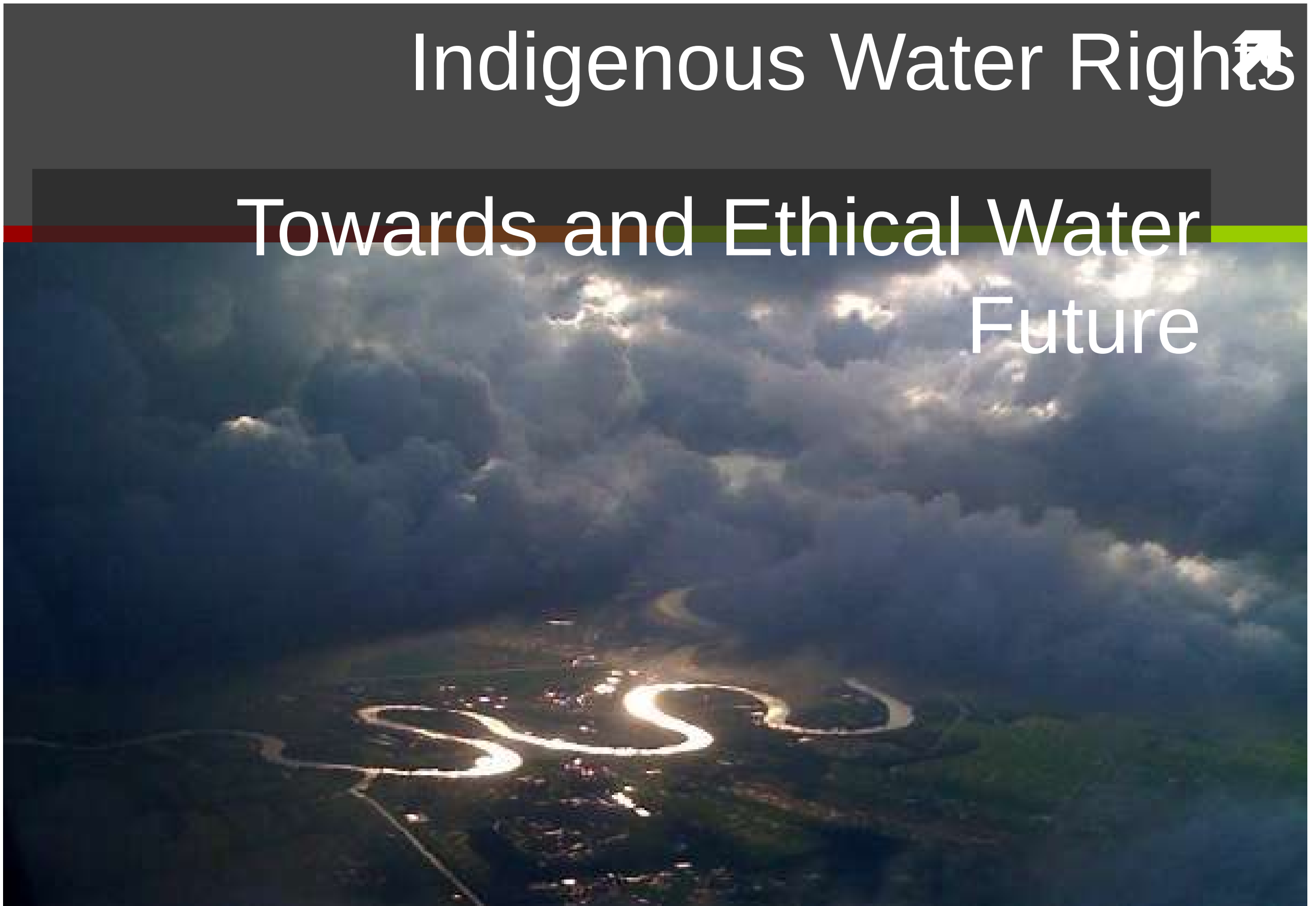


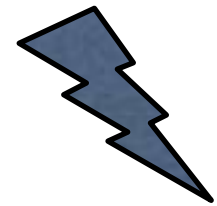
Indigenous Water Rights

Towards and Ethical Water Future

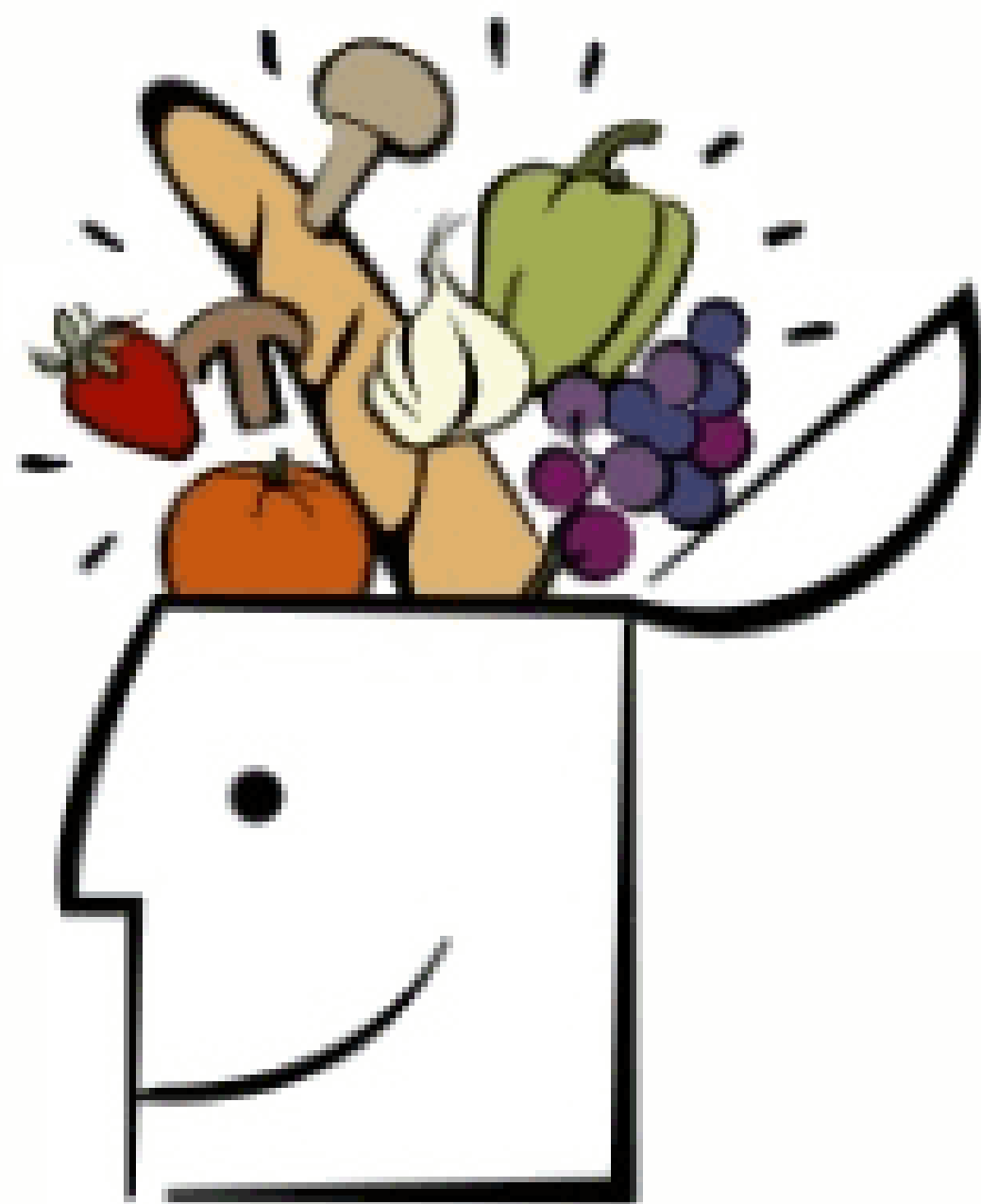
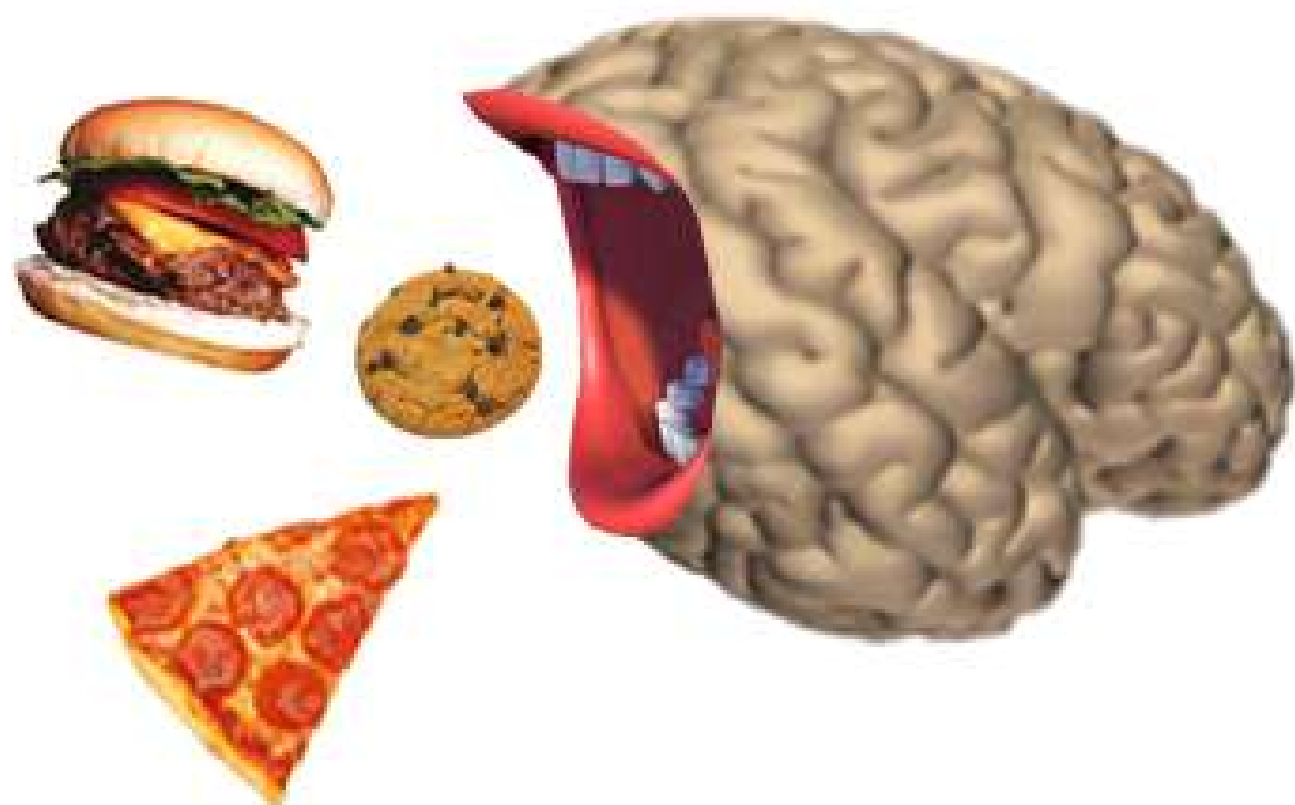


Part 1: The Problem

Part 2: New [old] Water Ethic

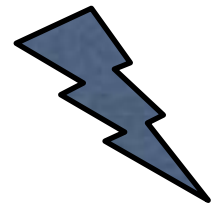


Examples!



Part 1: The Problem

Part 2: New [old] Water Ethic



Examples!

Part 1: The Rights Problem



Rights

Who has them,
who doesn't.



Who can take from it.

Who can live on it.

Who owns it.

Who decides.

“Behind
the fight for
water is the
struggle for
democracy.”

Oscar Olivera,
Bolivian Partner



how did it come
to this?

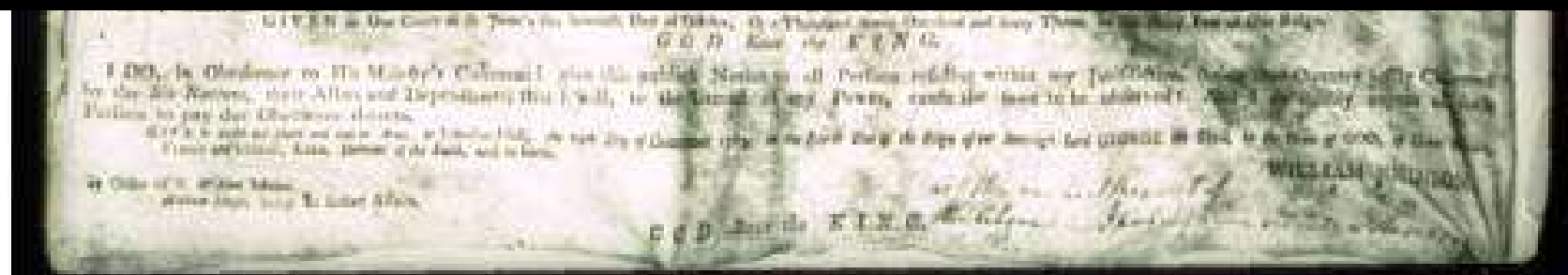




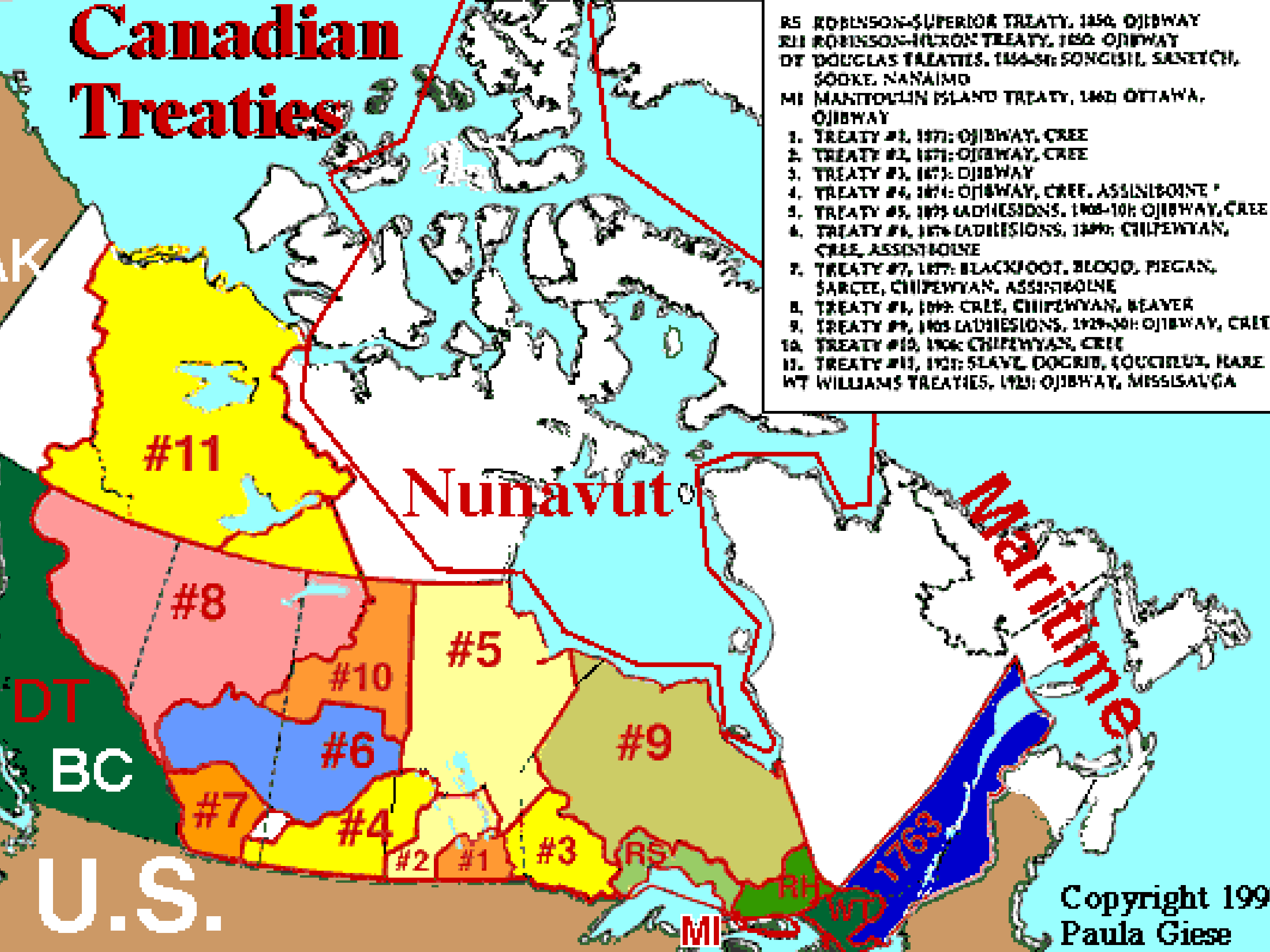
Labour theory of property



In Canada, the *Royal Proclamation of 1763* is the basis of our understanding of the legal nature of Indian title and an historical root of the treaty process.



