

**Lower Nicola Indian Band
Lands Management Advisory Committee
Meeting Agenda**

April 15, 2020, 4:00pm
Virtual Skype Meeting

TIME	ITEM	PRESENTER
4:00	1. MEETING OPENING 1.1. Opening Prayer 1.2. Adoption of Agenda	
4:10	2. ADMINISTRATION 2.1. Adoption of Minutes <i>Reference Materials: 2020-03-09 LMAC Meeting Minutes draft</i> 2.2. Digital Signatures	
4:20	3. FOR INFORMATION AND DISCUSSION ONLY 3.1. LMAC Quarterly Report <i>Reference Materials: 2019-2020 LMAC Quarterly Report Q3</i> 3.2. Lands Sector Quarterly Report <i>Reference Materials: 2019-2020 Lands Quarterly Report Q3</i> 3.3. Law Ratification Schedule <i>Reference Materials: 2020-2021 LNIB Law Ratification Schedule; LNIB Law Making Summary from Land Code</i> 3.4. Enforcement Law Review <i>Reference Materials: LNIB Enforcement Law Summary; LNIB Enforcement Law draft</i> A. Law Approval Requirements <i>Reference Materials: LMAC Resolution No. 2020-03 draft for discussion</i>	Brandi O’Flynn Stephen Jimmie “ “
	- Dinner Break (30 min.) -	
7:00	4. MEETING CONCLUSION 4.1. LMAC Meetings Moving Forward A. Two Monthly Meetings as Needed B. Virtual Meeting Times	

**Lower Nicola Indian Band
Lands Management Advisory Committee
Meeting Minutes**

March 09, 2020, 4:00 pm
Lands and Economic Development Boardroom

Present:	Bill Bose (Chair)	Gene Moses	Louise Moses	Madeline Lanaro
	Hrolfe Joe (Co-Chair)	Robert Sterling		
Absent:	Sondra Tom			
Staff:	Stephen Jimmie	Brandi O'Flynn		
Guests:	Shawn Speirs and Grand Chief Joe Hall, Lands Advisory Board (LAB)			

1. MEETING OPENING

The meeting was called to order at 4:15 pm.

1.1. OPENING PRAYER

An opening prayer was offered by Bill Bose.

1.2. ADOPTION OF AGENDA

Motion (01): That the LMAC Meeting Agenda dated March 09, 2020 be adopted with the following amendments:

- Add 4.2 Clapperton Creek Diversion Project Update
- Add 5.1 Law Ratification Schedule

Moved: Louise Moses **Seconded:** Robert Sterling

Motion Carried

2. FOR INFORMATION AND DISCUSSION ONLY

2.1. LANDS ADVISORY BOARD (LAB) PRESENTATION

Representatives from the LAB, Shawn Speirs and Grand Chief Joe Hall, gave a presentation about the First Nations Lands Management Act (FNLMA) replacement. This presentation emphasized opportunity to improve the FNLMA and to improve its alignment with the Framework Agreement on First Nations Lands Management (FA) through the replacement.

Discussion ensued on the current misalignment of the FNLMA and the FA, and on the FNLMA being an inadequate reflection of the full intent of the FA.

LMAC discussed the inclusion of LNIB Chief Stuart Jackson regarding this topic and lobbying for changes to be made. It was mentioned that members would like to see at least a letter drafted.

Action (01): Stephen will draft a letter with the support of the LAB Resource Centre and will follow up with Councillor Bill Bose and Chief Stuart Jackson.

Motion (02): That the LMAC break for dinner at 5:40 pm for 30 minutes.

Moved: Madeline Lanaro

Seconded: Gene Moses

Motion Carried

3. ADMINISTRATION

3.1. ADOPTION OF MINUTES

Reference Materials: 2020-03-02 LMAC Meeting Minutes draft

Motion (03): That the March 02, 2020 LMAC Minutes be adopted with the following amendments:

- 3.2 to be removed
- Jerrica Joe changed to Brandi O'Flynn on first page

Moved: Gene Moses

Seconded: Robert Sterling

Motion Carried

- 3.1 and 4.1 "Discussion ensued on..." removed

3.2. CONFLICT OF INTEREST DECLARATION FORMS

The LMAC was reminded that conflict of interest declaration forms were set to be due this meeting, however, since conflict of interest training with the First Nations Financial Management Board (FMB) has been postponed to the April 06, 2020 meeting, this deadline has been extended to next meeting.

4. UPDATES

4.1. PETERS BROS. CONSTRUCTION LTD. (PBCL) MATERIAL EXTRACTION PERMIT

Stephen provided an update on the status of this topic, which was presented to Chief and Council at their March 03, 2020 meeting with the LMAC recommendation supporting the granting of PBCL's permit. Chief and Council decided in favour of authorizing the Director of Lands, Stephen Jimmie, to enter into an agreement with PBCL and grant the permit.

4.2. CLAPPERTON CREEK DIVERSION UPDATE

Brandi provided an update on the upcoming work on Zoht IR No.4 regarding the Clapperton Creek Diversion by Coquihala Development Corp (Nicola Ranch).

5. FOR INFORMATION AND DISCUSSION ONLY (CONT'D)

5.1. LAW RATIFICATION SCHEDULE

Discussion ensued on the various LNIB Laws under work and the schedule for ratifying these Laws. Gene brought up that he would like all Laws to be voted on by membership. There was discussion regarding whether the 21-day period for tabling a Law with Chief and Council restarts if there are significant changes made to the Law.

Action (02): Stephen will look into whether significant changes restart the 21-day tabling of a Law with Chief and Council.

6. NEW BUSINESS

No items of new business.

7. MEETING CONCLUSION

7.1. Next Committee Meeting: April 06, 2020

Motion (04): That the Lands Management Advisory Committee meeting be concluded at 6:56 pm.

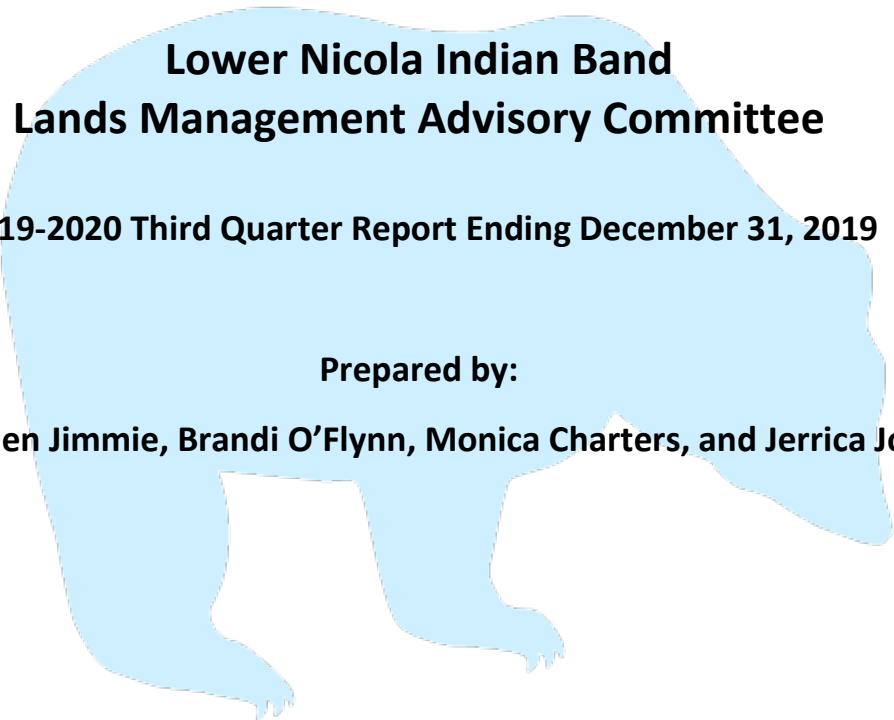
Moved: Louise Moses

Seconded: Madeline Lanaro

Motion Carried

SUMMARY OF ACTION ITEMS:

01. Stephen will draft a letter with the support of the LAB Resource Centre and will follow up with Councillor Bill Bose and Chief Stuart Jackson.
02. Stephen will look into whether significant changes restart the 21-day tabling of a Law with Chief and Council.



