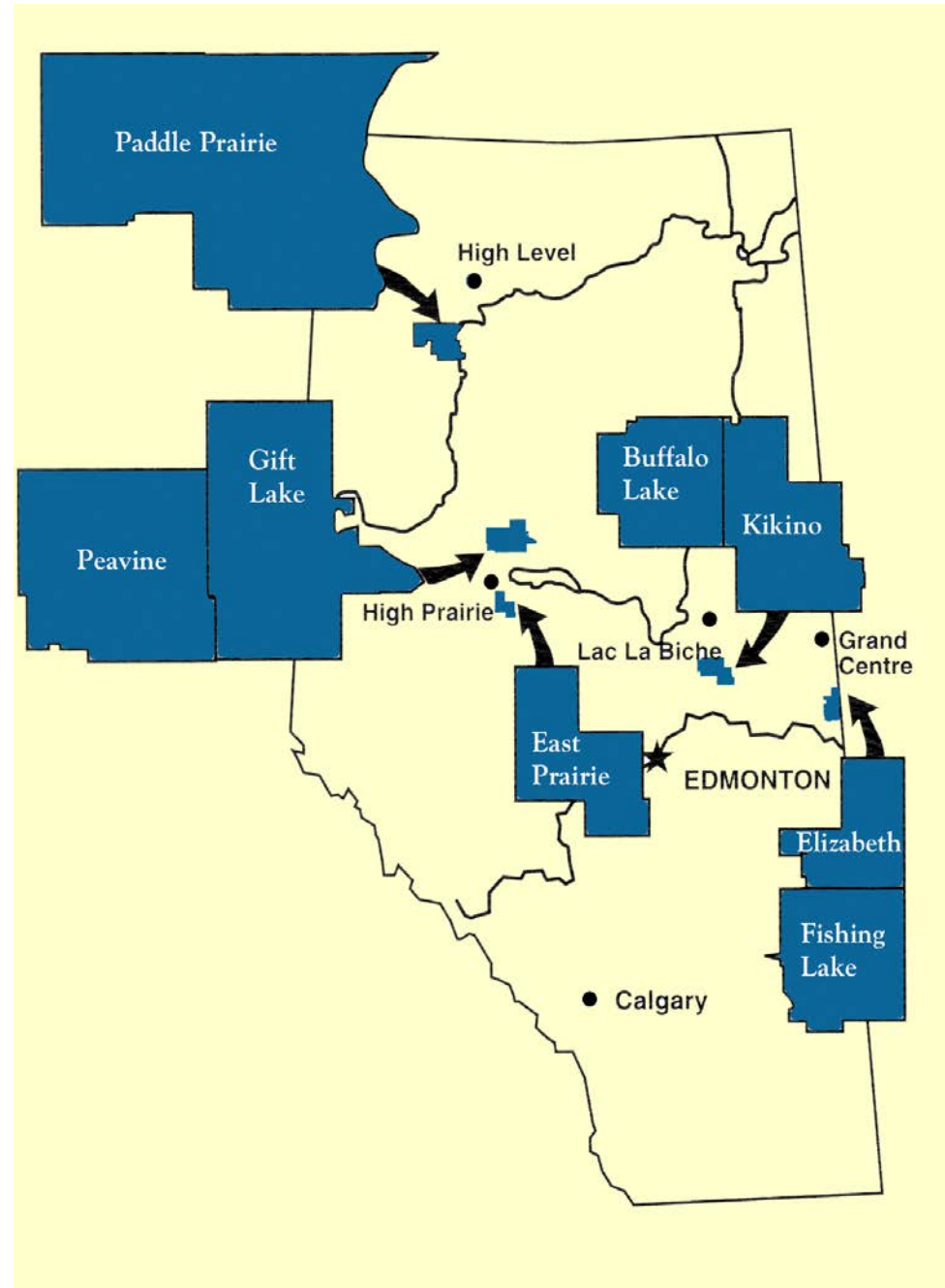
The Government of Canada, in section 35(2) of the Constitution Act, 1982, defines three groups of Aboriginal peoples: Indians, Inuit and Métis.