Canadian Treaties



- RS ROBINSON-SUPERIOR TREATY, 1850; OJIBWAY
- RH ROBINSON-HURON TREATY, 1820; OJIBWAY
- DT DOUGLAS TREATIES, 1840-50; SONGSHIL, SANECHIL, SODKE, NANAIMO
- MI MANTOULIN ISLAND TREATY, 1860 OTTAWA, OJIBWAY
- 1. TREATY #1, 1877; OJIBWAY, CREE
- 2. TREATY #2, 1877; OJIBWAY, CREE
- 3. TREATY #3, 1877; OJIBWAY
- 4. TREATY #4, 1874; OJIBWAY, CREE, ASSINIBOINE
- 5. TREATY #5, 1877 ADHESIONS, 1888-1890 OJIBWAY, CREE
- 6. TREATY #6, 1876 ADHESIONS, 1890; CHIPWEYAN, CREE, ASSINIBOINE
- 7. TREATY #7, 1877; BLACKFOOT, BLOOD, PEGAN, SARCEE, CHIPWEYAN, ASSINIBOINE
- 8. TREATY #8, 1899; CREE, CHIPWEYAN, BEAVER
- 9. TREATY #9, 1905 ADHESIONS, 1929-30; OJIBWAY, CREE
- 10. TREATY #10, 1906; CHIPWEYAN, CREE
- 11. TREATY #11, 1921; SLAVE, DOGRIE, COUCHELUX, HARE
- WT WILLIAMS TREATIES, 1921; OJIBWAY, MISSISSAUGA

The image features the Canadian flag, which consists of a white square in the center flanked by two vertical red bars. A large red maple leaf is centered in the white square. The year "1867" is written in a black, serif font across the middle of the maple leaf.

1867

assimilation policies
abdication of treaty promises
outlawing of culture
residential schools
loss of language
descent into poverty
natural resource exploitation
environmental degradation
denial of inherent rights



1982

ELIZABETH THE SECOND

By the GRACE OF GOD OF THE UNITED KINGDOM, CANADA
AND HER OTHER REALMS AND TERRITORIES QUEEN,
HEAD OF THE COMMONWEALTH, DEFENDER OF THE FAITH.

TO ALL TO WHOM THESE PRESENTS SHALL COME OR
WHOM THE SAME MAY IN ANYWAY CONCERN

GREETING:

A PROCLAMATION

Attorney General of Canada.

WHEREAS in the past certain amendments to the Constitution of Canada have been made by the Parliament of the United Kingdom at the request and with the consent of Canada;
AND WHEREAS it is in accord with the status of Canada as an independent state that Canadians be able to amend their Constitution in Canada in all respects;
AND WHEREAS it is desirable to provide in the Constitution of Canada for the recognition of certain fundamental rights and freedoms and to make other amendments to the Constitution;
AND WHEREAS the Parliament of the United Kingdom has therefore, at the request and with the consent of Canada, enacted the Canada Act, which provides for the patriation and amendment of the Constitution of Canada;
AND WHEREAS Section 58 of the Constitution Act, 1982, set out in Schedule B to the Canada Act, provides that the Constitution Act, 1982 shall, subject to section 59 thereof come into force on a day to be fixed by proclamation issued under the Great Seal of Canada;
NOW KNOW You that We, by and with the advice of Our Privy Council for Canada, do by this Our Proclamation, declare that the Constitution Act, 1982 shall, subject to section 59 thereof, come into force on the Seventeenth day of April, in the year of Our Lord One Thousand Nine Hundred and Eighty-two.
OF ALL WHICH Our Loving Subjects and all others whom these Presents may concern are hereby required to take notice and to govern themselves accordingly.

IN TESTIMONY WHEREOF We have caused these Our Letters to be made Patent and the Great Seal of Canada to be hereunto affixed.
At Our City of Ottawa, this Seventeenth day of April in the Year of Our Lord One Thousand Nine Hundred and Eighty-two and in the Thirty-first Year of Our Reign.

By Her Majesty's Command

Registrar General of Canada

Prime Minister of Canada



Elizabeth R

John Chretien

ELIZABETH DEUX

PAR LA GRÂCE DE DIEU REINE DU ROYAUME-UNI, DU
CANADA ET DE SES AUTRES ROYAUMES ET TERRITOIRES,
CHEF DU COMMONWEALTH, DÉFENSEUR DE LA FOI.

À TOUS CEUX QUE LES PRÉSENTES PEUVENT DE QUELQUE
MANIÈRE CONCERNER,

SALUT:

PROCLAMATION

Le procureur général du Canada.

CONSIDÉRANT
QU'à la demande et avec le consentement du Canada, le Parlement du Royaume-Uni a déjà modifié à plusieurs reprises la Constitution du Canada;
QU'en vertu de leur appartenance à un État souverain, les Canadiens se doivent de détenir tout pouvoir de modifier leur Constitution au Canada;
QU'il est souhaitable d'inscrire dans la Constitution du Canada la reconnaissance d'un certain nombre de libertés et de droits fondamentaux et d'y apporter d'autres modifications;
QUE le Parlement du Royaume-Uni, à la demande et avec le consentement du Canada, a adopté en conséquence la Loi sur le Canada, qui prévoit le rapatriement de la Constitution canadienne et sa modification;
QUE l'article 58, figurant à l'annexe B de la Loi sur le Canada, stipule que, sous réserve de l'article 59, la Loi constitutionnelle de 1982 entrera en vigueur à une date fixée par proclamation sous le grand sceau du Canada;
NOUS PROCLAMONS, sur l'avis de Notre Conseil privé pour le Canada, que la Loi constitutionnelle de 1982 entrera en vigueur, sous réserve de l'article 59, le dix-septième jour du mois d'avril en l'an de grâce mil neuf cent quatre-vingt-deux.
NOUS DEMANDONS À Nos loyaux sujets et à toute autre personne concernée de prendre acte de la présente proclamation.
EN FOI DE QUOI, Nous avons rendu les présentes lettres patentes et y avons fait apposer le grand sceau du Canada.
Fait en Notre ville d'Ottawa, ce dix-septième jour du mois d'avril en l'an de grâce mil neuf cent quatre-vingt-deux, le trente-et-unième de Notre règne.

Par ordre de Sa Majesté

Le registraire général du Canada

Le premier ministre du Canada

GOD SAVE THE QUEEN

DIEU PROTÈGE LA REINE



Section 35(1)

affirms existing
aboriginal and
treaty rights

(whatever that means)



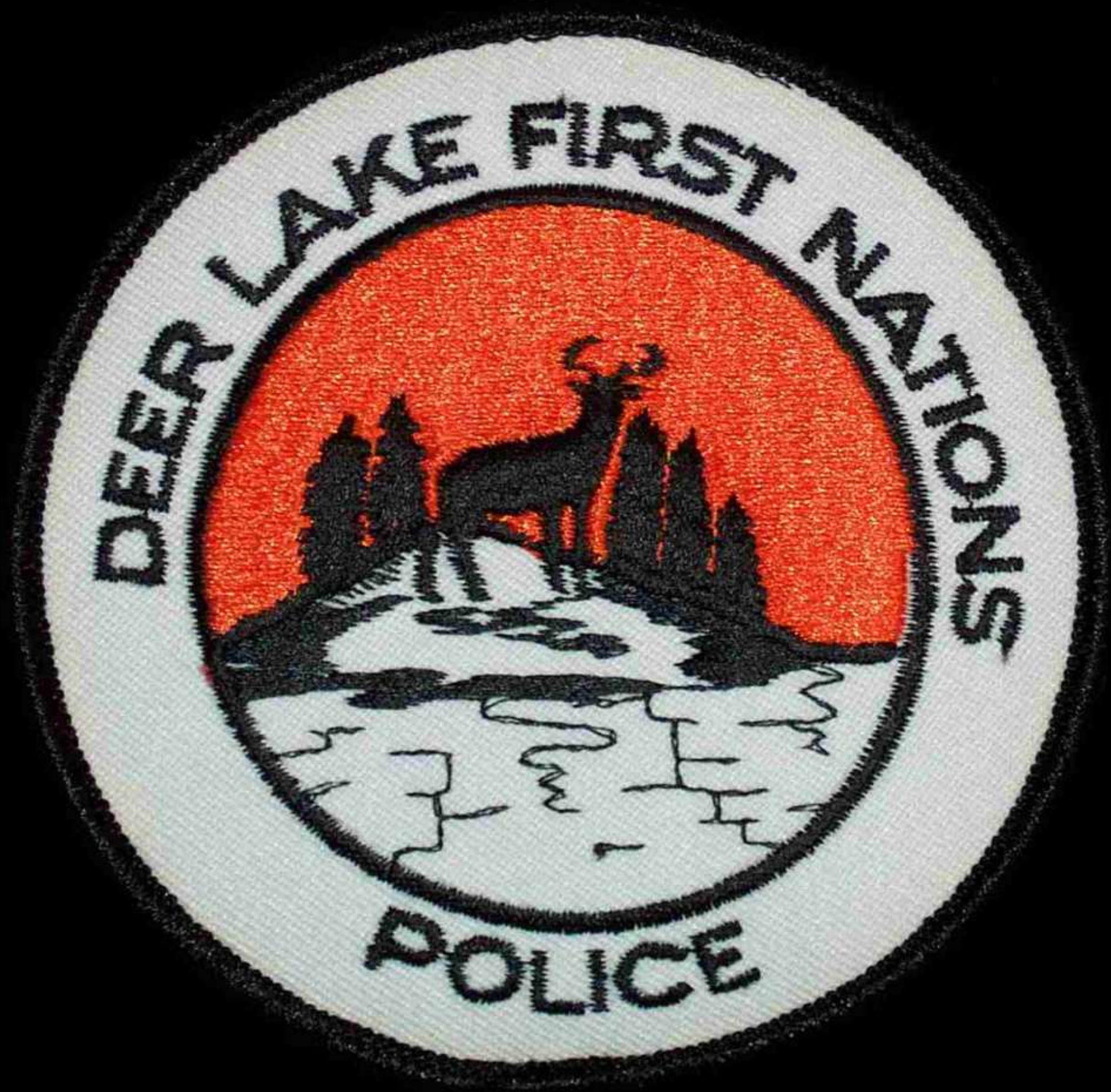
Litigation Ensues....

Photo credit: Ben Powless



yes
We want new
School
please.

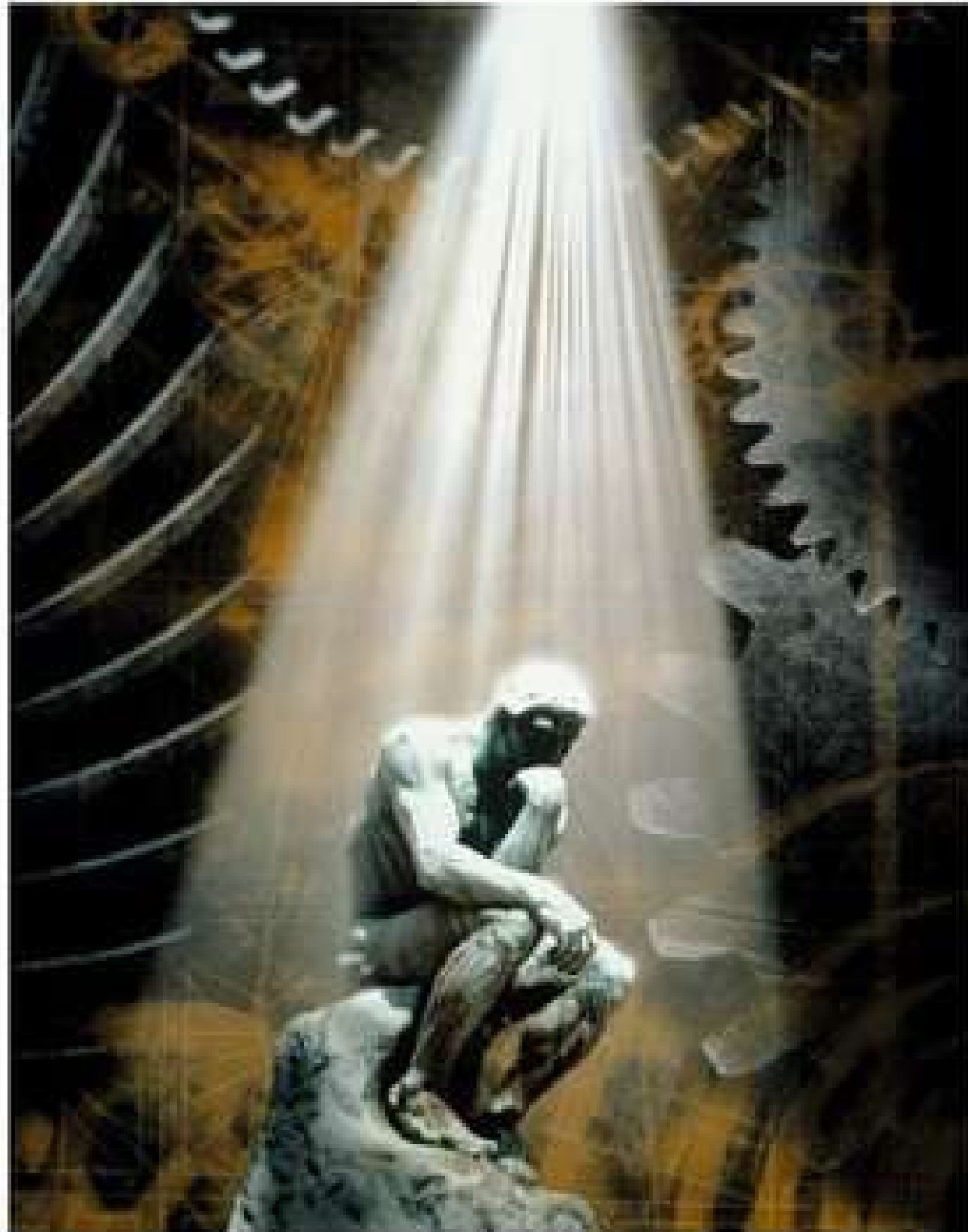
clean, safe environment, and
most of all a new school?