**Lower Nicola Indian Band
Lands Management Advisory Committee**

2019-2020 Third Quarter Report Ending December 31, 2019

Prepared by:

Stephen Jimmie, Brandi O’Flynn, Monica Charters, and Jerrica Joe

First Quarter Meetings – April 08, 2019; May 06, 2019; and June 03, 2019

Agenda Items:

Updates:

- No updates were provided during this quarter.

Information Only:

- 2019-04-08 Traditional Holdings Project
- 2019-04-08 LMAC 4th Quarter Report
- 2019-05-06 Land Use Planning
- 2019-05-06 Traditional Holdings Project
- 2019-05-06 LMAC Quarterly Report and Annual Report
- 2019-05-06 2019-2020 Annual Workplan
- 2019-06-03 LMAC Annual Report
- 2019-06-03 Confidentiality and Conflict of Interest
- 2019-06-03 Cannabis Information
- 2019-06-03 Business Licence Law
- 2019-06-03 2019-2020 Annual Workplan and 5-Year Plan

New Business:

- 2019-04-08 Zoning Lot 145
 - By Motion #6 in the April 08, 2019 minutes the LMAC moved to recommend the Council prohibit the proposed land use due to its inconsistency with the Land Use Plan.
- 2019-04-08 Zoht IR No.4 Waterline Easement Agreement
 - Resolution No. 2019-04 LMAC supports the Waterline Easement Agreement and recommends Council:
 1. Enter into the Waterline Easement between LNIB and LNIB; and
 2. Enter into individual Waterline Easement agreements with the above listed Members.
- 2019-04-08 Nicola Mameet IR No.1 Industrial Park Waterline Easement Agreement
 - Resolution No. 2019-05 LMAC supports the Waterline Easement Agreement and recommends Council:
 1. Enter into the Waterline Easement between LNIB and LNIB; and
 2. Enter into individual Waterline Easement agreements with the above listed Members.
- 2019-04-08 Zoht IR No.4 Clapperton Creek ROW and Letter Agreement
 - Resolution No. 2019-07 LMAC supports the Waterline Easement agreement and recommends the Council to enter into the Licence and Right of Way Agreement between LNIB and the Coquihalla Developments Corporation
- 2019-04-08 Nicola Mameet IR No.1 Eastloop Waterline Easement Agreement
 - Resolution No. 2019-06 LMAC supports the Waterline Easement Agreement and recommends Council:
 1. Enter into the Waterline Easement between LNIB and LNIB; and
 2. Enter into individual Waterline Easement agreements with the above listed Members.
- 2019-05-06 Trans Mountain – Test Cap Lead Survey Request
 - Resolution No. 2019-08 LMAC:
 1. Supports TMP's request to inspect the cathodic protection system and conduct the annual test cap lead survey; and

2. Recommends the Chief and Council grant TMP and PureHM access to Joeyaska IR No.2 and Zoht IR No.4 to inspect the cathodic system and conduct the annual test cap lead survey.

Second Quarter Meetings – July 08, 2019; and September 09,2019

Agenda Items:

Updates:

- 2019-07-08 Traditional Holding Project
- 2019-07-08 Lands 2019-2020 Annual Work Plan
- 2019-07-08 Jimmy Peters Estate
- 2019-09-09 New Lands Manager
- 2019-09-09 New Lands Admin Assistant
- 2019-09-09 Zoning Law Proposal
- 2019-09-09 Cannabis Survey
- 2019-09-09 Subdivision, Development and Servicing Law

Information Only:

- 2019-07-08 LMAC Quarterly Report
- 2019-07-08 Cannabis/Marijuana Survey
- 2019-07-08 Subdivision, Development and Servicing Law

New Business:

- 2019-07-08 SFE Timber Permit Application
 - By Motion #6 in the July 08, 2019 minutes the LMAC moved to recommend the Lands Manager approve the Timber Permit Application.
- 2019-07-08 Traditional Land Holdings and Membership Disputes
- 2019-07-08 Lands File Research Process
- 2019-09-09 TMP Reserve Access Request
 - Resolution No. 2019-10 LMAC:
 1. Recommends Chief and Council grant TMP and its contractors' access Joeyaska IR No.2 and Zoht IR No.4 to conduct Natural Hazard Ground Inspection's; and
 2. Recommends Chief and Council grant TMP and its contractors' access Joeyaska IR No.2 to change the branding on the pipeline markers from Kinder Morgan to Trans Mountain.
- 2019-09-09 Revised Timber Permit Policy
 - Resolution No. 2019-11 LMAC supports the adoption of the Policy and recommends the LNIB Council ratify the Policy.
 1. Recommends Chief and Council grant TMP and its contractors' access Joeyaska IR No.2 and Zoht IR No.4 to conduct Natural Hazard Ground Inspection's; and
 2. Recommends Chief and Council grant TMP and its contractors' access Joeyaska IR No.2 to change the branding on the pipeline markers from Kinder Morgan to Trans Mountain.
- 2019-09-09 SFE Timber Permit Application – Fuel Management
 - Resolution No. 2019-12 LMAC:
 1. Recommends Chief and Council grant TMP and its contractors' access Joeyaska IR No.2 and Zoht IR No.4 to conduct Natural Hazard Ground Inspection's; and
 2. Recommends Chief and Council grant TMP and its contractors' access Joeyaska IR No.2 to change the branding on the pipeline markers from Kinder Morgan to Trans Mountain.

Third Quarter Meetings – December 09, 2019

Agenda Items:

Administration:

- Acceptance Letters
- Oath of Office
- Adoption of LMAC September 09, 2019 Meeting Minutes

Updates:

- Land Use Planning and Economic Development Strategy

Information Only:

- Framework Agreement Summary
- FNLM Act Summary
- LNIB Land Code Summary
- Lands Sector 5-Year Plan
- 2018/19 Lands and LMAC Annual Report
- 2019/20 Quarterly Reports

New Business:

- 2019-12-09 CMHC Allotment to the Mackenzie Estate
 - Resolution No. 2019-13 LMAC supports the allotment of 2724 Cougar Crescent Merritt, BC on Nicola Mameet IR No.1 Lot 269 Plan No.2713 RSBC to the estate of Hugh Dale Mackenzie.
- 2019-12-09 Cannabis
 - Resolution No. 2019-14 the LMAC:
 1. Supports indoor and outdoor commercial growing on LNIB Lands; and
 2. Supports medical and recreational dispensaries/retail stores on LNIB Lands.

Fourth Quarter Meetings –

Agenda Items:

Updates:

-

Information Only:

-

New Business:

-

Next Meeting

LANDS SECTOR QUARTERLY REPORT

for Quarter Ending December 31, 2019

To

Chief and Council

Prepared by

Stephen Jimmie, Brandi O'Flynn, Geraldine Bangham

Jerrica Joe

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SECTOR SUMMARY

The Lands Sector is responsible for developing and implementing a land and environmental governance framework that will enable the implementation of the *Lower Nicola Indian Band Land Code*. Developing a land and environmental governance framework includes the following activities:

- Establishment, implementation, and maintenance of the legislative, regulatory, and policy framework, including an environmental assessment and protection regime;
- Enforcement which includes enforcing LNIB laws (both environmental laws and other land laws) and the prosecution of those in contravention of LNIB laws; and
- Undertaking of periodic evaluation of LNIB's land governance regime.

SECTOR PLAN OVERVIEW

The Lands Sector 5-Year Plan is weighted towards the implementation of the Land Code. The Plan is separated into key focus areas which include land governance, environmental stewardship, natural resource management on reserve, the resolution of *Indian Act* legacy issues, geographical information systems development, land administration, and membership.

Key Focus Areas	Key Focus Area Goals
Land Governance	<ol style="list-style-type: none"> 1. Improved transparency of the Lands Department. 2. Improved accountability of the Lands Department. 3. Improved efficiency through capacity development and short-term land governance guidelines. 4. Establish long-term land governance guidelines through laws.
Environmental Management	<ol style="list-style-type: none"> 1. Improved efficiency by outsourcing for environmental management and environmental assessment services. 2. Improve capacity of staff by allowing them to self-studying by reviewing courselets available on First Nation Land Management Resource Centre website. 3. Improved efficiency through capacity development and short-term environmental management guidelines.
Natural Resource Management on Reserve	<ol style="list-style-type: none"> 1. Improved efficiency through capacity development and short-term natural resource management guidelines.
Resolution of <i>Indian Act</i> Legacy Issues	<ol style="list-style-type: none"> 1. Reduce the number of membership land title issues. 2. Eliminate all buckshee leases.
Graphical Information Systems Development	<ol style="list-style-type: none"> 1. Improved efficiency and utilization of GIS tools.