Alberta Métis Settlements

Paddle Prairie Métis Settlement
Peavine Métis Settlement
Gift Lake Métis Settlement
East Prairie Métis Settlement
Buffalo Lake Métis Settlement
Kikino Métis Settlement
Elizabeth Métis Settlement
Fishing Lake Métis Settlement

The Métis are members of ethnic groups native to Canada and parts of the United States that trace their descent to indigenous North Americans and European settlers. The Métis in Canada are recognized as an aboriginal people under the Constitution Act of 1982.



Requirements for Meaningful Consultation

► CULTURAL KNOWLEDGE;

KNOW the Linguistic Groups - there are over 50 distinct Indigenous languages spoken in Canada;

UNDERSTAND the Social Structures / Leadership within the Linguistic Group, such as their Societies, Clans, Communal lands, Family lands, how were leaders chosen, the role of Elders within the community, the decision making process;

RECOGNIZE the cultural diversity of Aboriginal People. In Canada there are 634 Nations situated on approximately 3,100 Reserves, each with a distinct cultural identity;

Requirements for Meaningful Consultation (cont.)

- ▶ Understand the numbered TREATIES

Example: Treaty 6 (signed in 1876) granted rights on the surrendered lands, in part stated

...Her Majesty further agrees with Her said Indians that they, the said Indians, shall have right to pursue their avocations of hunting and fishing throughout the tract surrendered as hereinbefore described (unoccupied Crown Lands), subject to such regulations as may from time to time be made by Her Government of Her Dominion of Canada.....

- ▶ Understand the Laws of Canada - in particular Section 35 of the Constitution Act (1982)
- ▶ Be up to date on the most recent Court decisions related to Indigenous Consultation.

TRADITIONAL TERRITORY

▶ TRADITIONAL TERRITORY

Generally Consultation Occurs on lands outside the Indigenous community's land base (Reserves or Settlements), within what is described as their **TRADITIONAL TERRITORY**.

It should be noted that Traditional Territories of Indigenous groups can overlap and at the present time there are no agreement(s) amongst the Indigenous Groups or the Crown as to exactly where the Traditional Territory boundaries are. When undertaking Consultation it is the Crown that makes the decision on who to consult.

North American Culture Areas circa 1400



CONSULTATION PROCEDURES IN ALBERTA:

- ▶ Providing First Nations and/or Métis Settlements with plain language information on project scope and location.
- ▶ Identifying potential short and long-term adverse project impacts.
- ▶ Meeting with First Nations and/or Métis Settlements to discuss their concerns.
- ▶ Developing mitigation strategies to minimize or avoid adverse impacts.
- ▶ Implementing mitigation measures, as directed.
- ▶ Creating a consultation record for Alberta, First Nations and/or Métis Settlements, including information on how specific concerns regarding adverse impacts have been addressed.

Source: Alberta Indigenous Relations

Essential Components for a SUCCESSFUL Consultation Engagement with First Nations, Métis and Inuit Groups

- ▶ **BE RESPECTFUL AT ALL TIMES;**
- ▶ **BE KNOWLEDGABLE, DO YOUR HOMEWORK TO UNDERSTAND THE CULTURE OF THE PEOPLE YOU ARE MEETING WITH, WHEN YOU DON'T KNOW ASK QUESTIONS;**
- ▶ **BE UNDERSTANDING, LISTEN TO WHAT IS BEING SAID BY ELDERS, COMMUNITY LEADERS AND PEOPLE IN THE COMMUNITY;**
- ▶ **BE RESPONSIVE, THE CONSULTATION ENGAGEMENT NEEDS TO BE MEANINGFUL TO BOTH THE INDIGENOUS GROUP BEING CONSULTED AND THE CROWN;**
- ▶ **BE ATTENTIVE, MAKE EVERY EFFORT TO HAVE MEANINGFUL RESPONSES TO SPECIFIC CONCERNS, and WHEREVER POSSIBLE MITIGATE THE CONCERN.**

