



# BC ASSEMBLY OF FIRST NATIONS

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November 8, 2011

Dear BC Chiefs and Lands Technicians,

## **RE: IMPROVEMENTS TO THE ADDITIONS TO RESERVE (ATR) POLICY**

Since the fall of 2009, the Assembly of First Nations (AFN) and Canada agreed to review the existing Additions to Reserve (ATR) policy through a Joint Working Group (JWG). The JWG reports to and receives direction from the AFN Chiefs Committee on Claims (CCoC) and the AFN Chiefs-in-Assembly.

The National Aboriginal Land Managers Association (NALMA) is an observer to the JWG and with its development of an “ATR Toolkit” is assisting the AFN with holding a **Regional ATR Dialogue Forum on November 17, 2011** in Kelowna, BC (notice attached).

At this session participants will be asked to discuss any challenges or issues they may have relating to the ATR Policy. There will be a facilitated review of key issues and priorities relating to:

- Policy and Process Issues;
- Legislative Issues;
- Land Use Planning Issues;
- Identification of Solutions that work; and,
- Confirmation Next Steps/Action.

As the Co-Chair of the Chiefs’ Committee on Claims (CCoC), I would like to encourage all BC First Nations to provide their perspective on the ATR policy within the BC Region. If you are not available to attend this session, we have provided both an ATR Survey and ATR Detailed Feedback Form to assist in collecting the important input required from our Chiefs and Technicians throughout the province of British Columbia.

Once again I encourage you to attend the BC Regional Forum in Kelowna or if you are unable to attend please take the time to review and return your comments to Angie Derrickson ([angie.derrickson@bcafn.ca](mailto:angie.derrickson@bcafn.ca)) by November 15<sup>th</sup> so that they may be added to the discussion.

If you have any further questions or concerns, please do not hesitate to contact the BCAFN office.

Respectfully,  
BRITISH COLUMBIA ASSEMBLY OF FIRST NATIONS

Jody Wilson-Raybould  
Regional Chief

Encl.



## AFN Additions to Reserve (ATR): BC Regional Dialogue Forum - Survey

In preparation for the AFN Regional ATR Dialogue Forum on November 17, 2011 in Kelowna, BC, the BCAFN is asking for your important feedback on the Additions to Reserve process in British Columbia.

### Contact Information:

**Nation:**

**Name:**

**Position:**

**Email:**

### Canada's ATR Policy:

Please take the time to provide your comments, challenges, successes, or changes in policy that you would like to see from your political/technical experiences in dealing with Additions to Reserve in British Columbia Region:

1. Has your Nation dealt with the ATR process? If so, what stages and how many applications do you have?

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2. How long did the process take to get reserve status or how long has your application been outstanding?

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3. Canada's ATR policy creates very distinct "categories" of proposals for additions to reserve or new reserves. What category is your application(s)?

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## AFN Additions to Reserve (ATR): BC Regional Dialogue Forum - Survey

4. Identify the challenges/issues that have been the hardest to overcome in terms of the ATR process. Do you have a suggestion on how they could be resolved?

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5. Describe your relationships with the different levels of government throughout the ATR process?

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6. Are there any other issues you would like to raise?

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7. Are there any suggestions you have to improve the ATR process?

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**Please email or fax your comments before November 17, 2011**

Angie Derrickson  
Policy Analyst

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Thank you for taking the time to assist the BCAFN in acquiring a better understanding of the diversity of ATR applications, progress and challenges that our Nations are facing in BC.



## AFN Additions to Reserve (ATR): BC Regional Dialogue Forum

### Detailed Feedback Form

In preparation for the AFN Regional ATR Dialogue Forum on November 17, 2011 in Kelowna, BC, the BCAFN ask for your important feedback on the Additions to Reserve process in British Columbia.

