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ABORIGINAL SOLUTIONS BRANCH

CANDO 2008 Annual General Assembly "Making A Difference Panel"
Presentation Handout On:
Finding Success Where Least Expected
By:
Peter Politis, For Evergreen Innovative Strategies Inc.

The proverbial question of "what do aboriginals do while waiting for their rights to be determined through the long and onerous legal course" is best answered in two words – self determination. While the legal community performs the gymnastics of "interpretation engineering", the aboriginal community basically has two choices, either wait for this to take it's course and live as it is today in the interim, or determine it's own paths of self sufficiency while waiting. In a society driven by capitalism, economic development and financial freedom are the most influential elements in self determination. In our experience the most successful at creating economic development in the barrier challenged aboriginal community are those who recognize not only the need to look for success where it is least expected, but also recognize the need to develop the ability to do this.

My presentation surrounds two unique and innovative arrangements we negotiated which truly epitomize the need to find success in the most unlikely of places. It begins with a monologue on how important economic ventures are on providing First Nation communities the tools needed to accelerate the definition of their rights and thus the acceleration of their own self determination, while breaking dependency on the Crown. After which, a slide presentation is done on each of the two initiatives (one in Ontario, the other in Quebec) which provide each community unprecedented access to economic opportunity and control of development. While one community takes a rare form of timber ownership regardless of economic conditions, the other requires industry to apply to them directly for a permit to conduct resource development on Crown lands, as a new form of consultation.

It's my sincere pleasure to make this presentation and I welcome any inquiries or questions you may have - simply call me at 705 272-8564 and I'll be glad to chat with you.

Meegwetch,

Peter Politis,
Senior Consultant

EVOLVING FIRST NATION, GOVERNMENTAL, AND INDUSTRIAL RELATIONS TO FRESH NEW LEVELS

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CANDO PRESENTATION
AGM, Montreal, Quebec October 7, 2008

SELF DETERMINATION THROUGH ECONOMIC DEVELOPMENT
“Finding Success Where Least Expected”

1. I've been asked to speak to you about two exciting opportunities we've helped our clients negotiate which really epitomize the need to look for success where least expected and to the importance of economic development to self determination. Before I do, I'd like to just spend a little time on the evolution of Aboriginal Rights to serve as a backdrop to my presentation. For those of you who know this evolution intimately, you'll appreciate that what I'm presenting is simply a snapshot and not a detailed analysis.

2. SLIDES - RIGHTS EVOLUTION

3. Obviously the legal path is well defined now and entrenched into it's own direction. What it turns out to finally mean in terms of aboriginal rights is anyone's guess at this point. I think it's safe to say that for now there is still a lot of “interpretation engineering” to be done and absolute aboriginal rights are far from sight.

The question becomes then, what to do in the meantime. I mean, do aboriginal people stand by and wait for the legal process to define their futures, or is there something else that can be done to define aboriginal rights and break the chains of dependency? To answer that, first we must understand that our society is a capitalistic one driven by wealth. That's not to discount one culture over another as being in contrast to this and it's not to say which societal is the better or worse one. It's simply to recognize that Canada in itself is driven by a capitalist society. Ironically, we are witnessing just how dependant our society really is on capitalism as our markets crash in unprecedented fashion.

In recognizing this we also recognize that to succeed in capitalism, we need the tools to do this. This holds true in rights and self determination as much as it does in wealth determination as they go hand in hand. You see, to have the greatest influence on rights determination and breaking a long entrenched history of dependency, one must have influence on the matters that are in control of these aspects which one wishes to change in the first place. Imagine for a moment how much faster and how much more prominent the road to rights determination would be if Judges, Politicians, and Bureaucrats, were aboriginal people themselves. Imagine further how resource sharing would be if the C.E.O. 's and shareholders to large multinational corporations were aboriginal. Imagine one more time how much more stable and self

sustained aboriginal society would be if it were wealthy and had an unlimited bank of financial resources. It's not hard to see that even though the legal course is what it is and tends to be logically based, it's not the only course and there are other influences that can shape the legal and realistic outcomes at the end of the day. These influences can be summarized as:

- Wealth – securing financial freedom),
- Education – become societies developers, managers and educators,
- Leverage – influence political direction

Slowly but surely aboriginal people are recognizing that though the legal arena is where absolute aboriginal rights will be ultimately defined, economic development is not only where societies are built, it's where aboriginal rights definition is ultimately influenced. There's an evolution here if you're looking for it. It's the evolution of moving from legally conditioned argumentative warriors to intellectual, wealthy and influential ones.

I've brought two examples of innovative approaches taken by a couple of our clients; one situated in Ontario and the other here in Quebec. Both demonstrate the exciting possibilities that can be achieved when innovatively looking for solutions where they are least expected.

4. SLIDES - START WITH LPFN

**Self
Determination
Via
Economic
Development**

**Real Life
Examples**

Of Finding Solutions
Where Least Expected



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THINK CHANGE

WHAT SEEMS LIKE ONLY A RIPPLE TODAY....CAN BECOME
THE WAVE OF THE FUTURE.