Land Administration	<ol style="list-style-type: none"> 1. Improved efficiency in processing land instrument applications, registrations, rent/royalty collection and compliance monitoring. 2. Support the implementation of the Infrastructure Sector projects. 3. Support the implementation of Administration projects. 4. Improved efficiency regarding responses to IR access requests. 5. Improved efficiency regarding the coordination and completion of surveys. 6. Improved efficiency regarding responses to land inquiries and requests from the membership. 7. Ensure all rental buildings are maintained to commercial standards.
Membership	<ol style="list-style-type: none"> 1. Timely administration of status card applications and renewals regarding Indian Registry. 2. Amend the Membership Transfer Policy to improve efficiency of the transfer process.

MAJOR ACHIEVEMENTS

LAND GOVERNANCE

Lands Sector Plans (towards Efficiency, Transparency, and Accountability)

- 2019 revisions of the 5-Year Plan and Annual Work Plan complete, delivered to ED and Council
- 5-Year Plan and Annual Work Plan entered into Monday.com to improve team coordination, implementation and reporting to ED and Council
- Stephen Jimmie promoted from Lands Manager to Director of Lands
- Brandi O’Flynn promoted from Lands Agent to Lands Manager, Lands Agent position posted November 21, 2019
- Hired Jerrica Joe as the new Lands Administrative Assistant
- Lands Researcher position posted November 21, 2019

Lands Management Advisory Committee

- Quarterly Reports up to Q3 completed and delivered to ED

Funding Received for Land Use Planning Initiative, Indigenous Services Canada, Budget \$168,000

- LNIB Land Use Plan, Nicola Mameet Land Use Plan and Community Economic Development Plan
 - Additional \$57,000 received from Rural Dividend Fund for Community Economic Development Planning (Budget of \$64,250)
 - Urban Systems engaged and projects combined into one scope of work to increase efficiency
 - Project start-up complete, spatial data collection complete, non-spatial data collection complete, investment climate assessment draft delivered, regional economic sector analysis draft delivered
 - Presentations to Lands and Economic Development Sectors complete, presentation to Directors completed October 9, 2019, presentation to LMAC completed in November 2019
 - Lands Sector received first rough draft of the Land Use Plan late December 2019

- Traditional Holdings Project
 - Angie Bain and Gretchen Fox engaged for project
 - Project pre-planning complete, introduction of project to community complete, document review ongoing, community engagement ongoing, community verification in Fall 2019/Winter 2020
 - Final report expected in Spring 2020
- Subdivision, Development and Servicing Law
 - Land Forest People Consulting engaged to support law development
 - Ongoing review of drafts, presentation to LMAC contemplated for Spring 2020
- Land Use and Zoning Law Development
 - Land Forest People Consulting engaged to support law development
 - Preliminary review of draft complete, presentation to LMAC contemplated for Spring 2020

Allotment Law Development

- Document review initiated and ongoing, preliminary summarized Draft of Law Terms circulated among the Traditional Holdings Project Team, pending outcomes of Traditional Holdings Project
- First draft anticipated in Winter 2020

Proposal for Resolving Indian Act Legacy Issues, First Nation Land Management Resource Centre

- Budget of \$238,600, application made July 31, 2019 with support from Angie Bain and Gretchen Fox
- Proposal focus: resolution of issues related to roads, through reserves, which have been excluded from Land Code jurisdiction, E.g. Mill Creek Road
- Project application declined by funder

Proposal for Solid Waste Management Planning, First Nation Land Management Resource Centre

- Budget of \$51,300, application made October 01, 2019 with support from Land Forest People Consulting
- Proposal focus: next phase of solid waste management planning and implementation including education, a composting program, illegal dumping and a Ticketing and Enforcement Law, awaiting response from funder
- Project application approved and initiated in November 2019

ENVIRONMENTAL MANAGEMENT

Godey Pit Salt Contamination

- 2019-2020 Funding Agreement received and approved, \$18K for admin costs including professional services, \$1,560 for Bear Environmental to review site reports, and \$7,073 for Bear Environmental to attend a stakeholder meeting.
- In response to LNIB's consultant's feedback and site visit last summer, the Ministry agreed it needed to do some additional site work for its assessment of Joeyaska to be accurate. Work involved 3 different visits to Joeyaska between April – July 2019, and included additional drilling and installation of monitoring wells.
- LNIB retained Risk Sciences International (Dr. Don Mattison) to consider what, if any, health impacts the residents have suffered due to salt contamination. Working with Dr. Mattison, we developed a questionnaire, in consultation with the Sterling family (Rona Sterling and others), which is being distributed to Joeyaska residents.

- Objective: Dr. Mattison shall prepare an opinion on health impacts, which the LNIB can use to (1) make internal decisions about which, if any, impacts to pursue and (2) pursue the Province for damages, if we chose to do so.
- LNIB required the Province to agree to meet at least twice in 2019 to discuss damages suffered by the LNIB, including to Joeyaska residents.
- We propose to hold those meetings after we receive the site report and results to the questionnaire discussed above. As a result, we expect the first meeting in November/December 2019. The meetings did not occur in 2019; anticipate meeting in Spring 2020.

Environmental Management Database

- Initiated development of a database with the support of Gandalf Consulting; budget of \$7,550
- Database will identify, describe, and locate all Areas of Potential Environmental Concern (APEC) and Areas of Environmental Concern (AEC); structure and content under review by Urban Systems for import into our GIS system and inclusion in our Land Use Plan Mapping
- Work plans to be developed for each APEC and AEC.
- GIS database setup and instructions for its management provided by Urban Systems in December 2019

NATURAL RESOURCE MANAGEMENT ON RESERVE

Timber Permit Policy Amendment

- Policy amended to include a permit for fuel management activities, ratified by Council September 17, 2019
- Policy will be redrafted and included as a schedule to the Subdivision, Development and Servicing Law. First draft received in December 2019

RESOLUTION OF INDIAN ACT LEGACY ISSUES

Buckshee Lease –Lot 145, Nicola Mameet IR1 – SCFSS Building

- Issue corrected and new lease with LNIB Dev Corp contemplated
- Actions on other buckshee leases on hold and subject to the outcome of the Traditional Holdings Project

Survey Issues

- Planning in progress to address Shulus Community survey issues
- List of CMHC survey issues in-progress
- Planning in progress related to registering unallocated lots in the First Nation Land Registry

GRAPHICAL INFORMATION SYSTEM DEVELOPMENT

Proposal for Land Survey Capacity Development, Survey General Branch – Natural Resources Canada

- Budget of \$62,000, application made January 2019

- Proposal focus: providing LNIB participants with 12 weeks in community capacity development spanned over a 24-month period, not selected for 2019-2020 intake, but awaiting funder response for 2020-2021 intake – response anticipated for February 28, 2020

Asset Management Program/Information Management Needs Review & Strategic Capacity Development Project

- Project budget of \$105,500 funded internally by LNIB Administration; Urban Systems engaged for project
- Project focus: streamlining digital systems and internal staff capacity to collect, store, manage, access and utilize central information to support on-going decision making
- GIS development included in the project:
 - Initiation meeting complete, key staff interviews complete, software systems usage review in-progress, mapping support provided for the Traditional Holdings project, lightship training complete

LAND ADMINISTRATION

Lands Property Management Reports

- Reports for September and October complete and delivered to ED.