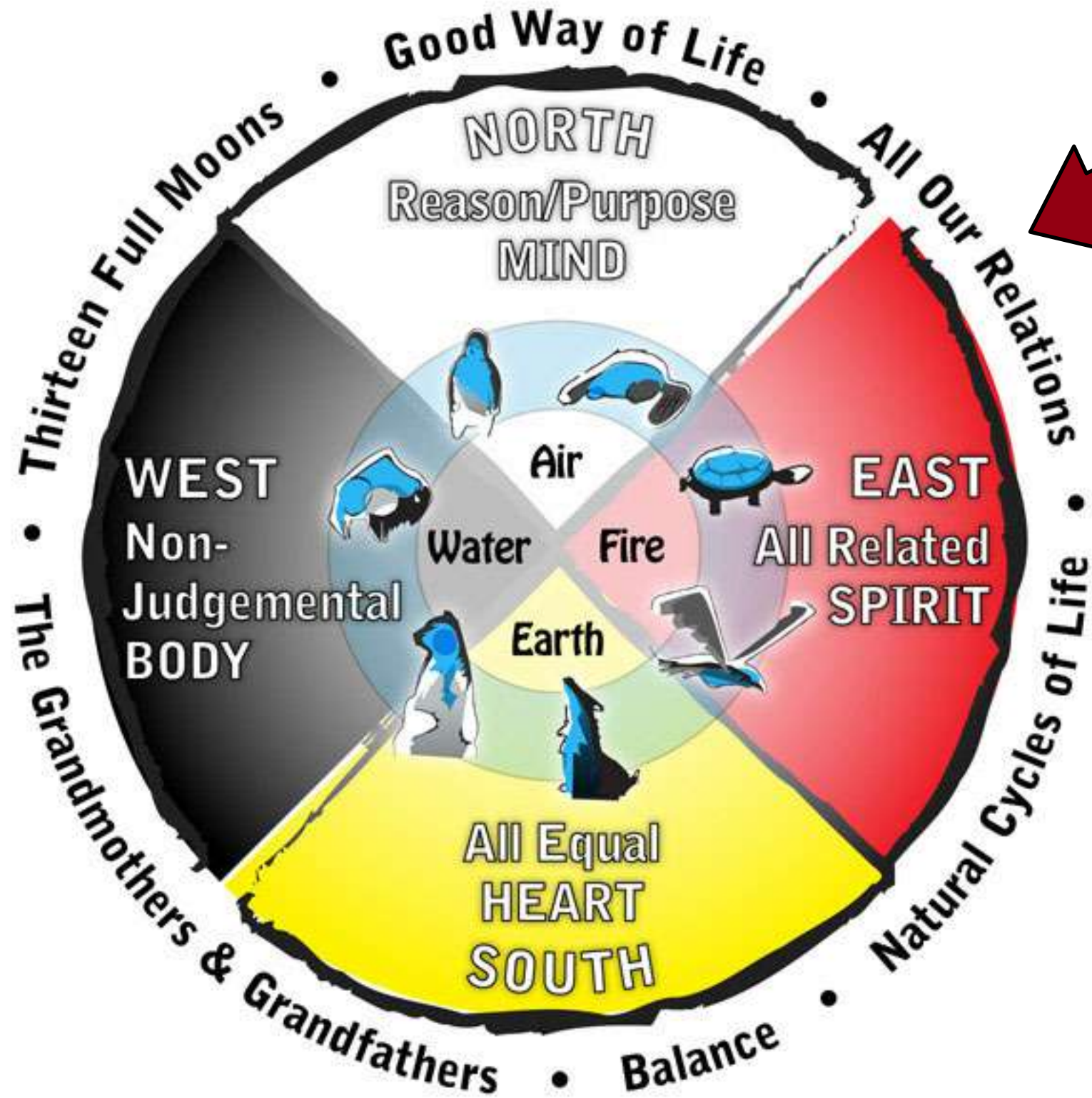




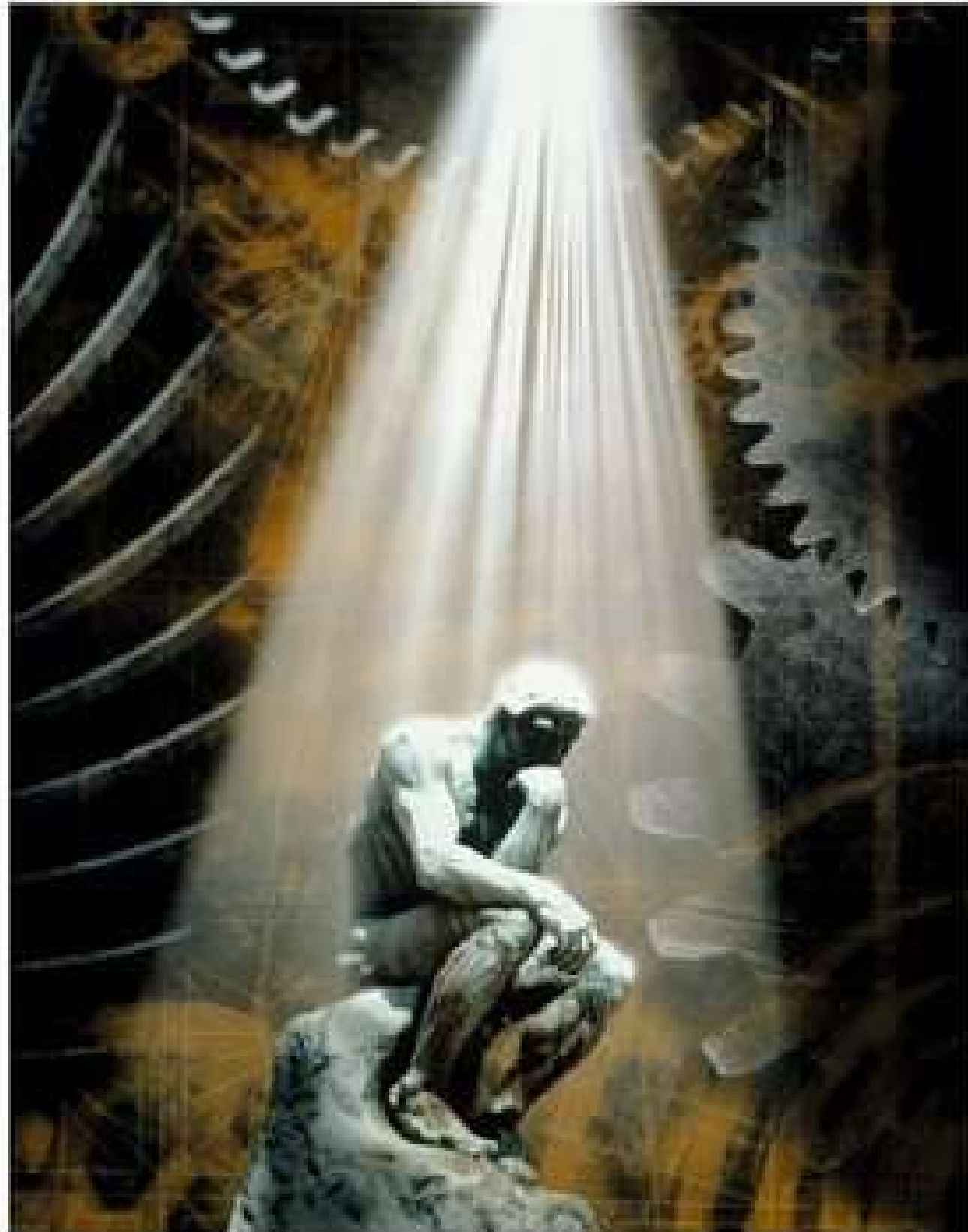






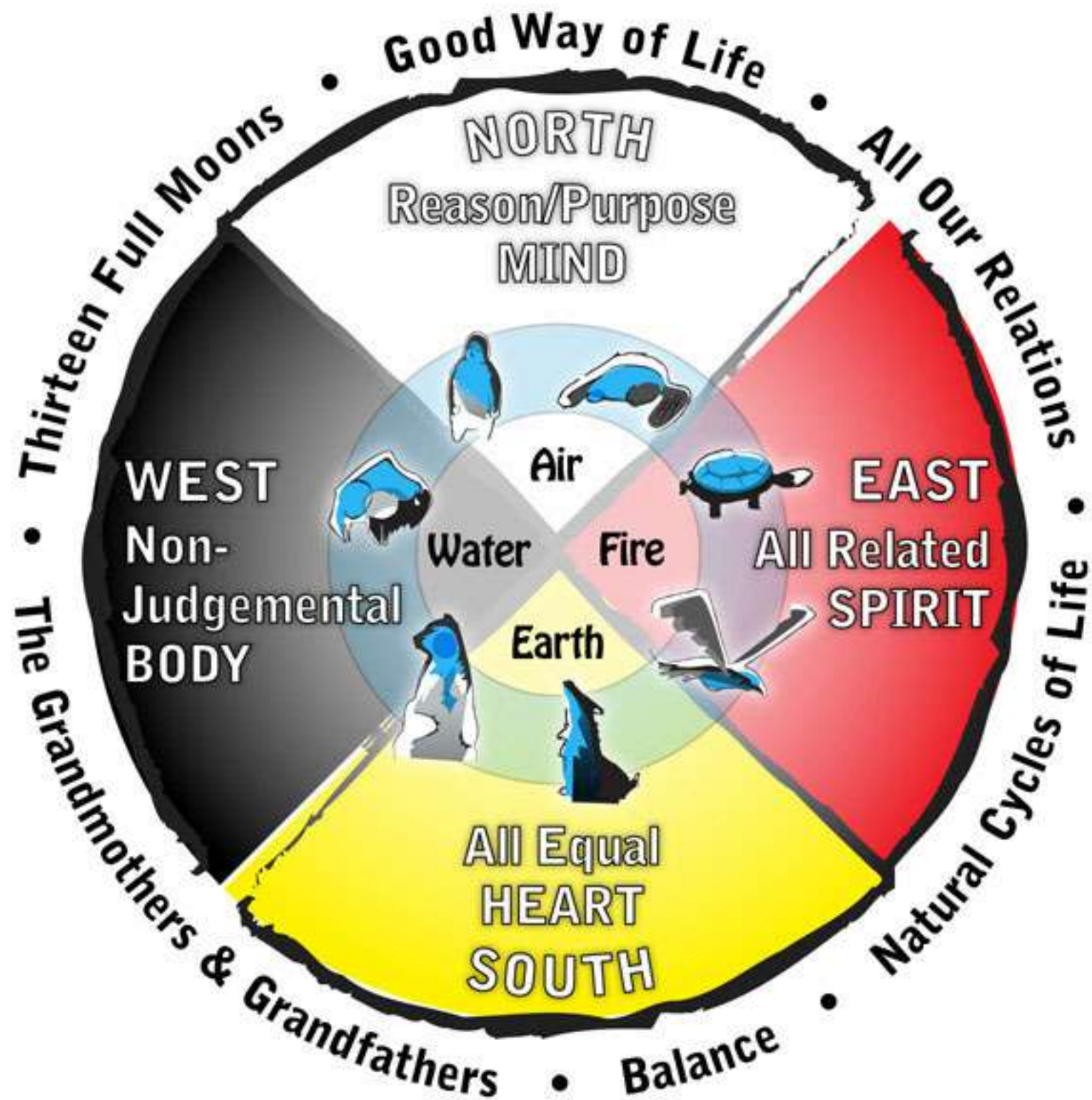












Part 2: A new [old] water ethic



- Ethic 1: Indigenous Water Ethics
- Ethic 2: Water for Nature
- Ethic 3: Water for People
- Ethic 4: Leaders Lead
- Ethic 5: Vision
- Ethic 6: Collaboration Governance

Ethic 1:
our beginning...

Indigenous Water Ethics

Water is life.

= water gives life.

= water is alive.

spirit

sacred

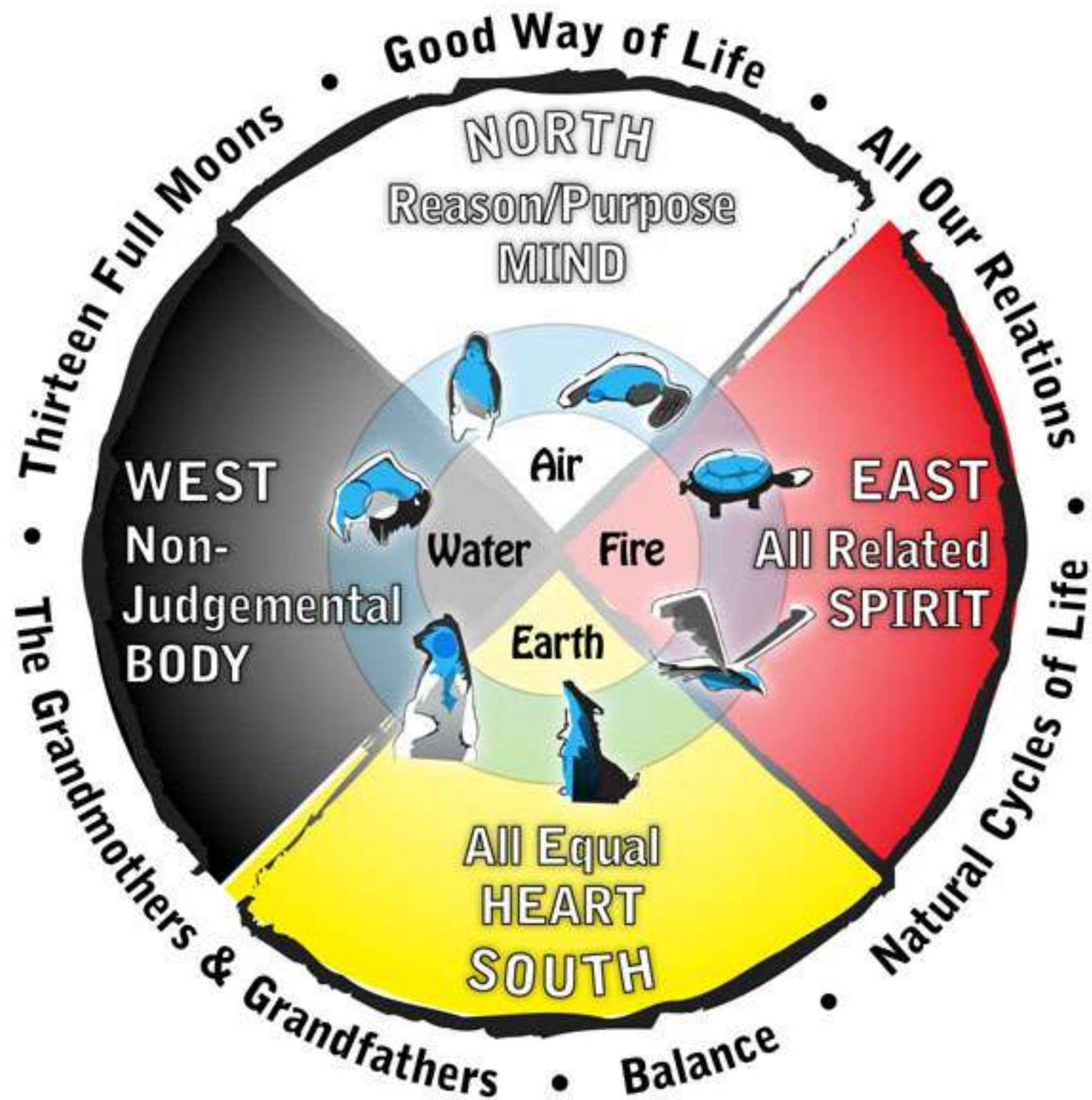
rights



responsibilities



Traditional
Indigenous Water
rights =
Nature's water
rights



A brief example....