Consultation for New Bridge Construction on a Highway Twinning Project



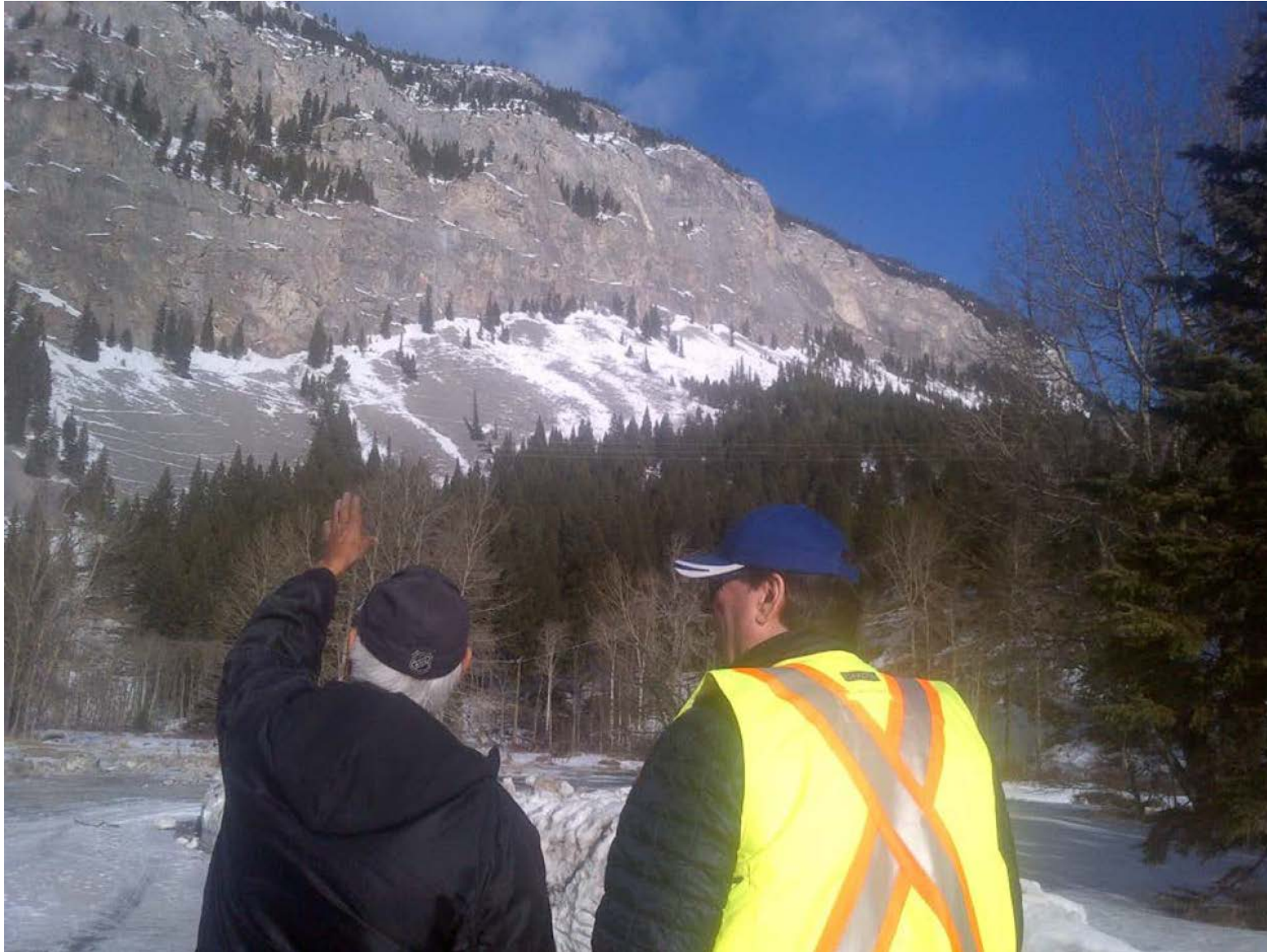
Consultation for Dam Decommissioning in the foothills of the Rocky Mountains



Consultation for an emergency Slide Repair in the Peace River Valley



Always a Teacher Always a Student
Looking at Crowsnest Mountain in the Rocky Mountains



THANK YOU