Infrastructure Project Support

- Working on Zoht IR4 Waterline Easements
- Supporting Zoht IR4 Reservoir planning activities
- Working on Industrial Park Waterline Easements
- Working on DWS East Loop 10 Lots Waterline Easements
- Supporting Irrigation Ditch Water Management activities
- Supporting Joeyaska IR2 road and culvert planning activities
- Supporting Joeyaska IR2 Reservoir planning activities

Housing Project Support

- Coordinating outstanding CMHC Allotments – 18 on current list

Administration Project Support

- Research on Lots 101 & 103, Nicola Mameet in-progress for New Administration Building
- Review of LNIB Bylaws complete and require further management

IR Access Requests

- FLNRO Range Use Plan Tenure Monitoring
- FLNRO and STC Irrigation Ditch Flow Monitoring
- STC Surveying of Guichon Creek for Coho
- TMP Natural Hazard Ground Inspection
- BC Hydro Vegetation Maintenance Zoht IR No.4

Survey Requests

- Nicola Mameet IR No.1 Lot 209-7 Subdivision: *complete*
- Zoht IR No.4 Waterline Survey: *complete*
- Pipeul IR No.3 Re-Survey: *complete*
- Nicola Mameet IR No.1 Lot 376: *tabled*

MEMBERSHIP

Status Cards

- 36 Certificate of Indian Status (CIS) Cards processed to date
- 45 Secure Certificate of Indian Status (SCIS) Applications assisted to date

Registration

- 1 New Registration for Indian Status
- Cross-training two LNIB staff in Indian Registration Agent duties; two previous backups became unavailable

Membership Changes

- 3 Members Transferred to LNIB – 3 adults and 1 child – currently pending approval with BC Indigenous Services Canada
- Total membership changes:
 - 1285 members at start of October 2019
 - 1286 members at end of December 2019

CHALLENGES

1. Membership requests regarding land issues to ED and Council

- 10 Year (2016-2025) Replaceable Grazing Licence (RAN076730), MFLNRO
 - An off-reserve Crown Land Tenure; requires development and implementation of a Range Use Plan.
 - Grazing Licence Use Policy drafted in October 2017 and made the Lands and Economic Development Sector responsible for administering the Grazing Licence. ED recommended Council ratify the policy in April 2018, but this didn't happen because it didn't get considered by the Lands Management Advisory Committee (LMAC). LMAC reviewed and supported the policy, and the Lands Sector began implementation. It became clear that the Lands Sector lacked capacity and resources to administer the Grazing Licence requirements.
 - Range Use Plan developed and ratified in January 2019 to satisfy requirements of the Licence.
 - Members may still be using the ranges; however, direction is needed regarding the Licence.

2. Recruiting qualified people for the Lands Agent and Lands Researcher positions

3. Lack of office space for new employees

HIGHLIGHTS FROM LNIB'S LAND CODE: PART 2 – LNIB LEGISLATION

LAW-MAKING POWERS

Council may make Laws, in accordance with LNIB Land Code, which relate to LNIB Land. As laid out in Section 6.2 of the LNIB Land Code, these Laws may relate to:



Land Interests

- Allotments & Transfers
- License and Interest Granting
- Natural Resource Extraction/Removal



Land Use Planning

- Zoning
- Restrictions and Protections
- Parks and Recreational Lands



Land Development and Subdivisions



Land Surveys



Business Regulation

Licensing and Permitting



Expropriation

of land for a Community Purpose



Public Works

- Local Services
- Traffic and Transportation



Residency and Access

- Landlords' and Tenants' Rights and Responsibilities
- Trespassing



Environment

Assessment and Protection



Wildlife Management and Protection

Hunting and Fishing



Sanitation

Public and Private Premises



Nuisances

Public and Private



Dispute Resolution



Animal Control



LNIB Law Enforcement
and Ticketing



Approval and Ratification Vote
under LNIB Land Code



HIGHLIGHTS FROM LNIB'S LAND CODE: PART 2 – LNIB LEGISLATION

LAW-MAKING PROCEDURE

Section 7 (Law-Making Procedure) of the LNIB Land Code lays out the process to effect new Laws as follows:

1. Written Proposal

Proposals for Laws shall be in writing and shall contain:

- a. Proposed title
- b. Description of matter to be addressed
- c. Reason why Law is necessary
- d. Draft outline of the Law
- e. Sections of Land Code authorizing the Law

2. Proposing Laws

Law proposals may be introduced at a Council meeting, by specific people listed in section 7.1.

3. Tabling and Posting

At least 21 days before the proposed Law is voted upon by Council, it shall be:

- a. Tabled at a Council meeting
- b. Deposited with the LMAC Chair
- c. Posted in public places on LNIB Land

❖ Urgent Matters

If a Law is needed urgently to protect LNIB Land, Members, or public health and safety, Council may enact a Law without Tabling and Posting.

BUT, this Law expires 45 days after enactment unless re-enacted including Tabling and Posting.

4. Community Input

Council shall consider any input from Members and may incorporate input before enacting the Law.

5. Enactment & Commencement

Subject to Community Engagement and Approvals (Part 3) requirements, a Law is enacted if approved by Council Resolution (BCR) at a Council meeting.

A Law comes into effect on the date of its enactment or a later date as specified by the Law.

LNIB Enforcement Law

Why We Need Laws

Laws are rules made by the government that forbid certain actions and are enforced by the courts. Laws apply to everyone equally. If you break a law, you may have to pay a fine, pay for the damage you have done, or go to jail.

Imagine the chaos – and the danger – if there were no laws. The strongest people would be in control and people would live in fear. Drivers could choose which side of the street to drive on and no one could stop them. Imagine trying to buy and sell goods if no one had to keep promises. Or trying to hold onto your personal property or even to keep yourself safe if there were no laws against robbery or assault.

Even in a well-ordered society, people disagree, and conflicts arise. The law provides a way to resolve disputes peacefully. If two people claim the same piece of property, rather than fight they turn to the law. The courts can decide who the real owner is and how to protect the owner's rights.

Laws help to ensure a safe and peaceful society. The Canadian legal system respects individual rights and ensures that our society is orderly. It applies the same law to everybody. This includes the police, governments and public officials. All of them must carry out their duties according to the law.

LNIB Enforcement Law

Given the inherent right of LNIB to self-government and stewardship of our lands, and as enabled by the *Land Code*, the Director of Lands recommended to Chief and Council the enactment of the *LNIB Enforcement Law*. The Law was tabled at a duly convened meeting of Chief and Council on **DATE** and enacted at a duly convened meeting of Chief and Council on **DATE**.

The purpose of the *Enforcement Law* is to enable the fair, effective, and efficient enforcement of all LNIB laws. Enacting an overarching *Enforcement Law* rather than enforcement provisions in each individual law makes sense at this time because of the robust suite of laws that LNIB is developing. This approach allows LNIB to avoid repetition, and possibly confusion, by repeating the same enforcement provisions in different laws. LNIB staff, members, residents and others interested in or affected by our laws must look only to one location for enforcement provisions.

The *Enforcement Law* enables Council to appoint a Justices of the Peace, sets out their authorities, and the circumstances under which they must refer matters to a Judge. The law designates Enforcement Officers and sets out their authorities.

The *Enforcement Law* establishes the requirements for tickets including their form and content, the serving of tickets, payment of fines or disputing tickets, and the process for hearings of disputes. The law lays out a process for instances when a person fails to appear at a hearing or fails to respond to a ticket, including time extensions in certain circumstances and collections.

Schedules to the law list all LNIB laws to which the *Enforcement Law* applies, and establishes the applicable fines and penalties for offences.

For more information please refer to the *Enforcement Zoning Law*. Any questions can be directed to the Director of Lands at the LNIB Lands Sector administration office. Copies of the Law are available online or in hard copy at the administration office.

LNIB ENFORCEMENT LAW

LNIB ENFORCEMENT LAW

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LNIB ENFORCEMENT LAW

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LNIB ENFORCEMENT LAW

PREAMBLE

WHEREAS since time immemorial, the members of the Lower Nicola Indian Band have continuously and without interruption occupied our territory and exercised Aboriginal title to our traditional lands;

AND WHEREAS Lower Nicola India Band has an inherent right to self-government which emanates from its people, culture, language, and land, and which is recognized and affirmed by section 35 of the Constitution Act, 1982;

AND WHEREAS our Nation has chosen to assume control of its Indian Reserve Lands pursuant to the First Nation Lands Management Act, S.C. 1999 C. 24 by entering into the Individual Agreement on First Nation Land Management between Lower Nicola Indian Band and Her Majesty The Queen In Right Of Canada and by adopting the Lower Nicola Indian Band Land Code;

AND WHEREAS under sections 6.1 and 6.2 of the Land Code, Council is authorized to establish laws relating to the enforcement of Laws including with respect to the appointment of justices of the peace for the enforcement of Laws;

AND WHEREAS section 22(3) of the *First Nations Land Management Act* (Canada) authorizes LNIB, in relation to prosecutions of contraventions of Laws,

- (a) to retain its own prosecutors,
- (b) to enter into an agreement with British Columbia for the use of provincial prosecutors, or
- (c) to enter into an agreement with Her Majesty for the use of agents engaged by Her Majesty;

AND WHEREAS section 24 of the *First Nations Land Management Act* (Canada) provides that

- (a) a justice of the peace shall have tenure and remuneration, and be subject to conditions of removal, that reflect the independence of office of justice of the peace in British Columbia, and
- (b) justices of the peace have all the powers necessary for the performance of their duties and functions.