Where does water
come from?







the creator

[so what?]

a responsibility that
cannot be shed



my nephew Alex

what if you could not protect your child?



the stories from my grandfather

what happens when they are lost to you?

spiritual
emotional
cultural
loss



and pain

All
our
relations



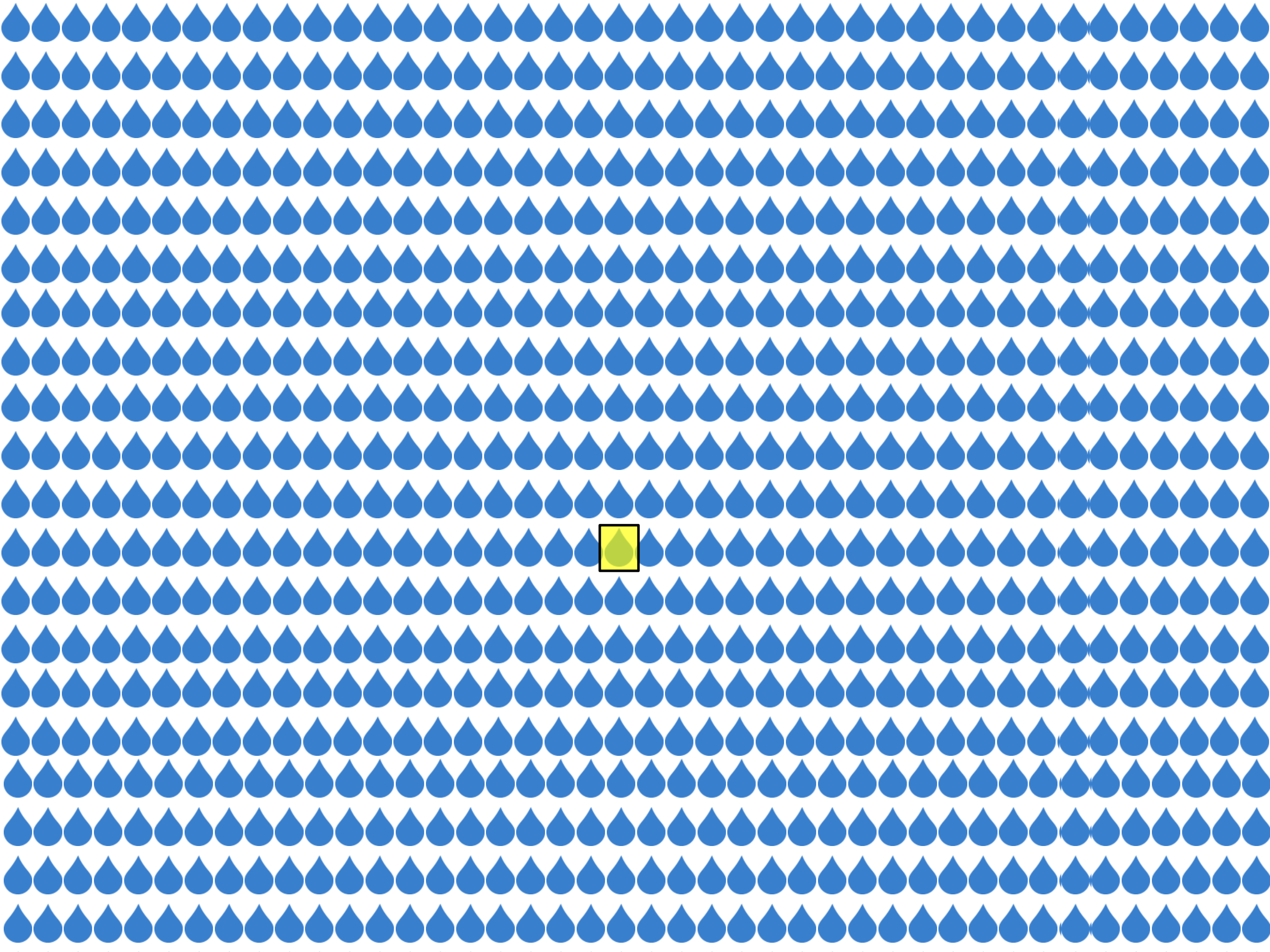
?



Ethic 2: Water for nature...



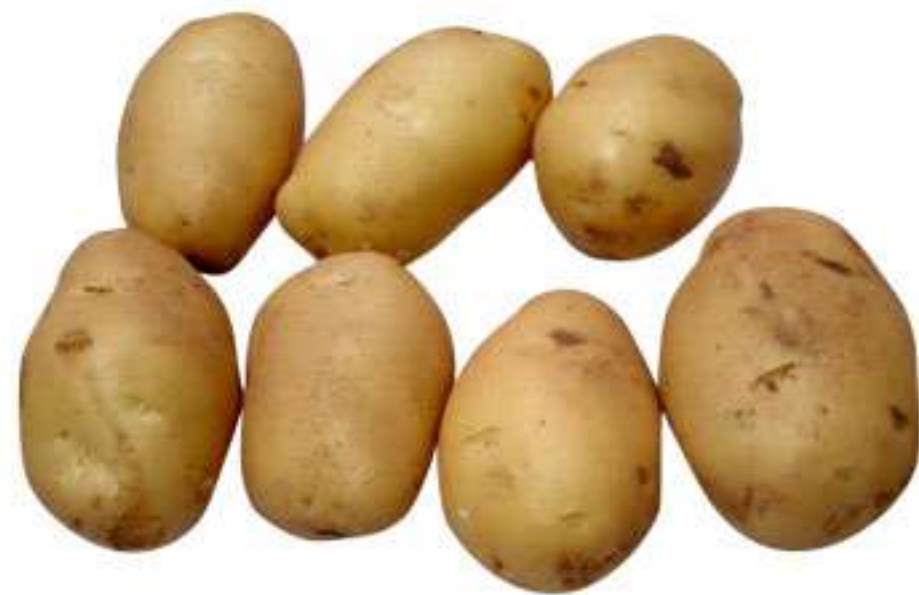
not easy





Credit : WWF







4550 litres water to make 1 litre of milk

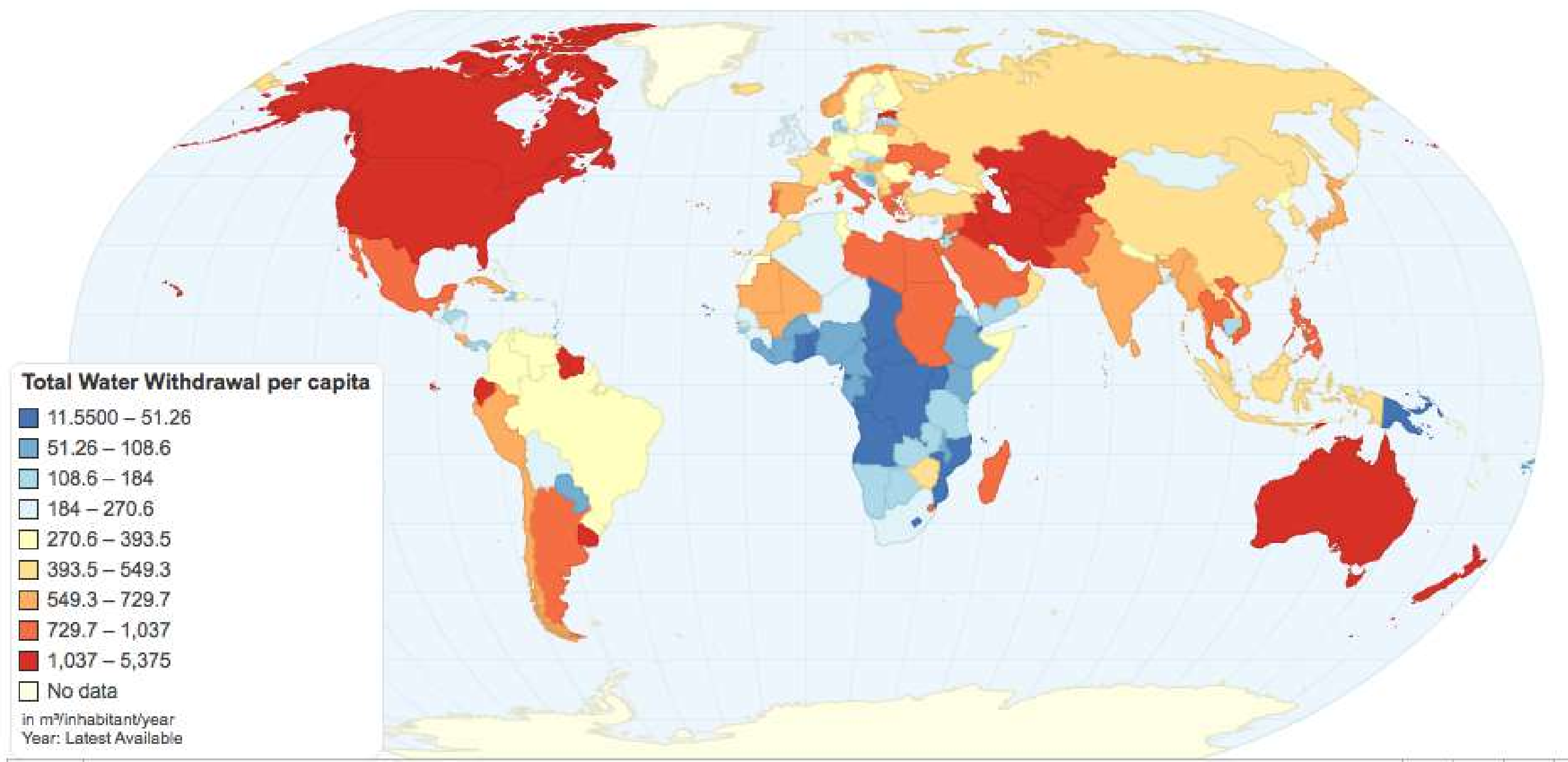
241 litres water to make 1 latte

81900 litres water to make a pair of jeans

8.4 litres water to make 1 water bottle



Total Water Use per capita by Country



Ethic 3:
Water for
people...





water

and

indigenous

peoples

The stats...

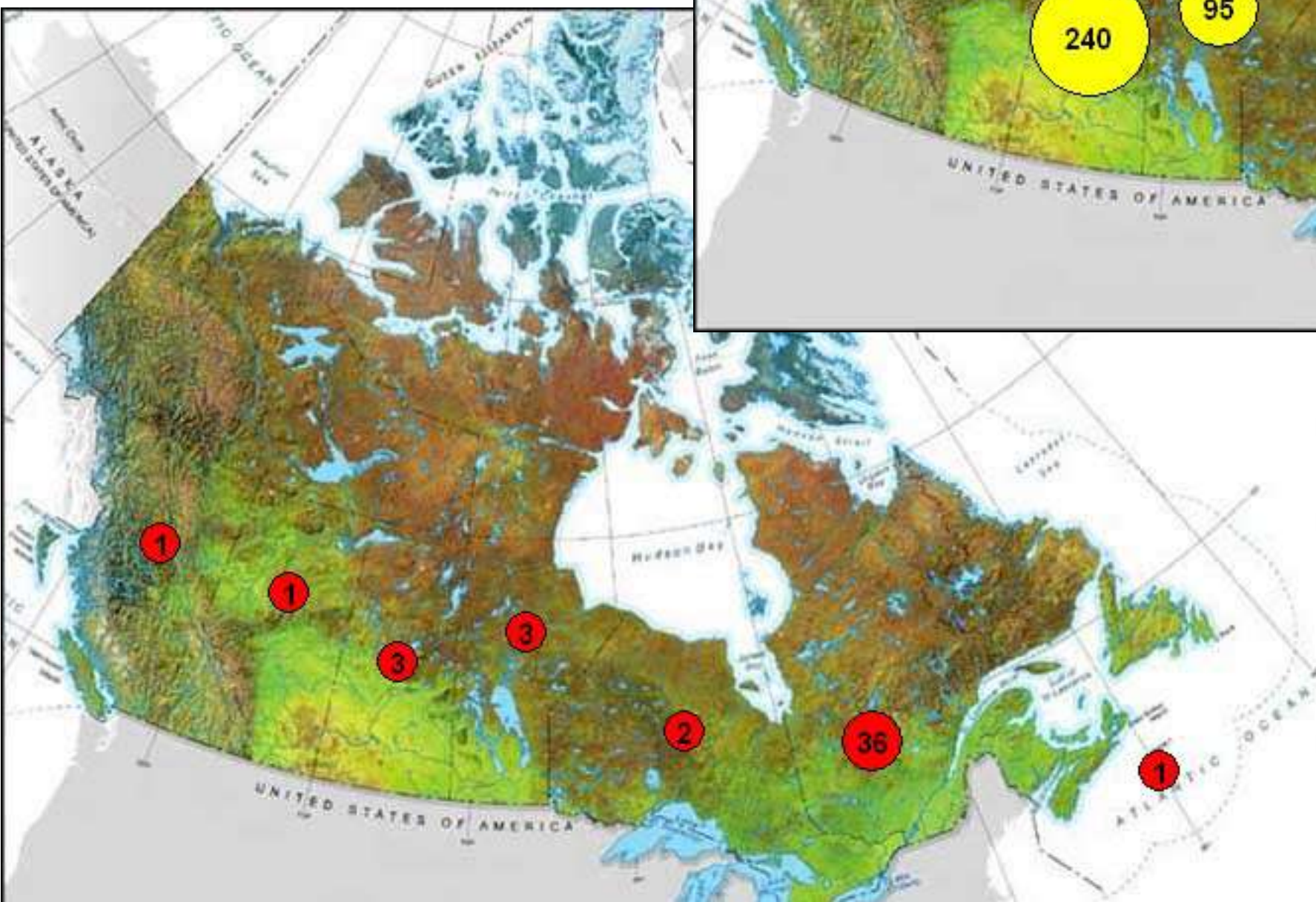
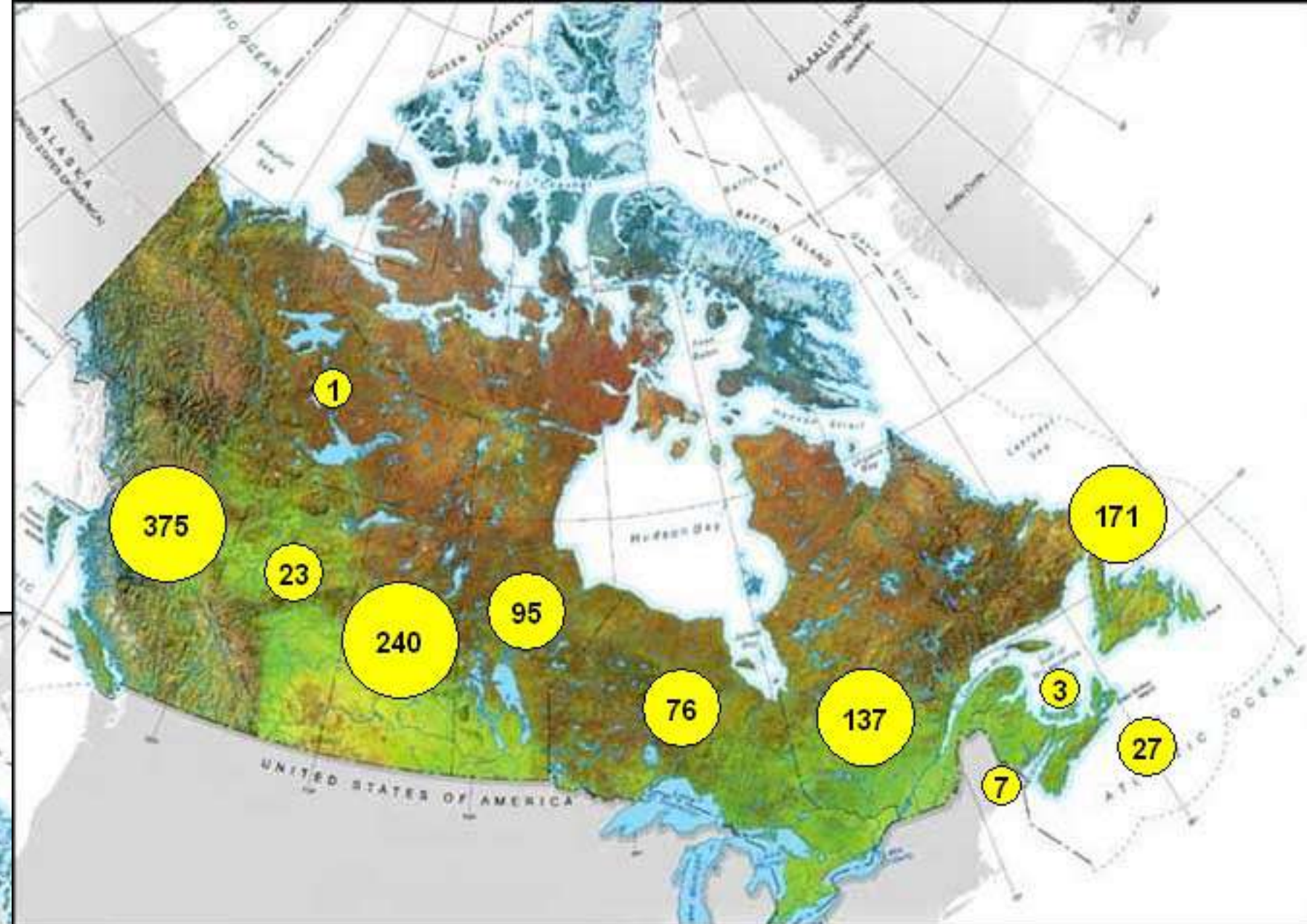
1 in 3 - 4