Aboriginal Rights – The Journey

- 1982 Canada Affirms Sovereignty From Britain,
 - To Define It's Own Human Rights
 - To Enact It's Own Laws,

Aboriginal Rights – The Journey

- Canada Then Redefines It's Constitution With Its New Powers,
 - Define Human Rights (Among Other Things),
 - Aboriginal Rights Enacted Into Law

Aboriginal Rights – The Journey

- After Rocky Road Since 1981, Aboriginal Rights Where Recognized - But Not Defined,
 - No One Knew How To Apply Them,

Aboriginal Rights – The Journey

- Four First Ministers Conferences On Aboriginal Rights Were Held Between 1983 & 1987,
 - 1st Ministers Forums With Aboriginal Leaders Invited
 - Specifically To Try & Define Aboriginal Rights,

Aboriginal Rights – The Journey

- First Ministers Conferences Ultimately Failed To Find Consensus,
 - Could Not Get Past The Concept Of Self Government,
 - 1st Ministers Finally Went Behind Closed Doors & Drafted Their Individual Declarations (Positions)

Aboriginal Rights – The Journey

- Since Then Rights Definition Being Left To Supreme Court Of Canada,
 - Slow
 - S.C.C. Reluctant To Define Political Direction Or Policy,

Aboriginal Rights – The Journey

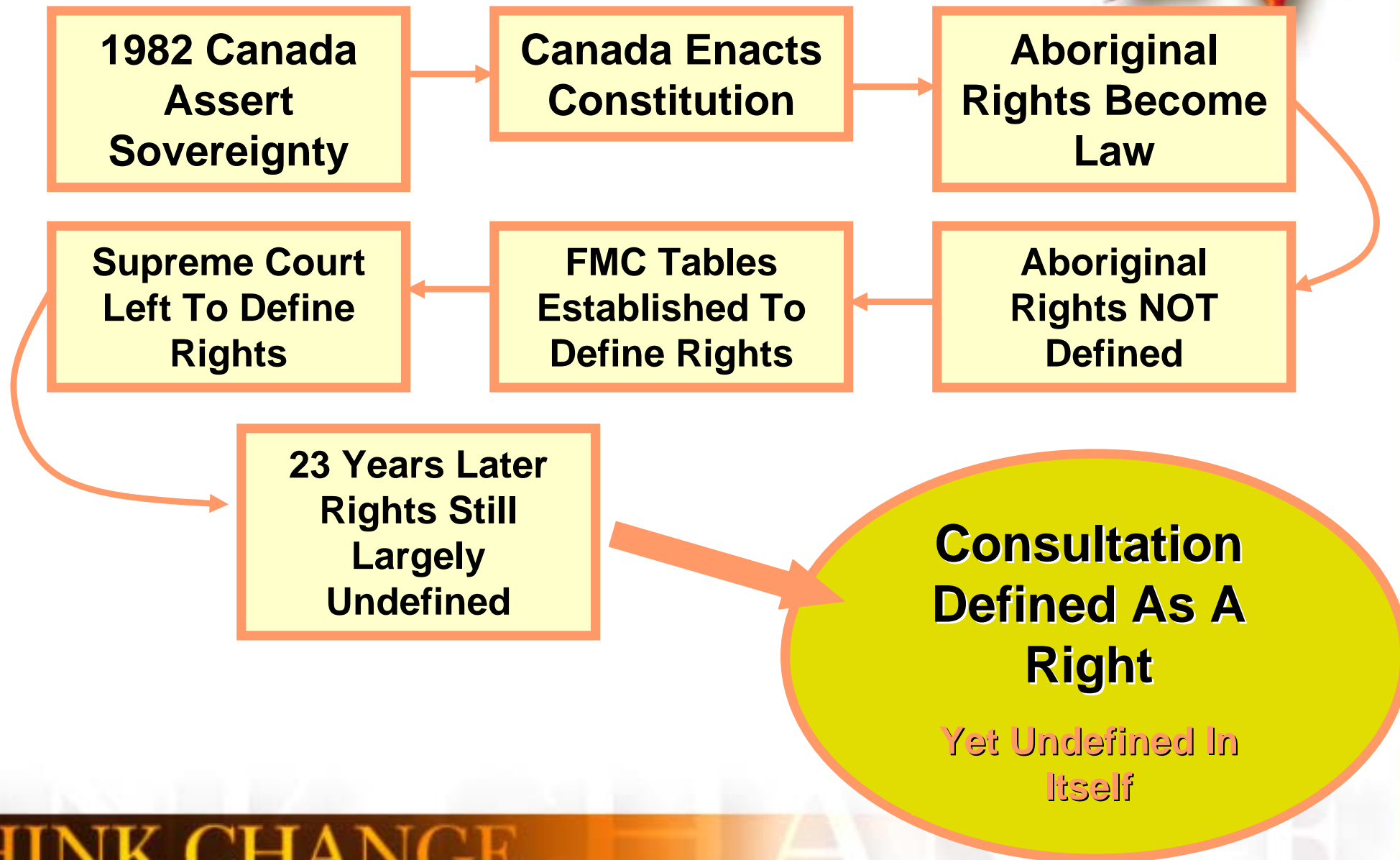
- 26 Years Later Aboriginal Rights Still Largely Undefined,
 - Source Of Most Conflicts And Confrontations,
 - Everyone Naturally Passing The Buck,