AND WHEREAS Council wishes to implement a consolidated enforcement law to enable fair, effective and efficient enforcement of Laws,

NOW THEREFORE BE IT RESOLVED THAT the Council enacts as follows:

PART 1– CITATION, APPLICATION, DEFINITIONS AND INTERPRETATION

Citation

1. The Law may be cited as the Enforcement Law.

LNIB ENFORCEMENT LAW

Purpose

2. The purpose of this Law is to enable fair, effective and efficient enforcement of Laws.

Application

3. (1) This Law applies to all LNIB Land.
(2) This Law binds the LNIB government.

Paramountcy

4. If there is a conflict between this Law and the Land Code, the Land Code will prevail.

Definitions

5. (1) In this Law:

“an information” means mean the instrument that sets out the information that confirms a peace officer’s reasonable and probable grounds to believe someone has committed an offence;

“compliance notice” means a notice issued in accordance with section 20;

“court” means a court of competent jurisdiction in British Columbia;

“Criminal Code” means the *Criminal Code of Canada*, RSC 1985, c C-46;

“discounted fine” means the amount of the fine set out in Schedule A that is payable if payment is received on or before the 14th day after the date a ticket was served;

“enforcement officer” means a Person designated under section 12;

“judge” means a judge presiding over a court;

“justice of the peace” means a justice of the peace appointed under section 11(1) to ensure the enforcement of Laws including the adjudication of offences of Laws;

“named person” means a Person to whom a compliance notice or ticket is issued;

“place” means

- (a) a dwelling,
- (b) a building or structure or any part of a building or structure other than a dwelling,
or
- (c) a vehicle, vessel, or trailer;

“peace officer” has the same meaning as provided in the Criminal Code;

“prosecutor” means

- (d) a lawyer retained by Council to prosecute offences of a Law; or

LNIB ENFORCEMENT LAW

- (e) subject to an agreement with British Columbia or Canada regarding the prosecution of contraventions of a Law,
 - (i) a provincial prosecutor, or
 - (ii) a federal agent;

“Schedule A” means the Schedule to this Law that sets out the fine, discounted fine and surcharge associated with offences under applicable Laws.

“surcharge” means the amount set out in Schedule A that is payable if payment for a fine is received on the 30th day after the date a ticket was served;

“ticket” means a ticket issued in accordance with section 20.

- (2) In addition to the terms defined in this Law, terms used in this Law may be defined in the Land Code.

Interpretation

- 6. (1) A reference in this Law to an enactment is to be construed as including a reference to that enactment as it may be amended from time to time.
- (2) A word in the singular form may be read in the plural form if the context allows it and a word in the plural form may be read in the singular form if the context allows it.
- (3) Unless otherwise expressly provided, the structures, organizations, bodies, principles and procedures established or used in this Law will be guided and interpreted in accordance with the culture, traditions and customs of LNIB.

Severability

- 7. The provisions of this Law are severable, and where any provision of this Law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid portion must be severed from the remainder of this Law and the decision that it is invalid must not affect the validity of the remaining portions of this Law.

Validity

- 8. Nothing under this Law must be rendered void or invalid by
 - (a) an error or omission in a compliance notice, ticket, order, form or other document given or authorized under this Law; or
 - (b) a failure of LNIB, a LNIB official or their delegate to do something within the required time.

PART 2 - SCHEDULES

Schedule

LNIB ENFORCEMENT LAW

9. (1) Schedule A forms part of this Law and has the force of law.
- (2) A reference to “this Law” includes Schedule A.
- (3) Despite section 36, Council may amend Schedule A by Resolution.

PART 3- OFFENCES

Offences generally

10. (1) A Person commits an offence against a Law by:
 - (a) doing anything prohibited under a Law; or
 - (b) omitting to do anything required under a Law.
- (2) An enforcement officer may commence a proceeding for an offence against a Law by
 - (a) issuing a ticket in accordance with section 20;
 - (b) issuing a compliance notice in accordance with section 20; or
 - (c) laying an information for a prosecution before a justice of the peace or a Court in accordance with section 17.
- (3) Where a Person commits an offence for more than one day, it constitutes a separate offence for each day on which the Person commits or continues the offence.

PART 4 - JUSTICES OF THE PEACE

Justices of the peace

11. (1) Council may appoint by resolution, with the advice of the Lands Manager and the Lands Management Advisory Committee and in a manner consistent with this Law and the Land Code, any justices of the peace that Council determines
 - (a) are necessary to enforce Laws; and
 - (b) qualified to serve in the position of justice of the peace.
- (2) Before carrying out any authorities granted to it under this Law, any justice of the peace appointed by Council must swear or affirm an oath of office prior to commencing their duties.
- (3) Unless otherwise instructed by Council, a justice of the peace is empowered and authorized to make decisions regarding the application and enforcement of this Law including as follows:
 - (a) whether an offence has been committed;
 - (b) whether a compliance notice or ticket was validly issued;

LNIB ENFORCEMENT LAW

- (c) whether a fine or surcharge is due; and
 - (d) any other related decisions.
- (4) If, in the course of a hearing before a justice of the peace, a matter arises that is within the exclusive jurisdiction of a court, the justice of the peace must terminate the hearing and refer the matter to be heard as a new matter by a judge.
- (5) Before the commencement of any hearing by a justice of the peace, a party to the matter may apply to court for an order that the matter be heard by a judge instead of by the justice of the peace.
- (6) In making an order pursuant to subsection (5), the judge must consider relevant factors, including, without limitation, the following factors:
- (a) the objectives of respecting Laws and LNIB's self-government, and of encouraging timely, effective and efficient enforcement of Laws;
 - (b) the complexity of the factual and legal issues involved in the matter;
 - (c) the proposed length of the trial of the matter;
 - (d) the severity of the potential outcomes or consequences of the matter; and
 - (e) the public interest in the outcome of the matter.

PART 5 - ENFORCEMENT OFFICERS

Appointing enforcement officers

12. In addition to an enforcement officer appointed or designated under another Law, LNIB appoints the following as enforcement officers:
- (a) any RCMP officer or peace officer; and
 - (b) any individual or company designated by Council by resolution.

Authority of enforcement officers

13. (1) Without limiting an enforcement officer's powers at law, including in another Law, an enforcement officer is authorized to do the following for the purpose of performing his or her duties or exercising his or her powers in relation to this Law:
- (a) issue compliance notices;
 - (b) issue tickets;
 - (c) at any reasonable time, enter
 - (i) land or unoccupied premises, or

LNIB ENFORCEMENT LAW

- (ii) a dwelling with the consent of the occupier or if authorized by another Law or, subject to section 14, a warrant issued by a court;
- (d) in a manner that is consistent with enforcement measures under federal legislation and subject to sections 14 and 15, make any reasonable inspection, investigation or inquiry necessary to determine if this Law, or a compliance notice, order or other instrument issued under this Law, has been complied with or contravened, or an offence is being committed or has been committed;
- (e) without limiting the interpretation of paragraph (d) and subject to section 15, an enforcement officer may:
 - (i) inspect, analyze, measure, sample or test land, and any article or substance located on or in the land,
 - (ii) take away samples of land, articles or substances,
 - (iii) examine and take away copies of records relating to any matter governed by a Law,
 - (iv) take photographs or make audio records,
 - (v) with the consent of the occupier or if authorized by another Law or a warrant,
 1. inspect, analyze, measure, sample or test any article or substance located in a dwelling or other place,
 2. seize and remove anything that the enforcement officer has reasonable grounds for believing is evidence of an offence, and
 3. take other actions as consented to by the occupier, or authorized in another Law or a warrant;
- (f) direct or require that a Person take certain measures or meet certain conditions to ensure compliance with a Law or an authorization issued under a Law, including, without limiting the generality of the Lands Manager's or an enforcement officer's authority, terms and conditions for traffic control, and to prevent injury, harm, nuisance, or damage to the public, property, or the environment, including terms and conditions dictating the remediation or restoration of the land;
- (g) issue a stop work order to order any Person who has not received full and proper authorization to cease carrying out any activities prohibited under a Law;
- (h) provide to a prosecutor with information sufficient to initiate the prosecution of an offence;
- (i) perform any other duties and exercise any other powers assigned or delegated to the enforcement officer

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- (i) under this or any other Law, or
- (ii) by Council.