No piped water: 90 times more likely

UN State of the World's Indigenous Peoples (2009)



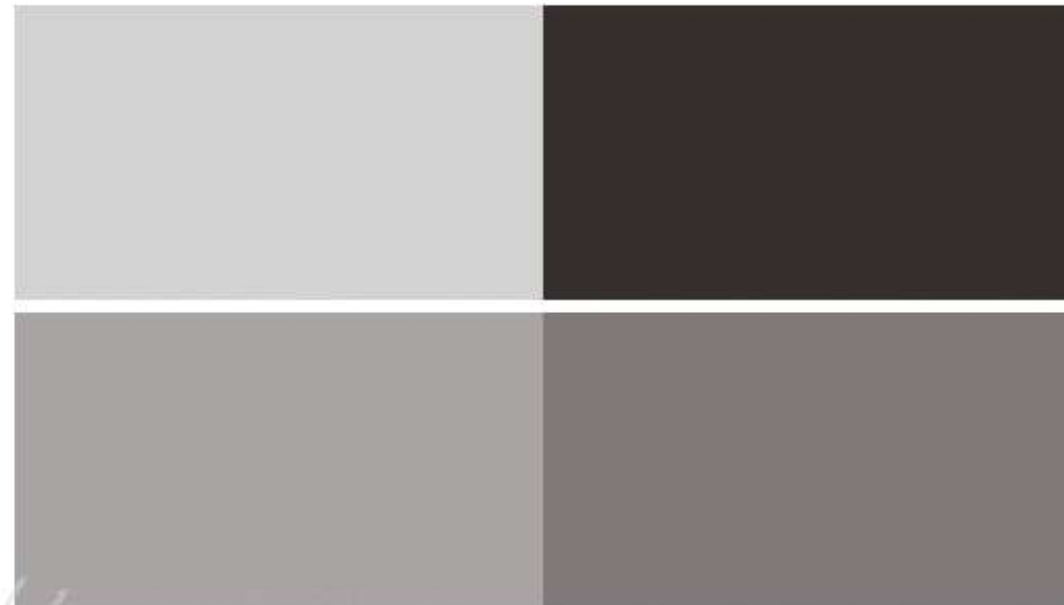
1155 BWA



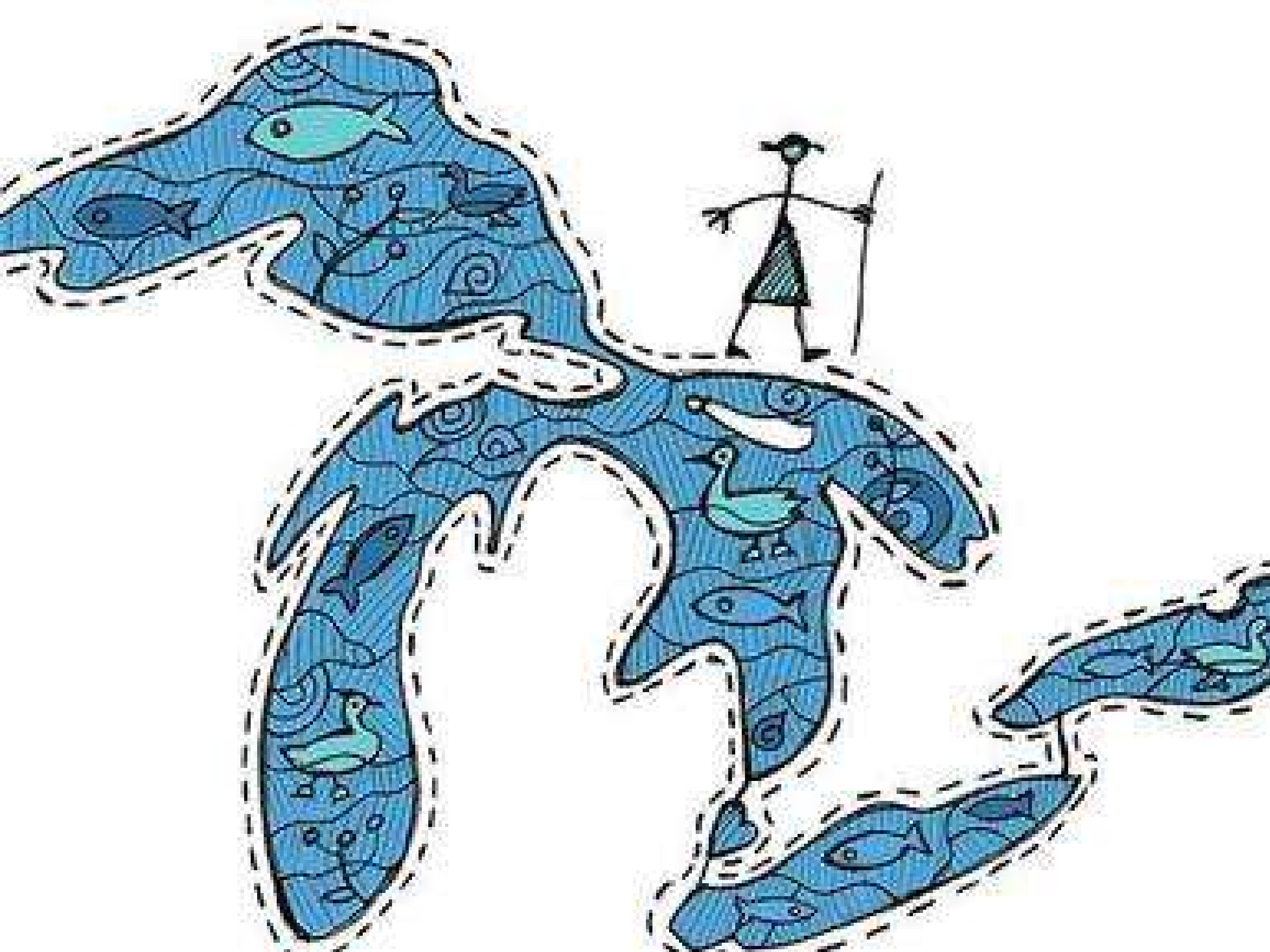
47 DNC

We have a problem.

Ethic 4:
Leaders, lead.

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SEARCH



UNAMA'KI INSTITUTE OF NATURAL RESOURCES

Mi'kmaq Sustainable Resources - Eskasoni, Membertou, Potlotek, Wagmatcook, Waycobah

[Fisheries](#)[Forestry](#)[Moose](#)[NRO](#)[Netukulimk](#)[Opportunities](#)[Our People](#)[Partnerships](#)[Research](#)[Unama'KIDS](#)

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[Marten UINR T](#)

The Spirit of the Lakes Speaks launched

Oct 18, 2011

As the chant of the Friendship song drifted across the Bras d'Or Lakes on a rare sunny July afternoon, people shook hands in congratulations on the release of *The Spirit of the Lakes Speaks*, a document created by the Bras d'Or Lakes Collaborative Environmental Planning Initiative (CEPI). With a vision for the protection and sustainability...



A day on a river

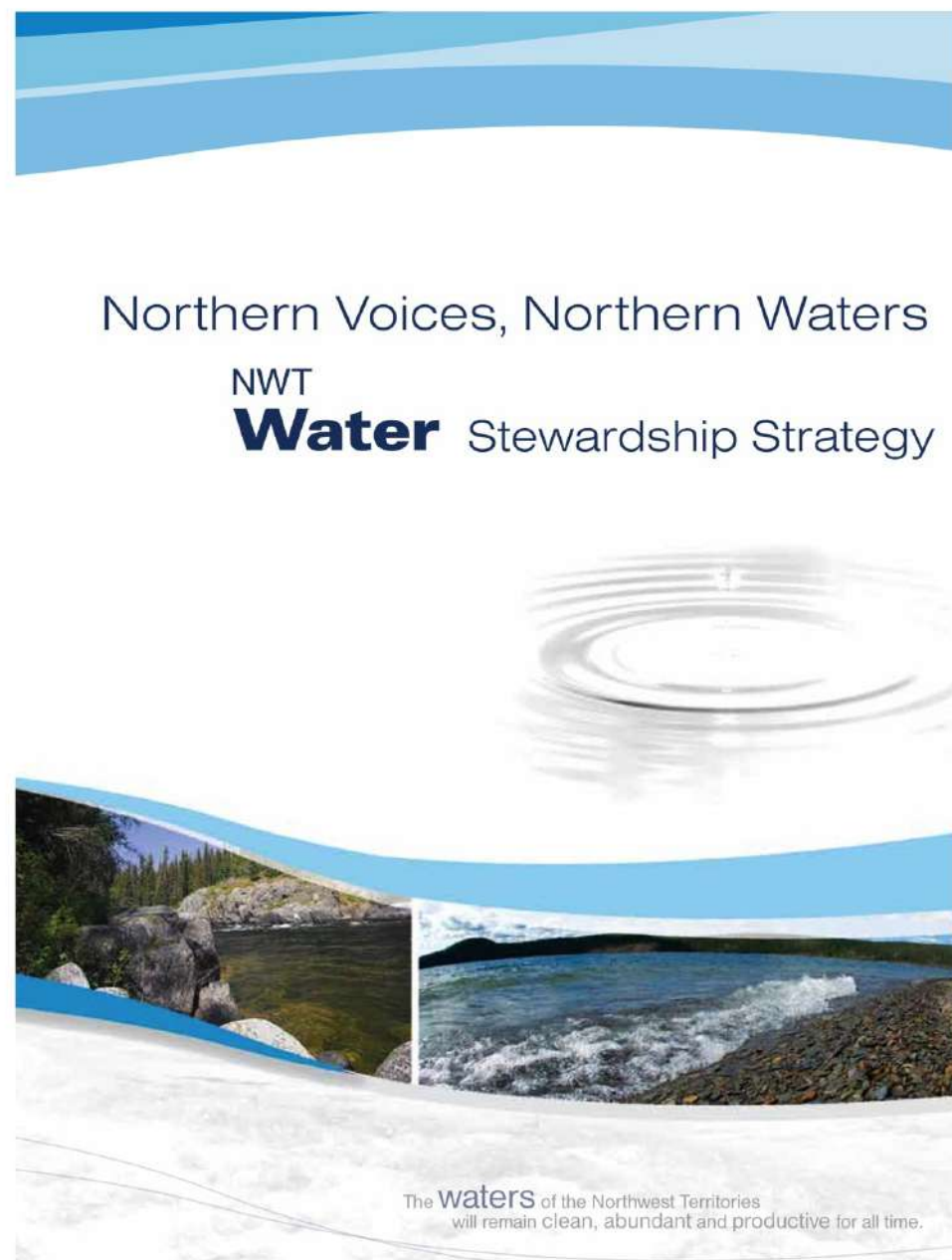
Oct 12, 2010

What better way to spend a summer day?! In hip waders and with pens and paper in hand, Mi'kmaq technicians and scientists from Eskasoni, Membertou and Potlotek received Canadian Aquatic Biomonitoring Network (CABIN) training and certification by

NEWS ARCHIVES

Select Month





The Honourable Michael
Miltenberger

Ethic 5: Vision.