Aboriginal Rights


– The Journey

- Consultation Has Emerged As One Specific Right,
 - Though S.C.C. Is Progressively Defining Consultation,
 - It Still Remains Largely Undefined In Itself

A Snapshot: The Journey To Consultation



Passive Vs. Active Consultation



Passive Consultation

- Consult Only When Others Ask,
- Consultation Offered As A Courtesy,
- Process Is Driven By Others,
- Offer Input In Form Of Considerations Only,
- Final Decisions Made By Other Parties,

Active Consultation

- Consultation Is Mandatory,
- Process Driven By The Community,
- Input In Form Of Dialogue, Analysis, & Active Involvement,
- Final Decisions Made Jointly With Community,

Current Consultative Process



- A Form Of Passive Consultation
- Proponent Makes Application To Province,
- Province Asks Proponent To Show Its Plans To First Nation,
- Proponent & Province Consider First Nation Input,
- Province Issues Permit To Proponent To Develop Land,
- First Nation Accepts Provinces Final Decisions Regarding Development Of Land,

What Needs To Change?



- Consultation Needs To Become More Than Just A Courtesy,
- Spirit & Intent Of Court Decision's Need To Be Implemented
 - Dalgamuukw Vs. B.C. Supreme Court 1997,
 - Haida Nation Vs B.C. & Weyerhaeuser 2002
 - Mikisew Cree First Nation Vs. Canada 2005
- Spirit & Intent Of Policies & Certification Criteria Need To Be Respected,
 - Quebec Legislature Recognizing Aboriginal Rights 1985,
 - Forest Stewardship Certification,
- First Nations Need To Be Recognized As More Than Just Another Stake Holder,
- First Nation Needs To Be Encouraged To Drive Their Own Process Which Is Geared To Address Their Own Unique Interest's,

Option: Permitting Consultation

- An Innovation Of Consultation Is Requiring Proponents Of Activity To Apply Directly To First Nation For A “Consultation” Permit,
- The Application Process & The Granting Of A Permit Will Implement & Certify A Specialized Aboriginal Driven Consultation Process (Not Someone Else's),
- The Process Could Be An Additional Process To Those Already Underway (I.E. Crown Process),
- It Would Be A Process Driven By The First Nation With The Support Of The First Nation,

The background of the slide features a close-up, slightly blurred image of a clock face. The clock is white with black numerals and hands. A large, semi-transparent green circle is overlaid on the left side of the image, partially obscuring the clock. The overall color scheme is a mix of light and dark green tones.

When Consultation & Innovation Meet

Long Point First Nation's
Natural Resource
Permitting Process

Who Is The Long Point First Nation?

- An Algonquin Community Of Some 700 Members,
 - About 50% On Reserve
- Located About 200 Km's South Of Val d'Or Quebec In The Settlement Of Winneway,
- They're Lands Are Unceded & They Are Not Signatory To Any Treaty