(2) A stop work order imposed under subsection (1)(g) may be registered in court and enforced as a court order and continues in force until the condition that led to it is remedied or until the activity that is the subject of the stop work order receives proper authorization.

(3) For certainty, an enforcement officer, acting in the performance of a duty or in the exercise of a power under this and any other Law, may enter and pass over any LNIB Land without being liable for trespass but is liable for damages to the land resulting from his or her activities.

(4) Subsection (3) applies to any person who is assisting an enforcement officer.

(5) On request and in the course of performing their duties, an enforcement officer must show their identification as an enforcement officer.

(6) The authority of an enforcement officer:

- (a) may be limited by the terms or conditions of their appointment as an enforcement officer; and
- (b) may be increased if the enforcement officer is, under another Law appointed or designated to enforce the provisions of another Law.

Warrants

14. (1) On an enforcement officer's application made without notice, a justice of the peace may issue a warrant authorizing an enforcement officer to enter and search a place and examine anything that is relevant to determining compliance with a Law if the justice of the peace is satisfied that the enforcement officer has been properly appointed and that there are reasonable and probable grounds for believing that something relevant to the investigation is at the place.

(2) A warrant issued under subsection (1) does not authorize an entry or search after sunset or before sunrise unless it is expressly stated in the warrant.

(3) An enforcement officer entering and searching a place under the authority of a warrant issued under subsection (1) may be assisted by a peace officer and may enter a place by force.

Copying and removal of documents and objects

15. (1) An enforcement officer may copy or, subject to subsection (2), remove a document, record or thing examined under section 13(1) or under the authority of a warrant under section 14 at LNIB's expense.

(2) An enforcement officer may only remove a document, record or thing under subsection (1) if

- (a) it is not practicable to copy it in the place where it is examined; or

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- (b) a copy of it is not sufficient for the purposes of the investigation.
- (3) In order to examine or produce a document or record in readable form, an enforcement officer may use data storage, information processing or retrieval devices or systems that are normally used in carrying on business in the place in which he or she is conducting the investigation.
- (4) If it is practicable to copy a document, record or thing removed under subsection (1), the enforcement officer must,
 - (a) if it was removed under subsection (2)(a), return the document, record or thing within a reasonable time; or
 - (b) if it was removed under subsection (2)(b), provide the person who was in possession of the document, record or thing with a copy of it within a reasonable time.
- (5) A copy of a document, record or thing certified by an enforcement officer to be a true copy must be received in evidence in any proceeding to the same extent and will have the same evidentiary value as the document, record or thing itself.

PART 6 - PROSECUTION OF OFFENCES

Completing an information

- 16. (1) An enforcement officer or other Person who believes on reasonable grounds that a Person has committed an offence may complete an information regarding the alleged offence.
- (2) An information must be in the form approved by Council and made under oath.

Prosecution of offences

- 17. (1) The Lands Manager or an enforcement officer may, on reasonable and probable grounds, lay an information on behalf of LNIB that a Person has committed or is suspected of having committed an offence, provided that the information has been approved by a prosecutor.
- (2) In the prosecutor's review of an information and the prosecution of an offence, they must consider:
 - (a) all relevant information and documents relating to the prosecution;
 - (b) whether there is a substantial likelihood of conviction of the offence;
 - (c) the seriousness of the offence;
 - (d) the values of LNIB;
 - (e) the integrity and independence of the LNIB enforcement system; and

LNIB ENFORCEMENT LAW

- (f) the public interest.
- (3) The prosecutor must perform their duties and exercise their powers in a manner consistent with the overall authority and role of a prosecutor in the administration of justice in British Columbia.

Limitation period for laying an information

- 18. If a Law does not specify the limitation period for laying an information, the Lands Manager or an enforcement officer may not lay an information more than six months after a LNIB official discovers the commission of the alleged offence.

Application of the Criminal Code

- 19. The summary conviction proceedings of Part XXVII of the Criminal Code apply to the prosecution of offences.

PART 7 - COMPLIANCE NOTICES AND TICKETS

Issuing a compliance notice or ticket

- 20. (1) If an enforcement officer has reasonable grounds to believe a Person is committing an offence or has committed an offence, the enforcement officer may issue to the Person a compliance notice or a ticket in the form approved by Council.
- (2) A compliance notice or a ticket must be issued to a named person unless it is issued for an offence involving a vehicle, in which case it must also be issued to:
 - (a) the vehicle's licence plate; or
 - (b) the vehicle's identification number, temporary operation permit or interim permit under the *Motor Vehicle Act* (British Columbia) or other applicable law.
- (3) If a compliance notice or a ticket is issued under subsection (2), the compliance notice or the ticket is deemed to have been issued to each registered owner of the vehicle as contained in the provincial records.
- (4) Each registered owner of a vehicle referred to in subsection (3) is deemed to be a named person.

Contents of a compliance notice and a ticket

- 21. (1) A compliance notice and a ticket must be in the form approved by Council, and must contain the following information:
 - (a) the particulars of the alleged offence in sufficient detail to permit the named person to identify it;
 - (b) the date the compliance notice or ticket is issued;
 - (c) the name and signature of the enforcement officer who issued the compliance notice or ticket;

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- (d) how to dispute the alleged offence.
- (2) In addition to the information required under subsection (1), a compliance notice must contain the following information:
- (a) sufficient information to notify the named person to do whatever is necessary to stop or rectify the offence,
 - (b) the date or time period within which the named person must comply with the requirements provided under paragraph (a),
 - (c) a provision that if the compliance notice is not disputed within the time provided,
 - (i) the compliance notice will be treated as undisputed, and
 - (ii) the named person will be deemed to have pleaded guilty to the alleged offence; and
 - (d) any other information prescribed by regulation.
- (3) In addition to the information required under subsection (1), a ticket must contain the following information:
- (a) the fine, discounted fine and surcharge in accordance with Schedule A,
 - (b) a provision that if the ticket is not disputed within the time provided,
 - (i) the ticket will be treated as undisputed,
 - (ii) the named person will be deemed to have pleaded guilty to the alleged offence,
 - (iii) the fine will be immediately payable to LNIB, and
 - (iv) the methods of paying the fine; and
 - (c) any other information prescribed by regulation.
- (4) A compliance notice may state that if the named person does not comply with the requirements set out in the compliance notice and rectify the offence, LNIB or a person authorized by Council may take action to rectify the offence at the expense of the named person.

Serving a compliance notice or a ticket

22. Unless otherwise provided in a Law, a compliance notice or ticket may be served by:

- (a) personally giving the compliance notice or ticket to the named person;
- (b) verbally delivering the compliance notice or ticket to the named person if the offence is, or may be, a nuisance, trespass, danger to public health or threat to public order, peace or safety that requires immediate compliance;

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- (c) mailing the compliance notice or ticket by registered mail to the named person at the last known address for that person; or
- (d) if the named person is unknown, affixing the compliance notice or ticket in a conspicuous location where the undertaking or activity of concern is occurring.

When failure to serve a document does not invalidate proceeding

23. (1) If a compliance notice or ticket is not served in accordance with section 22, a proceeding or an action in relation to the compliance notice or ticket is not invalidated if:

- (e) the content of the compliance notice or ticket was known by the named person within the time allowed for service;
- (f) the named person consents; or
- (g) the failure to serve in accordance with section 22 does not result in any substantial injustice.

(2) If a compliance notice or ticket relates to an offence involving a vehicle, that compliance notice or ticket must be delivered to the address of each registered owner of the vehicle as shown in the provincial records.