Please take the time to read the attached AFN ATR Interim Draft Report and provide any additional comments, challenges/successes, or changes you would like to see from your political/technical experiences in dealing with Additions to Reserve in British Columbia Region:

#### ATR Policy Issues:

Canada's ATR policy creates very distinct "categories" of proposals for additions to reserve or new reserves. A new category is under development by the JWG to recognize those proposals that seek to re-acquire lands that were the subject of a specific claim before the Specific Claims Tribunal however, at the time of NALMA's training the ATR categories were:

- 8. Legal Obligation:** This category recognizes that Canada must fulfill its legal obligations to First Nations and it addresses proposals that seek reserve status for land based on specific claim settlement agreements, including Treaty Land Entitlement (TLE), court orders or legal reversions of former reserve land. This category also includes proposals for land that is being accepted in exchange for lands being expropriated or transferred under s. 35 of the Indian Act. Often First Nations seek the return or replacement of lands in addition to financial compensation for the original breach of obligation. There is a difference in experience between First Nations as to how this has been achieved.

*Comments:*

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- 9. Community Additions:** This category recognizes proposals that seek to add land to an existing reserve based on normal community growth (eg. housing, schools, churches, recreational centres, community economic projects), natural geographic enhancements (eg. road right of way corrections or natural accretions to a reserve boundary adjacent to an ocean, lake, river or stream) and return of unsold surrendered land to the existing reserve land base.

*Comments:*

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- 10. New Reserves/Other:** This category recognizes proposals that seek to create a new reserve and the proposal does not fit within either of the first two categories. This category was not addressed during the NALMA training sessions and will be the subject of dedicated discussion by the Joint Working Group.

*Comments:*

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## AFN Additions to Reserve (ATR): BC Regional Dialogue Forum

### Detailed Feedback Form

#### a. Land Selection Area

*e.g. restricts the land open for consideration by a First Nation (Urban vs. Rural)*

*Have you experienced restrictions? "service area", "contiguous", "traditional territory"*

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#### b. Culturally Significant Lands

*e.g. Your experiences with protection/acquisition of Cultural Site within Municipality, etc.*

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#### c. Willing Seller / Willing Buyer

*e.g. Fee Simple lands, crown lands right of first refusal*

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#### d. Fair Market Value

*e.g. inflated land values, valuation of crown lands*

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#### e. Financial Implications and Funding Sources

*e.g. true costs such as transaction costs, infrastructure, housing and other capital costs*

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## AFN Additions to Reserve (ATR): BC Regional Dialogue Forum

### Detailed Feedback Form

#### f. Capacity

*e.g. personnel expertise vs. outside resources, support funding*

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#### g. Land Selections for Economic Purposes

*e.g. economic opportunities, community planning, municipal interests and competition*

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#### h. Taxation

*e.g. application of fee simple taxes on proposed lands*

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#### i. Role of AANDC during negotiations with affected provinces and municipalities

*e.g. support during municipal consultations, requirements of pre-conditional agreements*

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#### j. Vague and Uncertain ATR Policy involving Economic Development

*e.g. Differential interpretation of economic reserves across Canada, what is your BC experience...*

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## AFN Additions to Reserve (ATR): BC Regional Dialogue Forum

### Detailed Feedback Form

#### k. Role of the Provinces

*e.g. what is your experience with the cooperation of the Province of BC?*

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#### l. Minerals

*e.g. Subsurface negotiations*

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#### m. Third Parties

*e.g. experiences in identification and resolution to 3<sup>rd</sup> party interests*

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#### n. Surface Access

*e.g. water, timber, soil, wildlife, emergency access agreements*

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#### o. Resolving Overlapping First Nation Land Selections

*e.g. your experience with 70km radius consultation requirement, MOU, agreements, etc*

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## AFN Additions to Reserve (ATR): BC Regional Dialogue Forum

### Detailed Feedback Form

#### p. Environmental Issues and ATR

*e.g. cost of Environmental Site Assessment (ESA), timelines, remediation issues, etc.*

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#### q. Surveys

*e.g. cost of legal surveys –timeframes*

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#### r. Consistent Interpretation of the ATR Policy

*e.g. interpretation and consistency of the ATR policy within BC Region*

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#### s. Timelines and Oversight

*e.g. are there clear timelines, highlight your experiences...*

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#### t. AANDC and the Department of Justice (DOJ)

*e.g. Regional, HQ, DOJ Review*

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