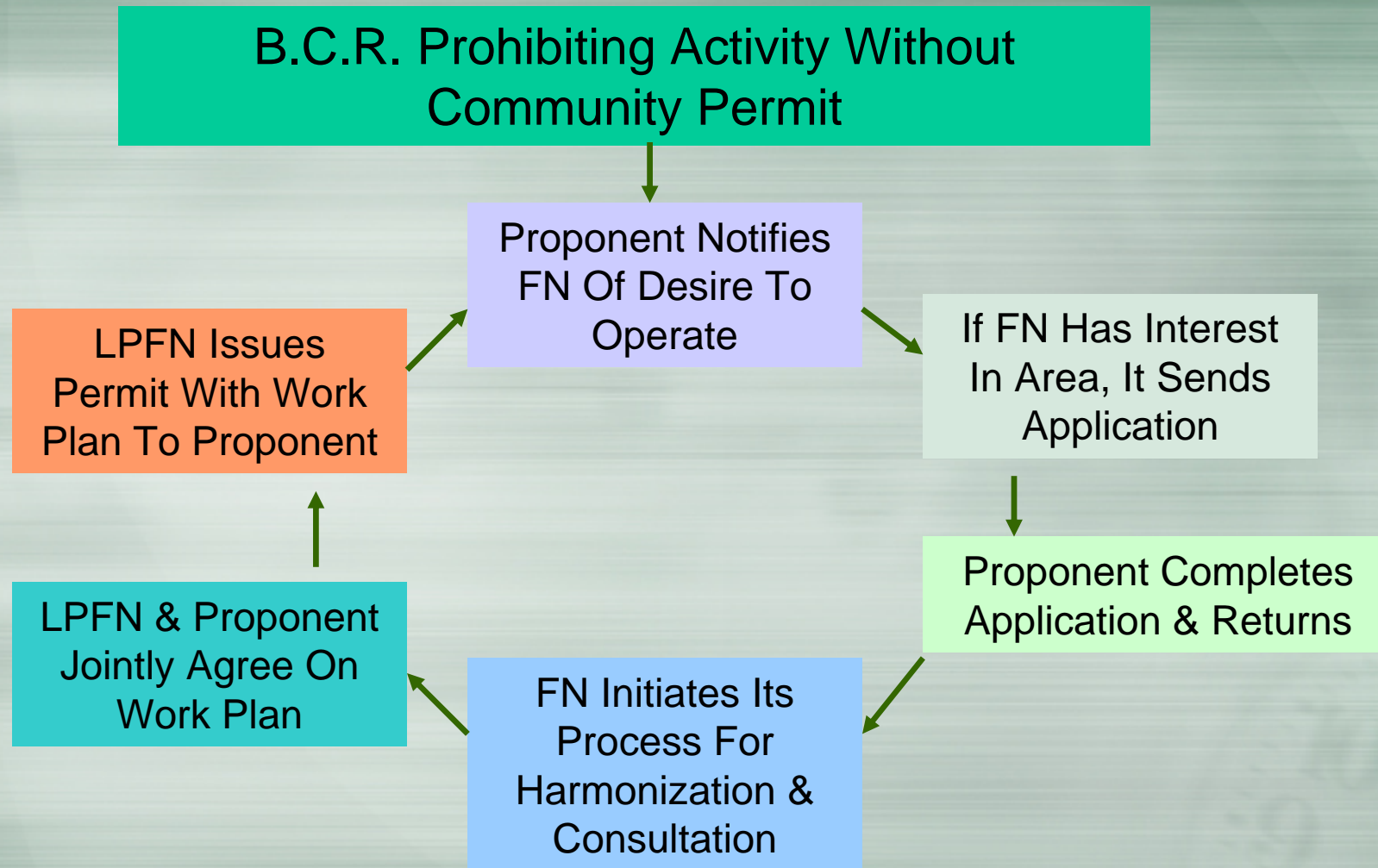
LPFN Permit Process Background

- LPFN's New Form Of Consultation Regarding Development Of The Land,
- A Process To Have Proponents Take Initiative To Bring Issues Directly To LPFN, As Opposed To Onus Being On LPFN To Ensure All Proponents Are Identified & Notified,
- A Means To Ensure That LPFN's Understanding Of Consultation Takes Place,
- A Formal Way For LPFN To Endorse Operations Which Will Be Implemented To The Satisfaction Of The Community,
- Does Not Impact Upon Other First Nations With Interests In The Same Area, & Is Designed To Actually Enhance Interests Of Those Other First Nations Should They Choose To Participate In It,

