

# **Jessica Gordon: Treaty Manager, Implementation Branch, AANDC**

## **Modern treaties and Lands and resources**

Primary goals of modern comprehensive land claims agreements are:

- Articulating Aboriginal rights
- Clarifying the scope of those treaty rights
- Developing a common understanding of the application of those treaty rights

In particular, modern treaties clarify rights in regards to lands and resources.

## **Features of land and resource management**

Modern treaties across Canada codify:

- Aboriginal authority over treaty lands
- Who may access, use, and/or develop treaty lands, waters and resources
- Roles and responsibilities for the Crown, territorial or provincial governments, Industry and implementing bodies
- The scope and mandate of environmental assessments and reviews

Each modern treaty is uniquely suited to that treaty group.

## **Key players and their roles**

- The Crown (Canada), Departments, Agencies, Crown Corporations
- Territorial or Provincial Government(s)
- Aboriginal Treaty Group(s)
- Private Industry
- Private Citizens

## **Land and Resources Governance**

- Treaties and their associated agreements
- Federal Policies
- Legislation
- Territorial devolution

## **Core Terms and Definitions**

Some important definitions, drawn from modern treaties:

- Resource Management
- Renewable/Non-Renewable Resource

- Surface Rights, Sub-Surface Rights
- Co-Management
- Public Board
- Land Use Plan

### **Examples of modern treaty land and resource provisions**

- **Yukon Umbrella Final Agreement**

5.5.1 *Subject to its Settlement Agreement, each Yukon First Nation, as owner of Settlement Land, may exercise the following powers of management in relation to its settlement land:*

5.5.1.3 *to charge rent or other fees for the use and occupation of its Settlement Land;*

- **Inuvialuit Final Agreement**

7.(2) *The Inuvialuit shall, by virtue of the Settlement Legislation, be granted title in fee simple absolute to the beds of all lakes, rivers, and other water bodies found in Inuvialuit lands.*

7.(3) *For greater certainty, the Crown shall retain ownerships to all waters in the Inuvialuit Settlement Region.*

- **Labrador Inuit Land Claims Agreement**

4.6.1 *A Person who wishes to extract, use or dispose of Carving Stone from Labrador Inuit Lands must obtain a permit from the Nunatsiavut Government*

### **North versus South**

The management of land and resources in treaty regions varies between the North and South. Common to both, however, is the National Energy Board.

#### **South of 60:**

- Canadian Environmental Assessment Agency
- Canadian Nuclear Safety Commission

#### **North of 60:**

- Boards, Committees, Panels

### **Environmental assessment in the North**

Environmental assessment is a planning/decision making process to predict environmental effects of proposed initiatives.

- Minimize adverse environmental effects before they occur.
- Incorporate environmental factors into decision making.

**Socio-economic assessment** is a process that identifies the potential effects of proposed activities.

- Conducted to ensure that potential projects do not undermine the social systems of individuals and communities

### **Principles of Accessing and Using Treaty Lands**

Accessing and using treaty lands:

- When you're a public stakeholder
- When you're Government
- If you're a member of Industry

### **Challenges**

The creation of modern treaties has challenged the treaty relationship in new ways such as, but not limited to:

- Working through litigation
- Different interpretations of treaty provisions
- "We've never done this before."

Modern treaties are an opportunity for Canada to redefine how it deals with aboriginal groups. Implementation of the treaty must continue, decade after decade without fail. Differences of opinion will occur, the relationship can be relied on. For civil servants treaty obligations can seem quite alien, and there are many questions to be answered.

### **Useful tools for federal civil servants**

Look at a map, see where you're working, get a copy of the treaty, take it from there. Work through problems and challenges, use lawyers when necessary. Tools that support federal officials when dealing with lands and resources in a modern treaty context include:

- The treaty and its associated agreements
- Your colleagues
- Legal opinions

It is the obligation of government, industry and the public to understand and respect land claim agreements and self government agreements.

The treaty relationship is important. Relationships are the core of modern treaty implementation and will help in times of conflict or disagreement. Be respectful.