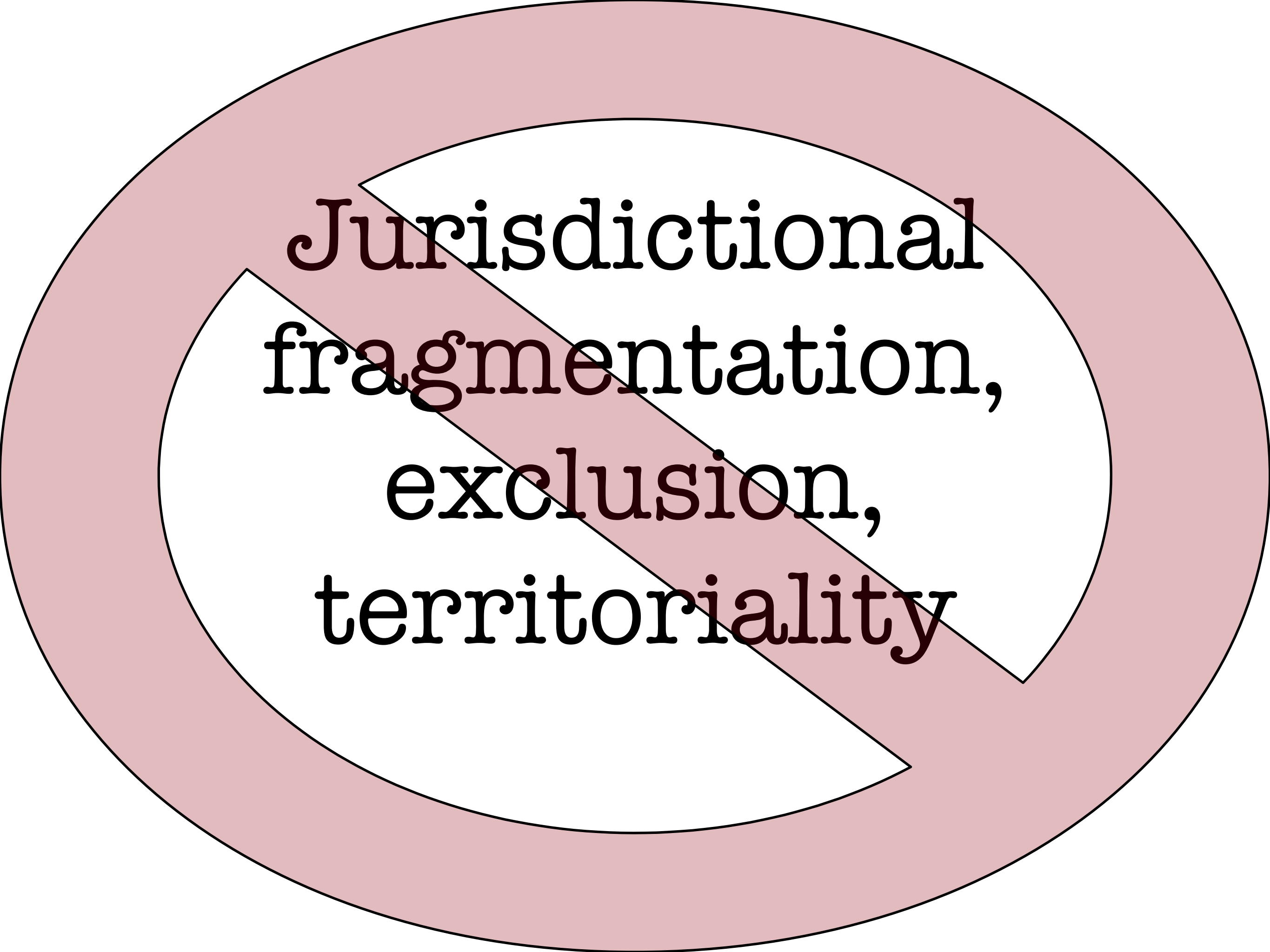
Brave and graceful:

Rights

Governance

Policy

Ethic 6: No turf.



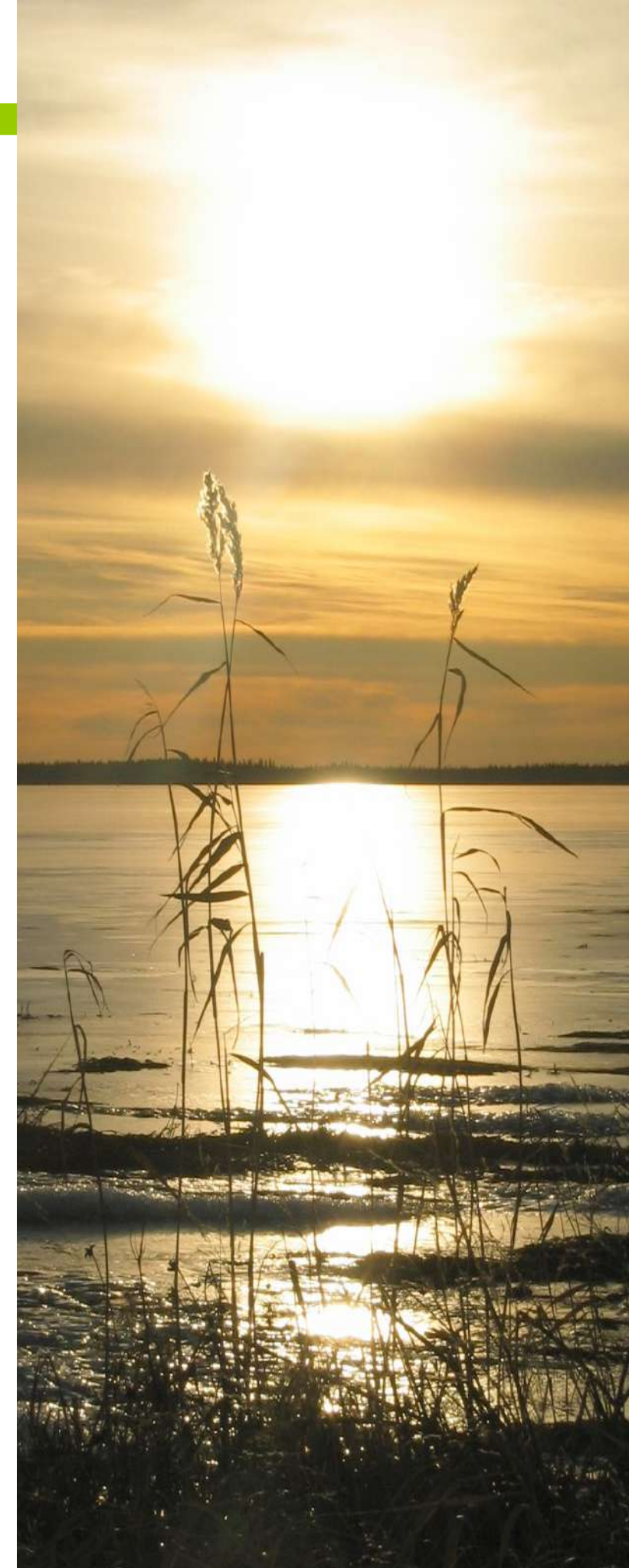
Jurisdictional
fragmentation,
exclusion,
territoriality

Collaboration Governance

=

me, you, water

- Policy Foundation - GNWT
 - Indigenous peoples and Govt's of NWT
- Co-Governance Process - CEPI
 - Collaborative Environmental Planning Initiative
- Knowledge Partnership - UINR
 - Unama'ki of Institute of Natural Resources
- Planning Process – CIER
 - Centre for Indigenous Environmental Resources





Arctic
Watershed

Pacific
Watershed

Atlantic
Watershed

Hudson Bay
Watershed

www.canadiangeographic.ca

Sustainable First Nations and a Healthy
Environment





- Downstream social justice
 - Mackenzie River Basin Transboundary Waters Master Agreement
 - ‘no water use unreasonably harm the ecological integrity in any other jurisdiction’
- Land Claims Agreements
 - Existing land & water boards



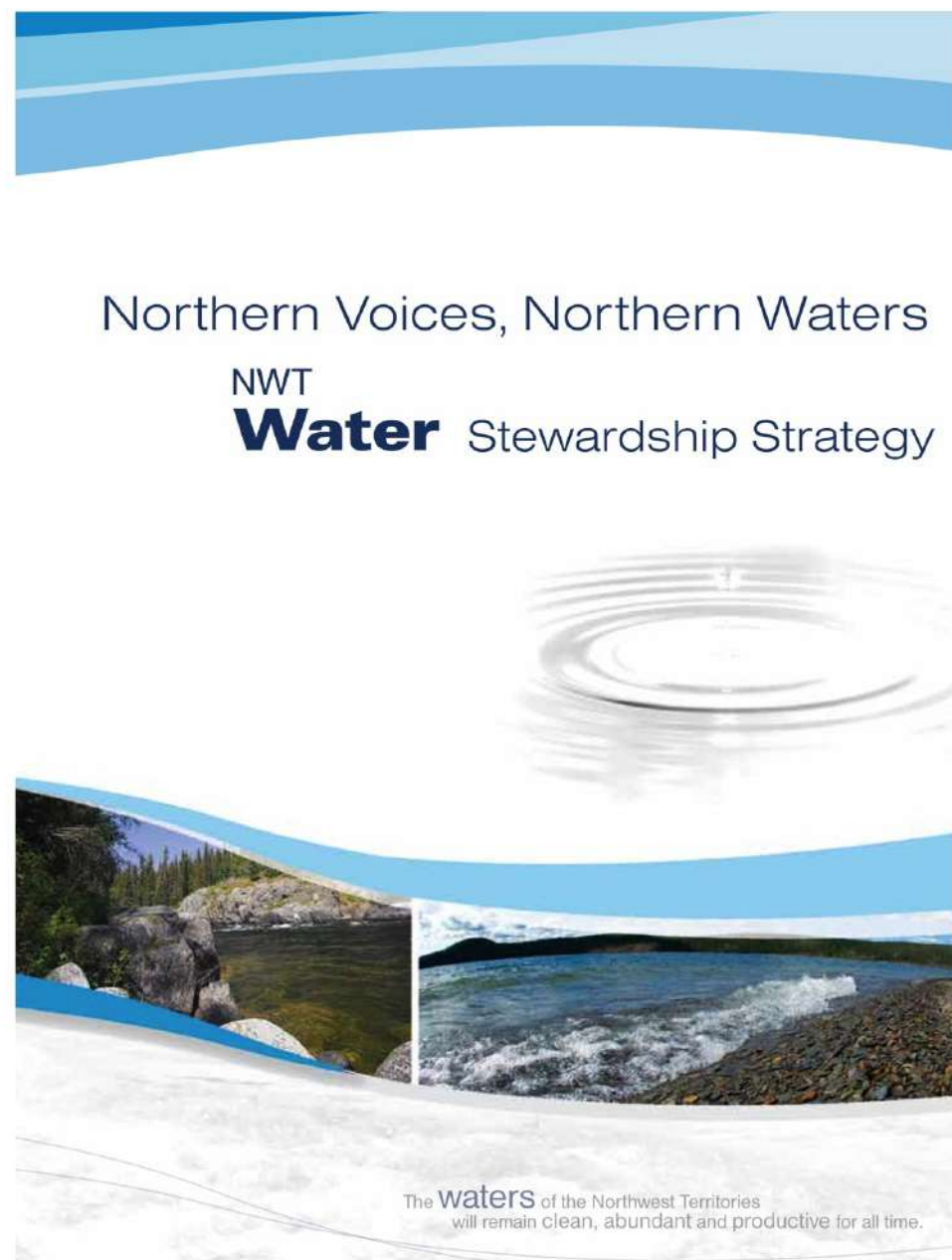
- Downstream social justice
 - Mackenzie River Basin Transboundary Waters Master Agreement
 - ‘no water use unreasonably harm the ecological integrity in any other jurisdiction’
- Land Claims Agreements
 - Existing land & water boards



- Keepers of the Water Gatherings I, II and III (2006, 2007 and 2008)
- Sahtu Water Gathering in Fort Good Hope (2008)
- National Summit on the Environment and Water hosted by the Dene Nation (2008)
- NWT Legislative Assembly (2007)
 - Water as a Human



- All Indigenous governments in NWT
 - Inuvialuit Regional Corporation
 - Gwich'in Tribal Council
 - Sahtu Secretariat Inc
 - Tłıcho Territory Government
 - Dehcho First Nations
 - Northwest Territories Métis Nation
 - Akaitcho Government (observer)
 - Government of NWT



- All Indigenous governments in NWT
 - Inuvialuit Regional Corporation
 - Gwich'in Tribal Council
 - Sahtu Secretariat Inc
 - Tłı̨cho Territory Government
 - Dehcho First Nations
 - Northwest Territories Métis Nation
 - Akaitcho Government (observer)
 - Government of NWT

Strategy Based on Aboriginal Rights

“The NWT Water Stewardship Strategy does not alter existing water management responsibilities. It does not affect or infringe upon existing or asserted Aboriginal rights, treaty rights or land, resource and self-government agreements. In the case of any inconsistency between the Strategy and existing or future treaties or land, resource and self-government agreements, the provisions of the treaties and agreements shall prevail.”

Northern Voices, Northern Waters

Creates a Common Vision:

‘The **waters**

of the Northwest Territories
will remain clean, abundant
and productive for all time.’

- Gets ‘house in order’
- Indigenous rights
foundation=decision-
making
- Puts water for nature
first
- Links water to energy
and economic
development goals
- Sends a message to
other governments (esp.





Arctic
Watershed

Pacific
Watershed

Atlantic
Watershed

Hudson Bay
Watershed



➤ Bra d'Or Lakes, Cape Breton

➤ 5 First Nations, 6 reserves

➤ Heavily impacted by numerous threats

➤ Dredging, invasive species, sewage

➤ “Jurisdictional paralysis”

➤ CEPI is a multi-governmental approach to addressing environmental





- *Spirit of the Lake Speaks*: process plan for management
- Based **first** upon needs of Lakes
- A holistic view of the Bras d'Or Lakes and its watershed as a **spiritual entity**
- Bras d'Or as a living entity that **generates feelings** in people, and supports them

➤ Four quadrants of the

- UINR created by same 5 CEPI FNs
- Mi'kmaq equal participation in natural resource anagement in nama'ki and its additional territory.
- strengthen Mi'kmaq research and natural resource anagement while maintaining their traditions and world views.
- partner with other groups sharing the

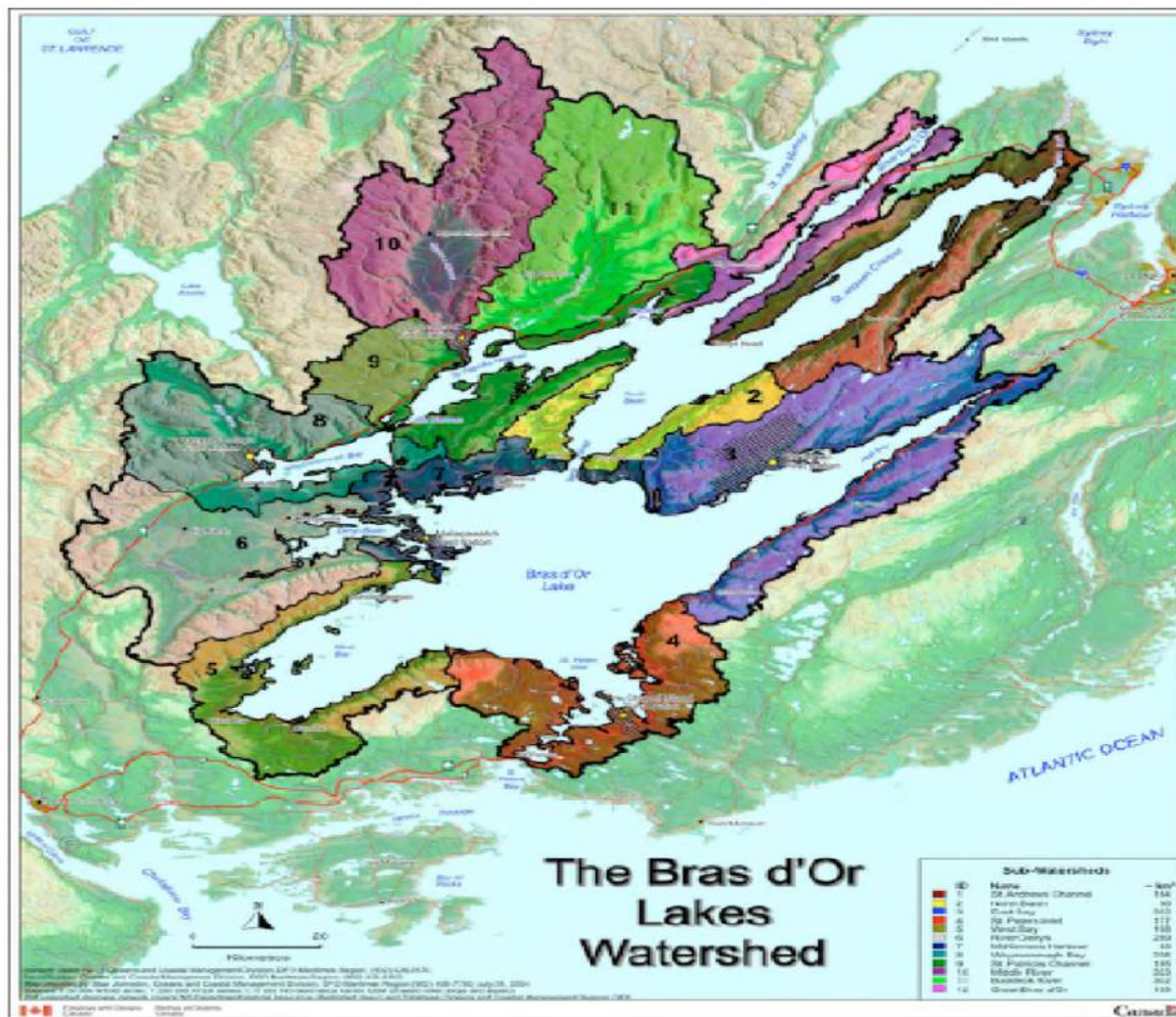


Figure 1. The Bras d'Or Lakes and its sub-watersheds.