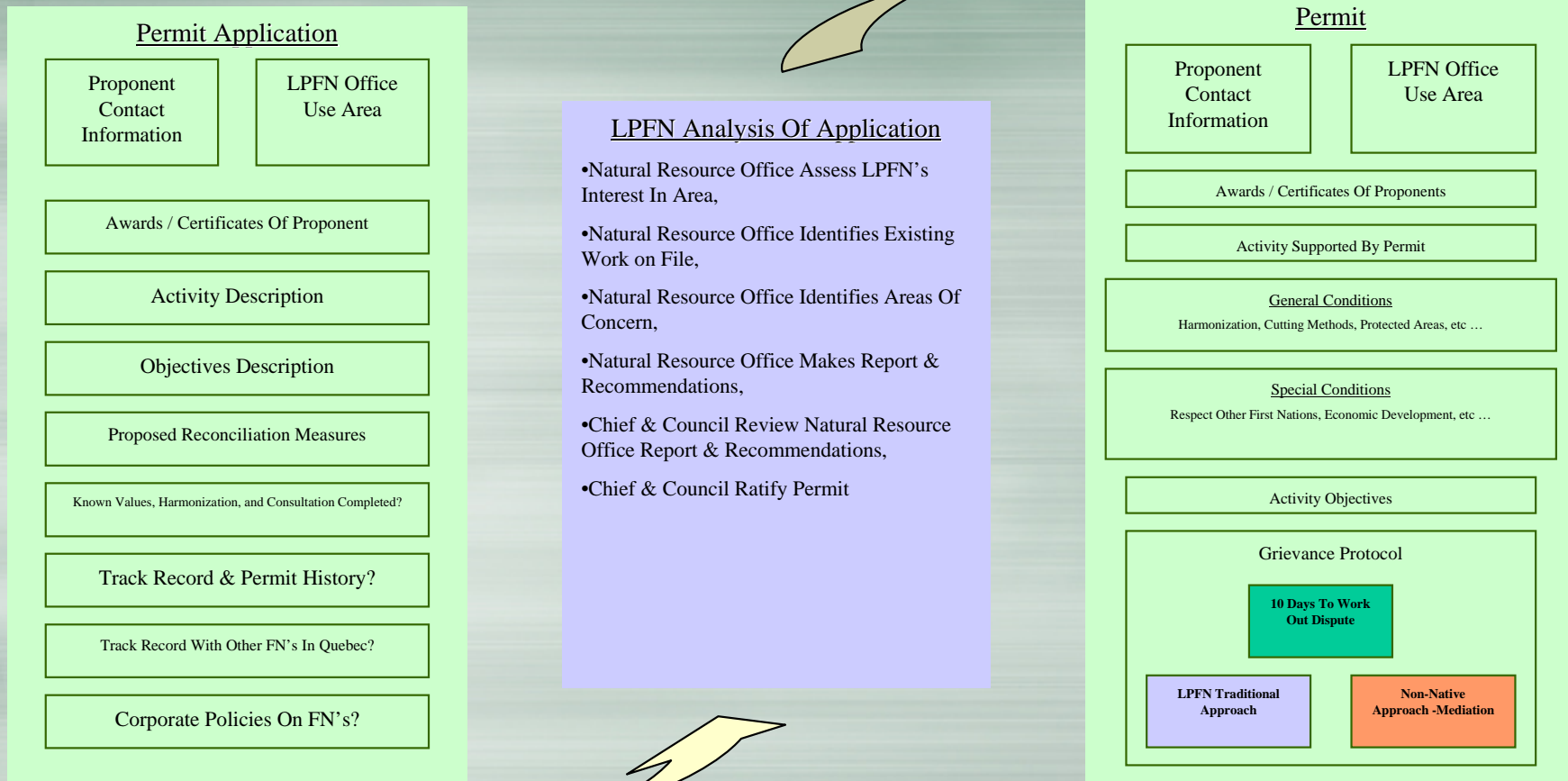
LPFN Permit Process Background

- Not Territorial Or Land Claim Orientated, Only Addresses LPFN's Specific Interests In The Land, While Respecting The Interests Of Others,
- The Process Simply Takes Current Consultation (Harmonization) & Industry Policy, And Formalizes LPFN's Active Involvement In It,
- The Process Adds Little To No Additional Work To What Industry Is Doing Right Now, And Provides Them With A Certificate Of Approval For Their Work From LPFN,
- The Process Is Built From The Principles Of Forest Stewardship Certification. Any Company Advocating Or Selling Its Acceptance Of FSC Branding Should Embrace This Process Openly.

Illustrated View Of LPFN Process



LPFN Permit Process Overview



LPFN Permit Application

Permit Application

Proponent Contact Information	LPFN Office Use Area
Awards / Certificates Of Proponent	
Activity Description	
Objectives Description	
Proposed Reconciliation Measures	
Known Values, Harmonization, and Consultation Completed?	
Track Record & Permit History?	
Track Record With Other FN's In Quebec?	
Corporate policies On FN's?	

← Contact Info & Office Use

← Proponent Awards & Certificates

← Activity Description

← Objectives Description

← Proposed Reconciliation Measures

← Known Values, Harmonization, Consultation

← Track Record & Past Permit History

← Track Record With Other First Nation's In Quebec

← Corporate Policies On First Nation's

LPFN Analysis Of Application

LPFN Analysis Of Application

- Natural Resource Office Assess LPFN's Interest In Area,
- Natural Resource Office Identifies Existing Work on File,
- Natural Resource Office Identifies Areas Of Concern,
- Natural Resource Office Makes Report & Recommendations,
- Chief And Council Review Natural Resource Office Report & Recommendations,
- Chief And Council Ratify Conditions For Permit,
- Chief And Council Ratify Permit

LPFN Permit

Contact Info & Office Use →

Proponent Awards / Certificates →

Activity Supported By Permit →

General Conditions →

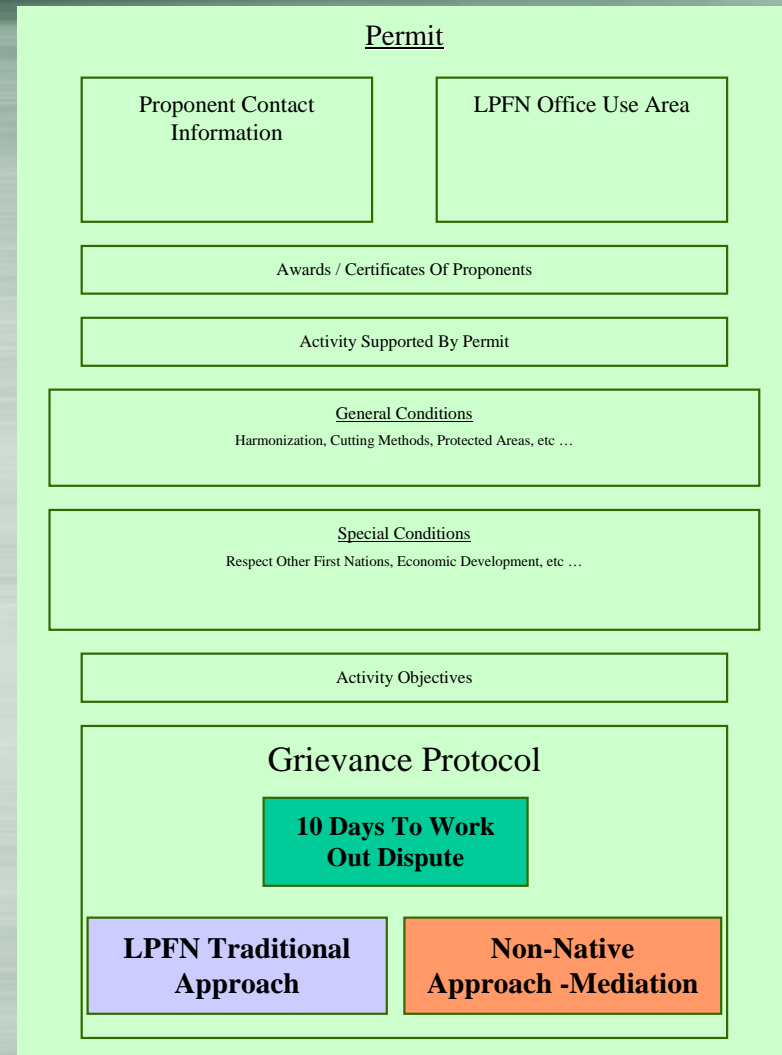
Harmonization, Cutting Methods, Protected Areas etc...