Form of compliance notice or ticket

24. A compliance notice or ticket may be completed, recorded, issued and stored:

- (a) in electronic format by electronic means; or
- (b) by another means that allows the compliance notice or ticket to be reproduced in an understandable form.

Complying with or disputing a compliance notice

25. Subject to section 30 [extension of time limits] and the period of time specified in the compliance notice under section 21(2)(b), a named person must, within 14 days of service of a compliance notice:

- (a) comply with the requirements in the compliance notice in the manner stated in the compliance notice; or
- (b) dispute the allegation contained in the compliance notice in accordance with section 28.

Paying or disputing a ticket

26. (1) Subject to section 30 [extension of time limits], a named person must, within 14 days after service of a ticket,

- (a) pay the fine stated in the ticket to LNIB in the manner stated in the ticket; or
- (a) dispute the allegation contained in the ticket in accordance with section 28.

LNIB ENFORCEMENT LAW

- (2) If a named person fails to comply with subsection (1), the fine set out in the ticket is immediately payable to LNIB in the manner indicated in the ticket, and the surcharge is also payable if the fine is not paid within the time period set out in the ticket.

Effect of paying fine

27. A Person who pays a fine in compliance with this Law and the ticket is deemed to have:

- (a) pleaded guilty to the offence to which the Person was charged; and
- (b) have paid the fine imposed,

and no conviction need be drawn up or entered unless it is required under the Law contravened or by the Person convicted or by a prosecutor.

Hearing of dispute

28. (1) A named person may dispute the allegation contained in a compliance notice or ticket by:

- (a) mailing to the address set out in the compliance notice or ticket a written notice of dispute, which notice must include an address for the Person disputing the allegation and sufficient information to identify the compliance notice or ticket and the alleged contravention being disputed, and which notice will be deemed to have been delivered on the date that it was mailed; or
- (b) appearing in person at the location set out in the compliance notice or ticket to give notice of dispute.

(2) If notice of dispute is given in accordance with subsection (1), the Lands Manager or Council must

- (a) within seven days after receiving the notice of dispute, deliver a copy of the notice to any other named person; and
- (b) refer the compliance notice or ticket to a justice of the peace or court for a hearing.

(3) If a compliance notice or ticket is referred pursuant to subsection (2), LNIB must confirm that the Person who was served with the compliance notice or ticket receives a notice of the hearing specifying a time and place for the appearance of the Person before the justice of the peace or judge.

(4) If a Person appears at the time and place specified in the notice under subsection (3), despite any rule of procedure, the applicable justice of the peace or judge has jurisdiction to hear the dispute without examining the notice of dispute or the notice of the hearing or inquiring into the service of the ticket on the Person.

(5) A justice of the peace or judge hearing a dispute on a compliance notice or ticket may:

LNIB ENFORCEMENT LAW

- (a) admit as evidence, whether or not it would be admissible under the laws of evidence, any oral or written testimony or any record or thing that the justice considers is relevant to an issue in the trial and is credible and trustworthy, but may not admit anything that is privileged under the laws of evidence; and
 - (b) adopt procedures that are conducive to justly and expeditiously determining the matter.
- (6) The justice of the peace or judge must expeditiously review the compliance notice or ticket and may, by order:
- (a) reverse or modify the compliance notice or ticket with or without conditions; or
 - (b) confirm the compliance notice or ticket.
- (7) If a Person who is served with a compliance notice or ticket:
- (a) has appeared before a justice of the peace or judge at the time and place specified in the notice under subsection (3) and pleaded guilty to or been found guilty of the offence with which the Person was charged; or
 - (b) is deemed to have pleaded guilty to the offence with which the Person was charged in accordance with section 29(1) or section 29(2),

then no conviction need be drawn up or entered unless it is required under the law contravened or by the Person convicted or a prosecutor.

Failure to appear at hearing

29. (1) A Person is deemed to have not disputed a compliance notice or ticket if the Person fails to appear before a justice of the peace or judge to dispute the applicable offence at the time and place specified in the notice under section 28(3), or at a new time and place set under section 30(4)(c).
- (2) If a Person is deemed under subsection (1) to have not disputed the compliance notice or ticket, the Person is deemed to have pleaded guilty to the offence with which the Person was charged, and any fine amount indicated on the ticket is immediately payable by the Person to LNIB.

Time extensions

30. (1) A Person who is served with a compliance notice or ticket but does not dispute the charge, or fails to appear before a justice of the peace or judge at the time and place specified in the notice under section 28(3), may apply to a justice of the peace or court for a time extension in the circumstances established by this section.
- (2) In the case of a Person who did not dispute the charge, the Person may only apply for a time extension under this section if:
- (a) the Person has, through no fault of that Person, not had an opportunity to dispute the charge; and

LNIB ENFORCEMENT LAW

- (b) not more than thirty (30) days have passed since the end of the period referred to in section 25 or 26.
- (3) In the case of a Person who failed to appear before a justice of the peace or judge to dispute the charge, the Person may only apply for a time extension under this section if:
 - (a) the failure was through no fault of the Person; and
 - (b) not more than thirty (30) days have passed since the date specified in the notice under section 28(3).
- (4) The justice of the peace or judge to whom an application is made pursuant to this section, on being satisfied by affidavit in the form approved by Council, with or without hearing from the applicant, that the applicable conditions set out in section 30(2) or section 30(3) have been met may:
 - (a) strike out the conviction, if any;
 - (b) in the case of a Person who did not dispute the charge, allow the Person fourteen (14) days after the date the conviction is struck to dispute the charge in accordance with section (#); or
 - (c) in the case of a Person who failed to appear to dispute the charge, set a new time and place for the appearance of the Person before a justice of the peace or judge.
- (5) If a conviction is struck out under subsection (4)(a), the justice of the peace or judge must give the Person a certificate of the fact in a form approved by Council.

Collections

- 31. If a person fails to pay a fine under this Law, the Lands Manager is authorized to following thirty (30) days after having sent a warning letter to the person send any unpaid fine to a collection agency.

PART 8 – OFFENCES AND PENALTIES

Offences

- 32. A Person who does any of the following commits an offence:
 - (a) obstructs, interferes with or hinders Council, an enforcement officer, or any authorized employee, officer or agent in the carrying out of their duties and responsibilities under this Law;
 - (b) fails to comply with a compliance notice or ticket or an order under section 28(6); or
 - (c) otherwise contravenes this Law.

LNIB ENFORCEMENT LAW

Penalty

33. A Person who commits an offence under section 32 is liable, on summary conviction, to a fine not exceeding \$2,000 or imprisonment for a term not exceeding six months.

PART 9 - GENERAL PROVISIONS

Limitation of liability

34. (1) No enforcement officer or any other person assisting an enforcement officer is liable for anything done or omitted in good faith execution of any duty or power under this Law.
- (2) No action for damages lies or may be instituted against LNIB, or a manager, employees, servant, official or agent of LNIB,
- (a) for anything said or done or omitted to be said or done by that person in the performance or intended performance of the person's duty, or the exercise of the person's authority under a Law, or any regulation enacted pursuant to a Law; or
 - (b) for any alleged neglect or default in the performance or intended performance of the person's duty or the exercise of the person's authority under a Law, or any regulation enacted pursuant to a Law.
- (3) Subsection (2) does not provide a defence if:
- (a) LNIB, or a manager, employee, servant, official or agent of LNIB, has, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or wilful misconduct; or
 - (b) the cause of action is libel or slander.
- (4) LNIB, or a manager, employee, servant, official or agent of LNIB, is not liable for any damages or other loss, including economic loss, sustained by any person, or to the property of any person, as a result of their neglect or failure, for any reason, to discover or detect any contraventions under a Law, or any regulation enacted pursuant to a Law.
- (5) All actions against LNIB for the unlawful doing of anything that:
- (a) is purported to have been done by LNIB under the powers conferred by a Law or any regulation enacted pursuant to a Law; and
 - (b) might have been lawfully done by LNIB if acting in the manner established by law,
- must be commenced within six (6) months after the cause of action first arose.