Key Drivers for Collaborative Governance

Take away guidance from those 3 examples:

- Legal 'borders' = Accepting and then overcoming jurisdictions (extra-legal)
- Ethical foundation = Reciprocity with water, water first
- Vision for watershed = Long-term, ecosystem health-based, borderlessness of water
- Leadership = Uncommon vision/commitment
- House in order = Strong policy foundation
- Knowledge base = Multiple knowledge systems
- Rights = Rights implementation

Drag picture to placeholder or click icon to add



CIER

CENTRE FOR INDIGENOUS ENVIRONMENTAL RESOURCES



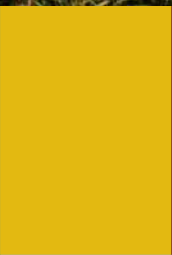


Our Vision

Sustainable First Nations
communities and
a healthy environment.



Sustainable First Nations and a Healthy
Environment





Our Mission

Build capacity within First Nations so that they can address the environmental issues they face.

Sustainable First Nations and a Healthy Environment





Taking Action on Climate Change

We understand the impacts of climate change on First Nations, identify adaptation solutions, provide information, and build public awareness about climate change effects on First Nations.



Building Sustainable Communities

We assist First Nations to build sustainable communities through sustainability planning and the development of environmentally-sustainable buildings and infrastructure.



Protecting Lands and Waters

We support First Nations in identifying threats to the health of their environment, develop sustainable resource use solutions, and promote restoration and protection.



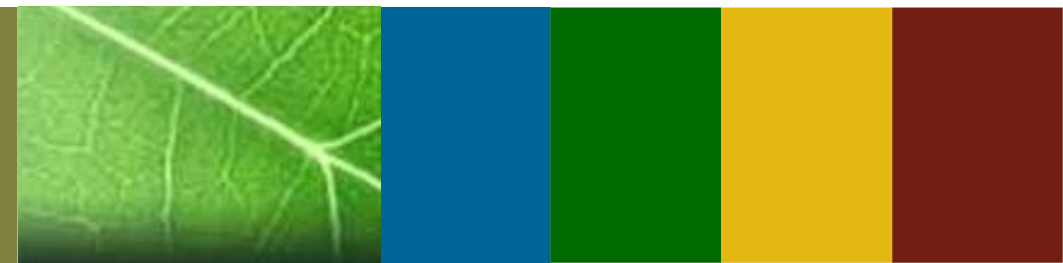
Conserving Biodiversity

We assist First Nations in assessing the state of biodiversity in their lands and waters, develop biodiversity conservation solutions, and provide information.

CIER's Four Program Areas
www.yourcier.org

What was the need?

- First Nations' **involvement** in watershed planning processes is **usually limited**
- As a result:
 - plans do not have the benefit of First Nation perspectives, and
 - decisions are made that may potentially impact the rights, goals, and plans of First Nation people and their governments.

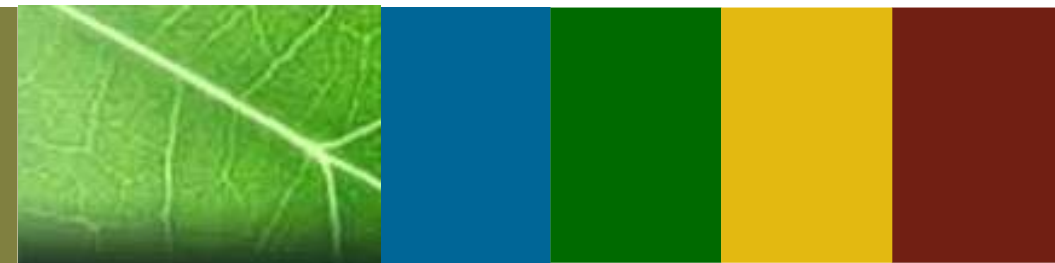


First Nation Integrated Watershed Planning Tool

- First Nations leading the way in watershed planning



Indigenous Watershed Planning



Our First Nation Partners





RBC
Blue Water
Project™

I want
a future
with fresh
water.

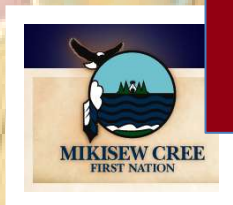
Visit the RBC Blue Water Project
Facebook page.



Pacific Watershed

Arctic Watershed

Atlantic Watershed

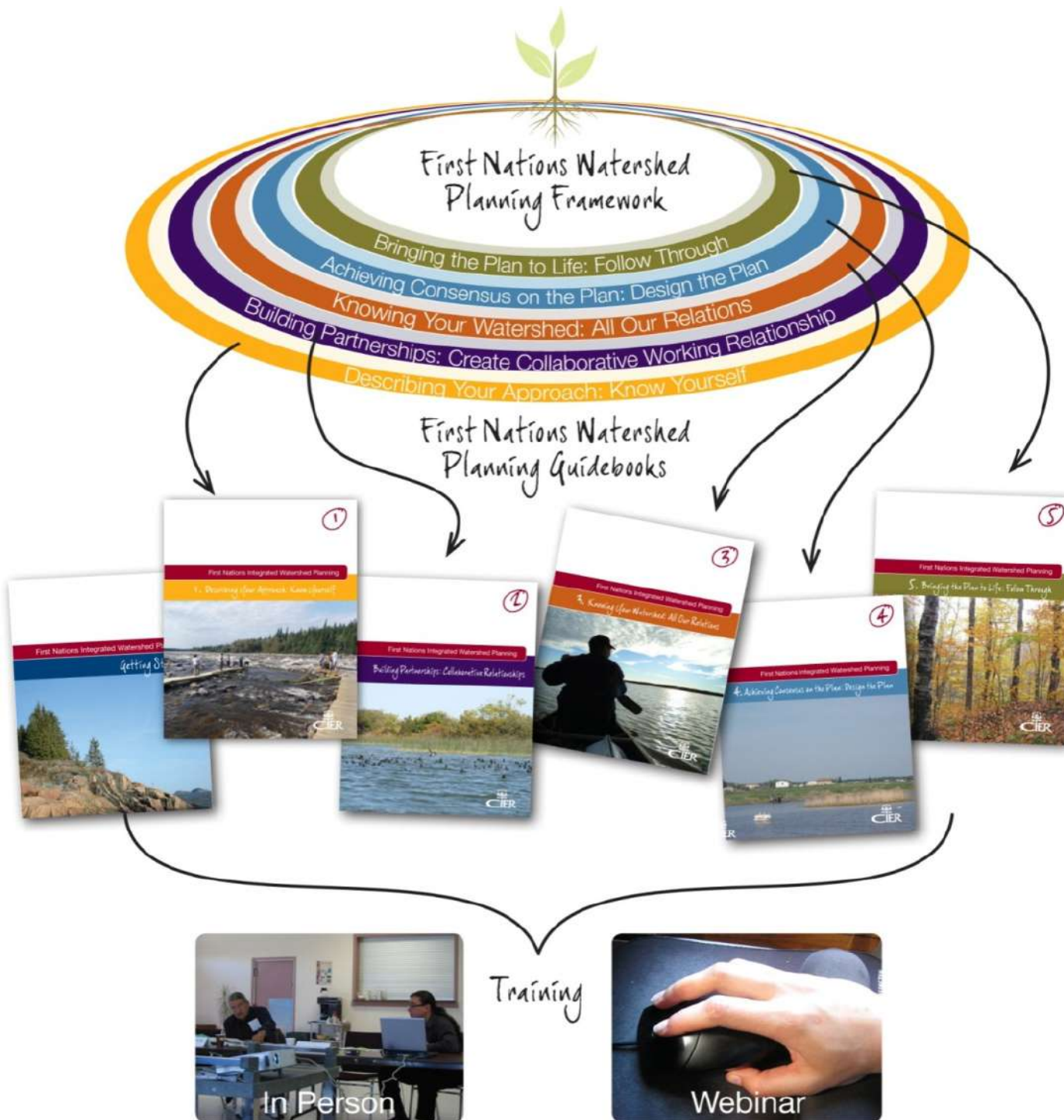


www.canadiangeographic.ca

Sustainable First Nations and a Healthy Environment



- What is the tool?

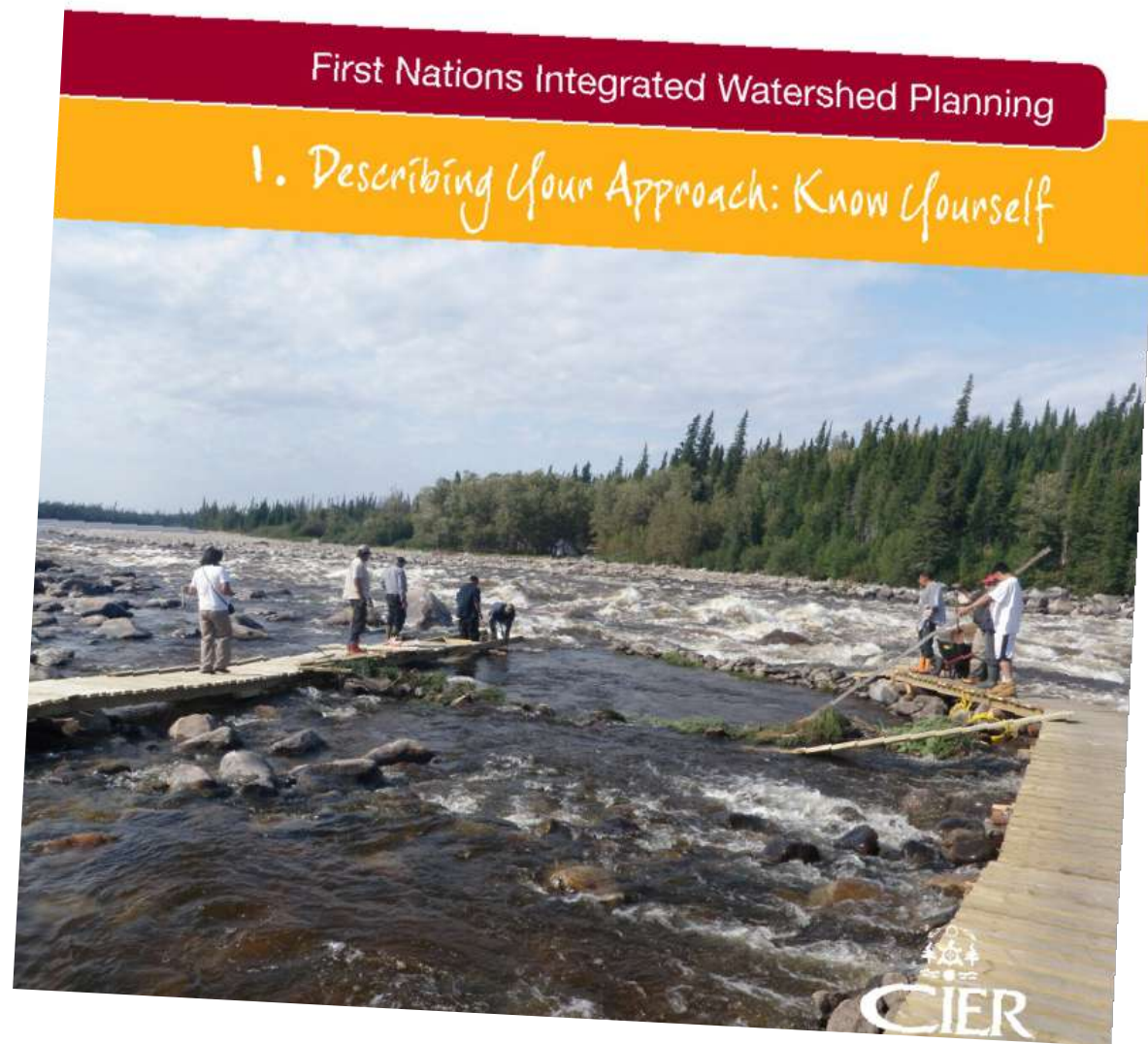


- Framework
- Guidebooks
- Training
- Webinar

Indigenous Watershed Planning



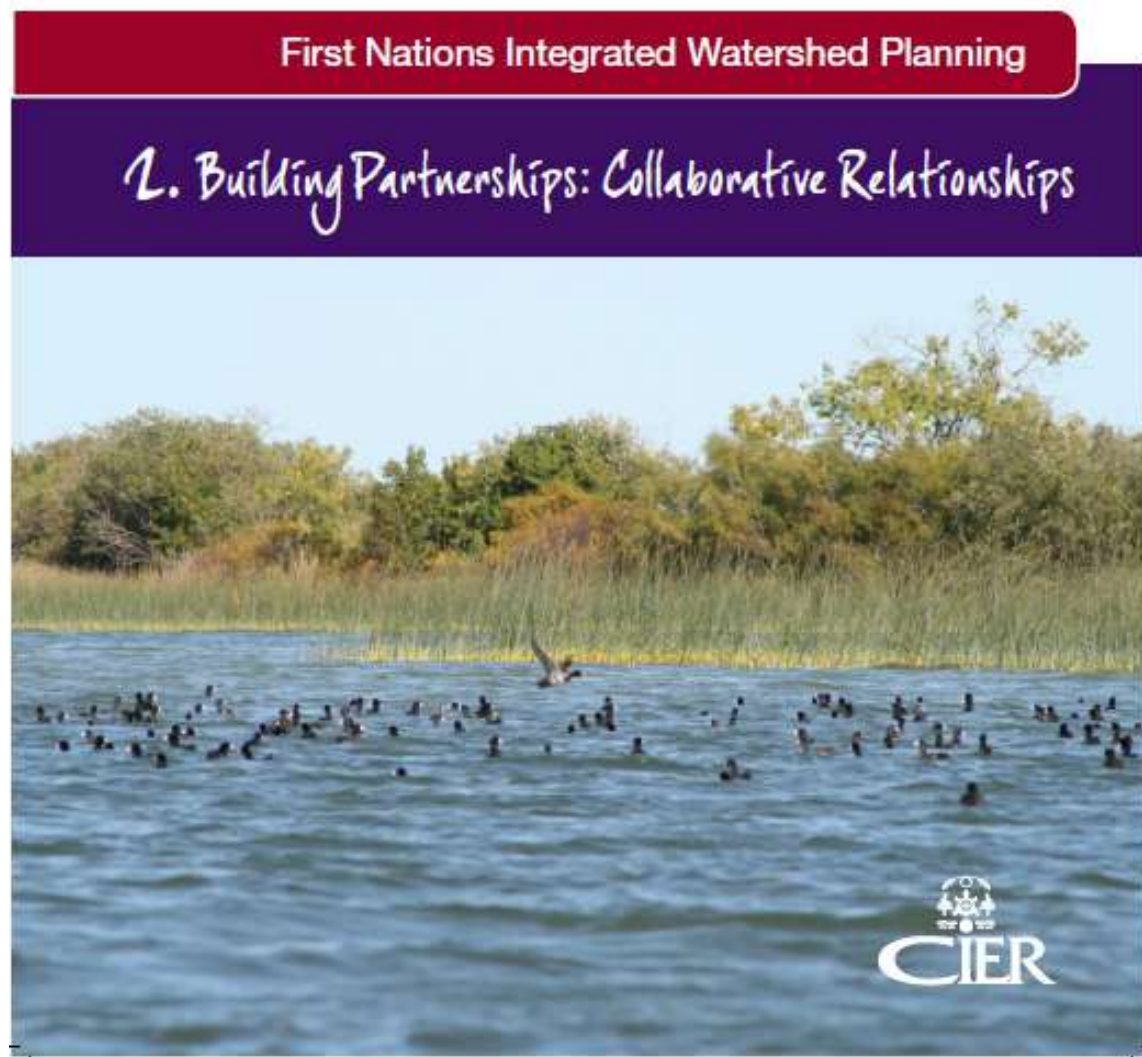
GB 1: Describing Your Approach



- Gathering people
– community engagement
- Indigenous Knowledge
- Protocols and Laws
- Rights
- Values
- Vision