Special Conditions →

Respect Other First Nations, Ec Dev., etc...

Activity Objectives →

Grievance Protocol →



Success Where Least Expected

- **The Parties Reshuffled The Existing Circumstances Surrounding Consultations To Provide Each What They Where After,**
 - Company Receives A Certificate Demonstrating That It Has Done Its Due Diligence,
 - First Nation Receives Legitimate Control Over Development On Its Territory,
 - All From Promoting What Was Previously Deemed Taboo – Giving The First Nation The Opportunity To Issue Permits.

Some Questions & Answers



Q. Does LPFN's Permit Process Replace Existing Government Process?

A. No. This Process Is An Enhancement To Existing Arrangements and Established Law Is Not Affected By It,

Q. Is This Process Illegal For Companies To Administer?

A. No. This Process Is a Formal Form Of Consultation Which Only Enhances Corporate and Governmental Policies. It Is Not A Replacement Of Current Law, So It Is Not Jurisdictional In Any Way.

Q. Is This Process Land Claim Orientated Whereby It Makes Claim Over Other First Nations Interests?

A. No. LPFN Is Only Consulting Regarding Its Specific Interests. The Government And Industry Still Have Their Obligations To Consult With Other First Nations. In Fact, This Process Enhances Other First Nations Interests As They Have Another Avenue To Have Their Own Interests Formally Identified.

Taking Direct Aim At Resource Sharing

**Taykwa Tagamou
Nation's Long Term
Forestry Agreement**

Who Is The Taykwa Tagamou Nation

- **A Cree Community Of Some 335 Members,
– 108 On Reserve, 227 Off Reserve**
- **Located About 20 Km's East Of Cochrane,
Ontario (120 Km's North East Of Timmins)**
- **They're Signatory To Treaty Nine**
- **TTN Has Been Actively Involved In Forestry
Since 1995, Harvesting About 1,200,000 M3 Of
Timber To Date.**

Directly Targeting Resource Sharing

TTN Agreement Background

- **First Long Term Forestry Agreement Negotiated In 2001 As An Extension Of The Working Relationship Agreement Negotiated In 2000 Between MNR, A Forest Company, And TTN (New Post),**
- **LTFA Secured 300,000 M3 Of Timber Per Year For TTN Over Five Years.**
- **Forest Company Accepted Financial Burden Of Paying For TTN Capacity Building,**

Directly Targeting Resource Sharing

TTN Agreement Background

- **750,000 M3 Harvested Of Possible 1,200,000 M3**
 - Variety Of Reasons Including,
 - Capacity,
 - Forest Company Unable To Satisfy This Agreement And All Other Obligations To Other Contractors (Including Fn's)
 - Unfavourable Cost Implications To Both Parties,
 - 300,000 M3 Never Realized In Any Year
 - Agreement Up For Its First Revision

Directly Targeting Resource Sharing

The Challenge

- **Provide Forest Company Relief From Obligation To Provide 300,000 M3 To TTN & Pay Capacity Building,**
 - Regardless Of Other Commitments To Other Contractors,
 - Regardless Of Economic Conditions,
 - Regardless Of Costs,
- **Provide TTN Relief From Constant Forest Company Interference Associated To Cost Controls,**
 - Late Start Ups Due To Complicated Pricing Negotiations,
 - Complicated Payment Systems Due To Mixing Many Forms Of Service,
 - Struggling To Lower Costs,

Directly Targeting Resource Sharing

The Challenge

- **Provide Avenue For TTN To Step Away From Arms Length Control Of Company,**
 - Opportunity To Grow By Assuming More Control And Liability,
- **Maintain TTN Opportunities (300,000 M3) Even During Economic Down Turn,**
 - Solidify Opportunity,
 - Maintain Unfettered Growth And Development Of TTN.
- **Provide Opportunities To TTN In The Form Of Tenure (Forest License)**

Directly Targeting Resource Sharing

The Arrangement For TTN

- **TTN Guaranteed 300,000 M3 Per Year In The Form Of A Forest License,**
 - Regardless Of Economic Conditions,
 - Regardless Of Company Needs
- **Company Has Two Opportunities Per Year To Direct Timber To Their Facility,**
 - Whatever They Do Not Direct, TTN's Assumes Tenure Of The Timber To Market As They See Fit At Their Discretion,
- **Capacity Building Fund Renewed For Another Five Year Period.**
- **Agreement Valued At \$450,000 For TTN**