LNIB ENFORCEMENT LAW

Regulations

35. (1) Council may make regulations it considers necessary or advisable for purpose under this Law.
- (2) For certainty, the powers of Council under subsection (1) include the power to make regulations:
- (a) prescribing the form of a compliance notice and ticket and any other forms or documents necessary or advisable for the purposes of this Law;
 - (b) prescribing fees to cover costs of adjudicating disputes, including additional administrative fees if a person unsuccessfully disputes a compliance notice or ticket.
- (3) Subsection (2) does not restrict Council from approving matters listed in that subsection by Resolution.

PART 9- AMENDMENTS

Substantive amendments to this Law

36. With the exception of a minor amendment described at section 37, an amendment or repeal of this Law must only be made by Council as recommended by the Lands Advisory Committee in accordance with the Land Code.

Minor amendments

37. (1) Council may approve a minor amendment to this Law by Resolution.
- (2) For the purposes of subsection (1), minor amendments mean:
- (a) amendments to correct typographical errors;
 - (b) amendments required to reference any relevant new or amended Law;
 - (c) amendments ordered by any court of competent jurisdiction; and
 - (d) amendments which serve to clarify this Law, where there is no reasonable dispute about the intention underlying the original provision.

PART 10 - COMING INTO FORCE

Coming into force

38. This Law comes into force on the date it is passed by Resolution after complying with section 7 of the Land Code.

THIS LAW IS HEREBY DULY ENACTED by Council on the ___ day of _____, 20___, at _____, in the Province of British Columbia

LNIB ENFORCEMENT LAW

_____	_____
_____	_____
_____	_____

Quorum consists of X Council members.

DRAFT

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LNIB ENFORCEMENT LAW

SCHEDULE A

SCHEDULES OF OFFENCES AND PENALTIES

DRAFT

LNIB ENFORCEMENT LAW

LNIB Subdivision, Development and Servicing Law – Fines for Tickets			
Prohibited Conduct	Discounted Fine <i>(if paid within 14 days)</i>	Fine	Surcharge <i>(if not paid within 30 days)</i>
<p>12(1) Subject to the exemptions at section 13, a Person must not undertake any of the following activities on LNIB Land except in strict compliance with an authorization, an applicable land use plan and environmental management plan, the Cultural Heritage Policy, the B.C. Building Code and any applicable policies and enactments:</p> <ul style="list-style-type: none"> (a) the subdivision of LNIB Land; (b) the construction, alteration, enlargement, addition, demolition, or removal of a building, including for certainty, signs, swimming pools and decks; (c) the installation of a street, intersection, sewer system, water system or other infrastructure of any kind; (d) the clearing, grading, blasting, excavating or other alteration of LNIB Land; (e) the deposit or removal or more than 10 m³ of soil; (f) the removal of trees; and (g) other activities designated by Council in a regulation. 	\$450	\$500	\$550
24(1)(c) failing to comply with a stop work order.	\$450	\$500	\$550
24(1)(d) failing to comply with an enforcement officer's direction or requirement to take certain measures or meet certain conditions to ensure compliance with the law or an authorization.	\$450	\$500	\$550
25(a) providing false or misleading information in order to obtain an authorization under the Law.	\$300	\$350	\$400
25(e) contravening an order made by a court in relation to the Law.	\$500	\$550	\$600

LNIB ENFORCEMENT LAW

25(f) obstructing, interfering with or denying access onto any land or into any building to an enforcement officer whose entry is authorized under the Law.	\$450	\$500	\$550
25(g) contravening the Law in any manner that is not listed under section 25 of the Law.	\$300	\$350	\$400
LNIB Enforcement Law – Fines for Tickets			
Prohibited Conduct	Discounted Fine <i>(if paid within 14 days)</i>	Fine	Surcharge <i>(if not paid within 30 days)</i>
13(1)(f) failing to comply with a direction or requirement to take certain measures or meet certain conditions to ensure compliance with the law or an Authorization.	\$450	\$500	\$550
13(1)(g) failing to comply with a stop work order.	\$450	\$500	\$550
13(3) obstructing, interfering with or denying access onto any land or into any building to an enforcement officer whose entry is authorized under the Law.	\$450	\$500	\$550
32(a) A Person must not obstruct, interfere with or hinder Council, an enforcement officer, or any authorized employee, officer or agent in the carrying out of their duties and responsibilities under this Law.	\$500	\$550	\$600
32(b) failing to comply with a compliance notice or ticket or an order under section 28(6).	\$500	\$550	\$600
32(c) contravening the Law in any manner that is not listed in section 32.	\$300	\$350	\$400

LOWER NICOLA INDIAN BAND
LANDS MANAGEMENT ADVISORY COMMITTEE

181 NAWISHASKIN LANE, MERRITT, BRITISH COLUMBIA V1K 0A7
TEL.: 250-378-5157 FAX: 250-378-6188

RESOLUTION No. 2020-03

WHEREAS

- A. The Lower Nicola Indian Band Land Code (the “**Land Code**”) came into force on December 1, 2016;
- B. There are eight proposed LNIB Laws, which support the effect of the Land Code and address numerous land issues, pending review and approval throughout 2020-2021.
- C. Relevant subsections of the Land Code state the following:
 - 6.1 *Council may, in accordance with this Land Code and subject to any applicable Community Approval requirements set out in section 12 [Community Approval], make Laws in relation to LNIB Land.*
 - 7.4 *Council shall consider any input received from the Members through Community Engagement in respect of a proposed Law, and may, in its sole discretion, incorporate such input before enacting the Law pursuant to 7.7 [Enactment of Law].*
 - 7.7 *Subject to the applicable requirements of Part 3 with respect to Community Engagement and Community Approval, a Law is enacted if it is approved by a Majority of Council by Resolution at a duly convened meeting of Council open to the Members.*
 - 10.1 *Prior to enacting a Law under section 7.7 [Enactment of Law], Council shall convene a Meeting of Members to receive input from Members, and, where required under this Land Code, to obtain Community Approval.*
 - 11.10 *Council may schedule more than one Meeting of Members to discuss and decide a matter that requires a Meeting of Members, provided that any vote taken at a Meeting of Members will not be accumulated with any vote taken at a subsequent Meeting of Members.*
 - 12.1 *Where Community Approval is required under this Land Code, such Community Approval shall be sought at a Meeting of Members convened in accordance with this Part. (Part 3)*
 - 12.2 *Notwithstanding section 12.1 [Community Approval at a Meeting of Members], Council may by Resolution require, in respect of any particular Law or decision, that Community Approval be sought by way of a Ratification Vote.*
 - 12.3 *Community Approval must be obtained for the following:*
 - ...
 - (i) *any other Law or decision that Council, by Resolution, declares to be subject to this section.*
 - 12.5 *Unless otherwise provided in this Land Code, a Law or matter shall be considered approved by the Eligible Voters at a Meeting of Members or a Ratification Vote if 10% of the Eligible Voters participate in the vote and at least a Majority of the participating voters cast a vote in favour of the matter.*
 - 13.4 *Any Ratification Vote under this Land Code shall be conducted in substantially the same manner as the LNIB Community Ratification Process which was used to ratify this Land Code, with any modifications necessary to suit that particular situation, and the voting threshold shall be as set out in section 12.5 [Minimum Requirements for Approval].*
 - 32.1 *The Lands Management Advisory Committee is hereby established to assist with:*
 - ...
 - (b) *advise Council and its staff on matters respecting LNIB Land;*

(c) recommend to Council Laws, Resolutions, policies and procedures respecting LNIB Land;

...

- D. LNIB Community Ratification Process requirements span at least 100 days prior to a vote, and include the engagement of an independent electronic voting contractor and a ratification officer, increasing the cost and the timeline for LNIB Law approval and enactment.

NOW THEREFORE BE IT RESOLVED THAT the LMAC supports and recommends that Chief and Council approve the Lands Department to carry out the approval and enactment of LNIB Laws, subject to any applicable requirements under the Land Code or as resolved by Council for particular Laws, as follows:

1. Hold # of Meeting of Members to receive Member input in respect of a proposed Law for consideration and incorporation at Council's discretion; and
2. enact LNIB Laws upon the approval **by Council or Community or Ratification Vote**.

This resolution is supported by the undersigned and passed this XX day of month 2020.

Quorum of Committee: 4

William Bose, Chair

Madeline Lanaro

Gene Moses

Louise Moses

Hrolfe Joe

Robert Sterling

Sondra Tom