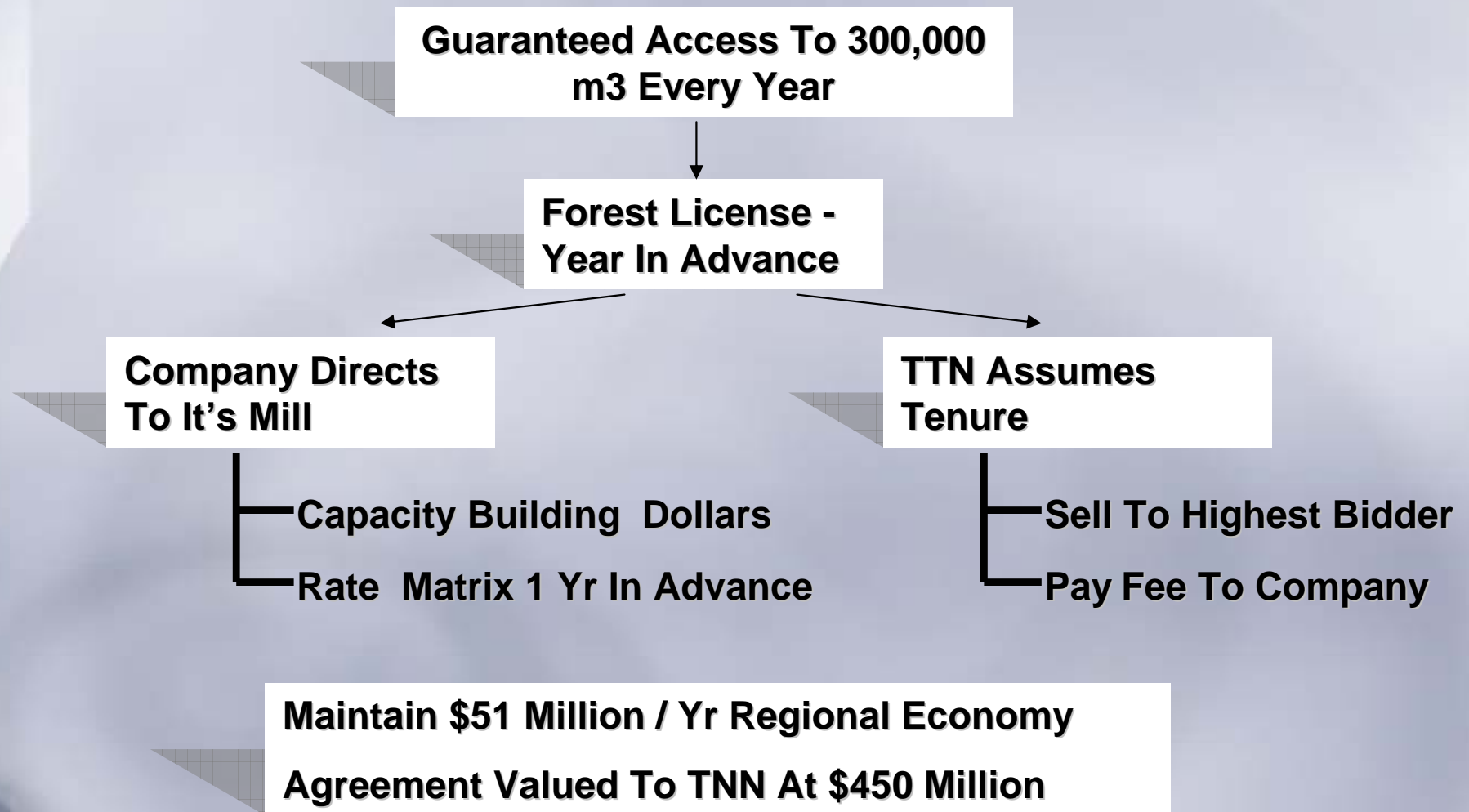
Directly Targeting Resource Sharing

The Arrangement For The Company

- **Make 300,000 M3 Commitment More Manageable**
 - When Mill Needs Are Reduced, Commitment Shifts To Open Market,
- **Generate Cash When Need The Most**
 - Normally Wood Supply Left On Stump During Downturn In Economy,
 - TTN Fee Now This Turns Into Cash When It Is Needed The Most,
- **More Manageable Wood Supply Commitments To Others**
 - When Mill Requirements Are Reduced, TTN Commitment Shifts To Open Market Relieving Company Obligation

Directly Targeting Resource Sharing

Illustrated View Of The Arrangement



Directly Targeting Resource Sharing

Success Where Least Expected

- **First Nation And Forest Company Look To Sharing Resource Tenure On Wood Normally Guarded Wood Supply,**
 - This Is An Active Mills Normal Furnish,
 - Not Surplus Wood Supply As Is Usually The Case
- **By Sharing Tenure,**
 - The Company Generates Cash When Needed The Most,
 - Makes An Unmanageable Commitment, Manageable,
 - First Nation Gets Guaranteed Access To Its Volume Opportunity,
 - First Nation Maintains Economic Generation Despite The Partner Company's Own Economic Health.
- **More Impressively,**
 - Both Parties Find This Solution Of Trust During The Turbulence Of One The Worst Economic Downturn The Forest Industry Has Ever Seen.

Directly Targeting Resource Sharing

Some Questions & Answers



Q. Does The Company Lose Control Of It's Mill Furnish?

A. No. It Decides Two Times Per Year Whether Or Not It Needs The Furnish And Claims Such,

Q. Does The First Nation Lose Revenue Due To The Arrangement?

A. No. This Arrangement Is Actually More Lucrative To The First Nation As It Makes More Money When Selling To The Highest Bidder And Under Normal Circumstances Would Not Be Harvesting When Mill Needs Were Reduced.

Q. What Type Of Control Does The First Nation Have When It Assumes Tenure Over The Wood Supply?

A. The First Nation Receives Absolute Control To Do What It Wishes And The Company Completely Waives Any Association To The Wood Supply..

Thank You
Questions?

Peter Politis
Senior Consultant

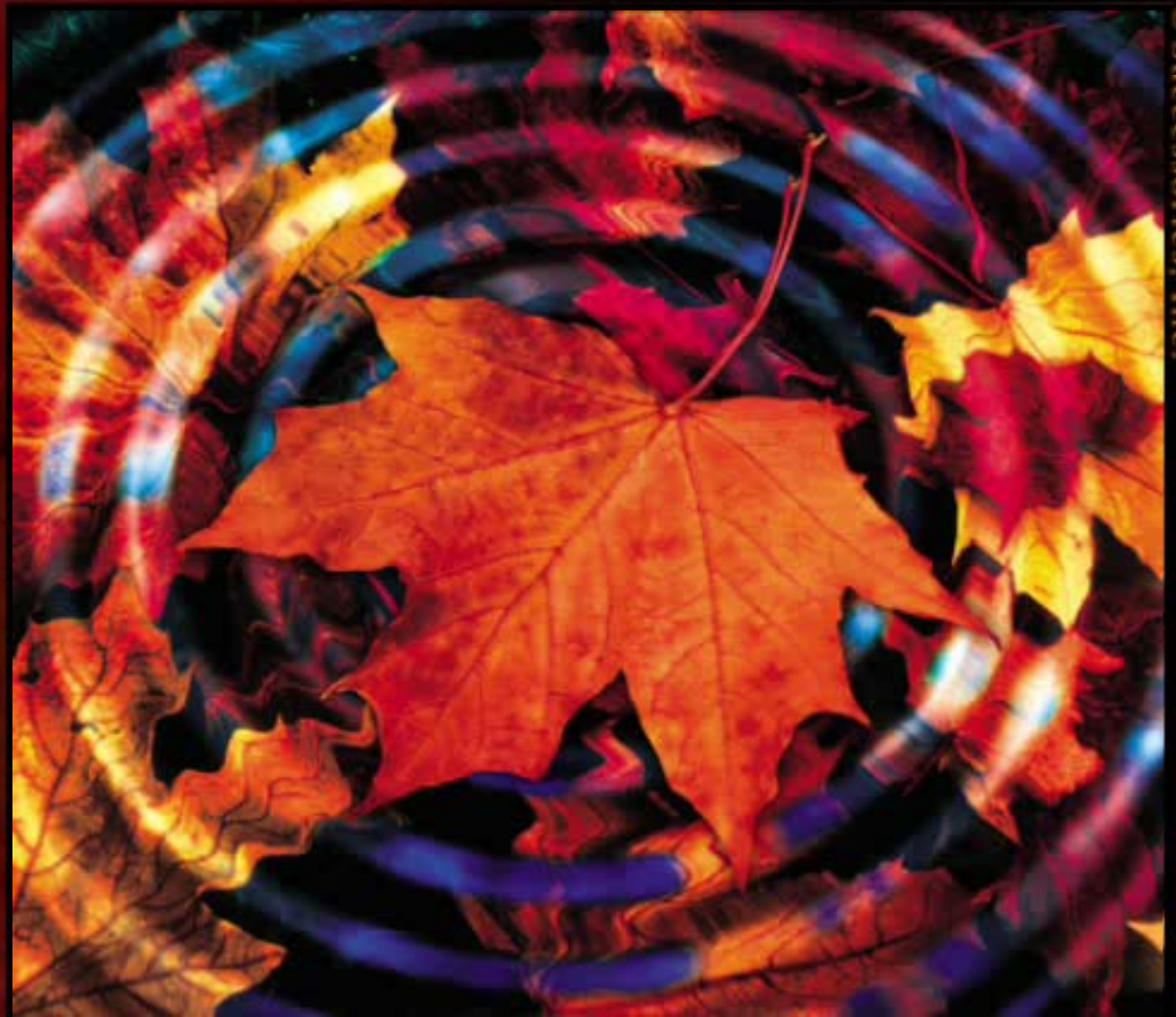
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