Indigenous Watershed
Planning

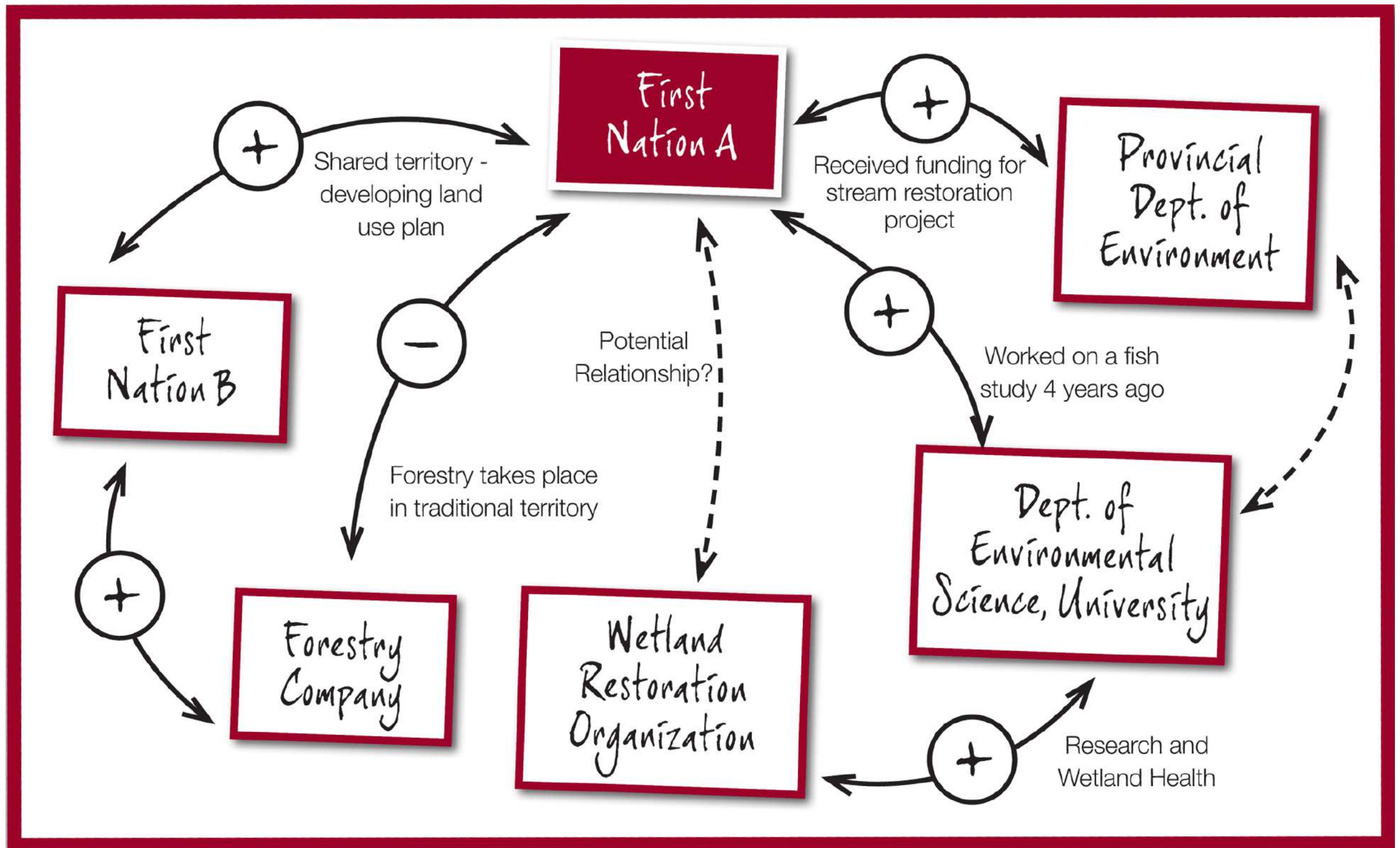
GB 2: Building Relationships



Indigenous Watershed
Planning



Identifying your Partners

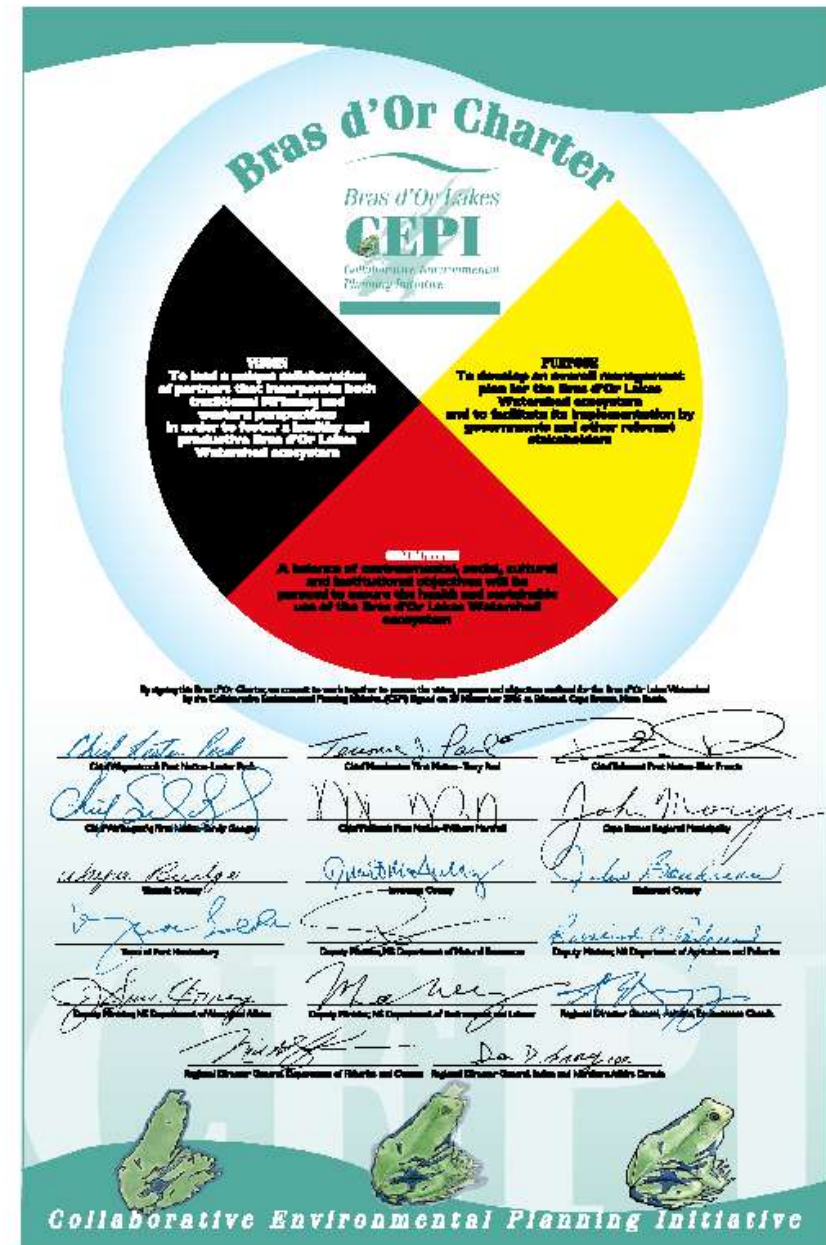


Indigenous Watershed
Planning



Developing your Steering Committee Process

- Guiding Principles
- Decision Making
- Creating a Steering Committee Terms of Reference
- Defining Your Steps to Developing the Plan



Indigenous Watershed
Planning

Establishing Trust

All parties “need to understand, appreciate and respect each others’ perspectives for collaboration to succeed.”



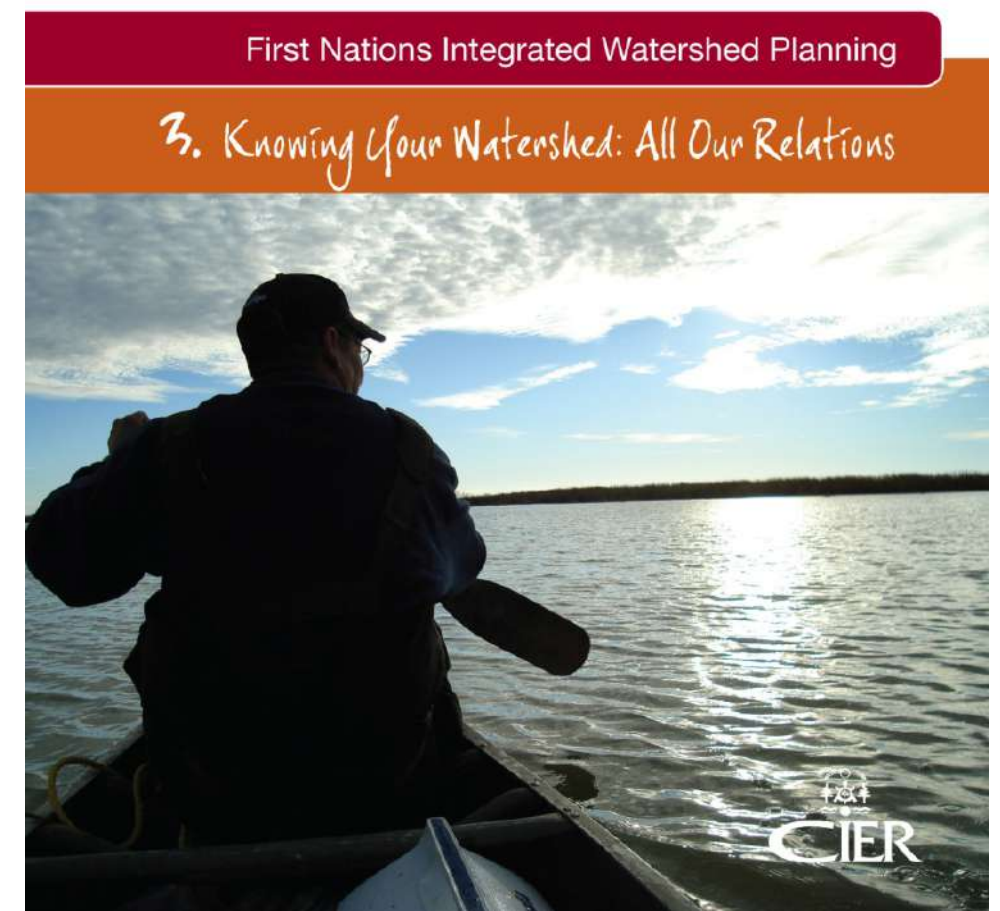
Indigenous Watershed
Planning

Sha



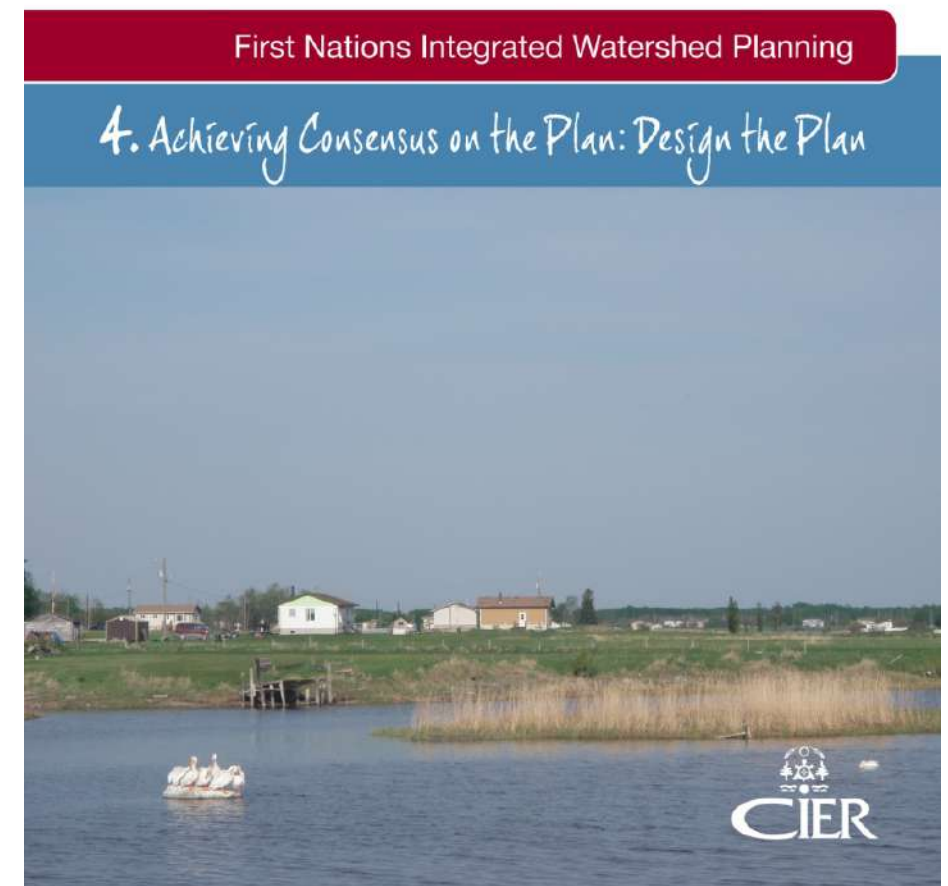
GB 3. Knowing Your Watershed

- Understanding watersheds
- Identifying community concerns/priorities
- Preparing for info gathering
- Gathering existing and new info
- Incorporating Indigenous Knowledge in the State of the Watershed Report



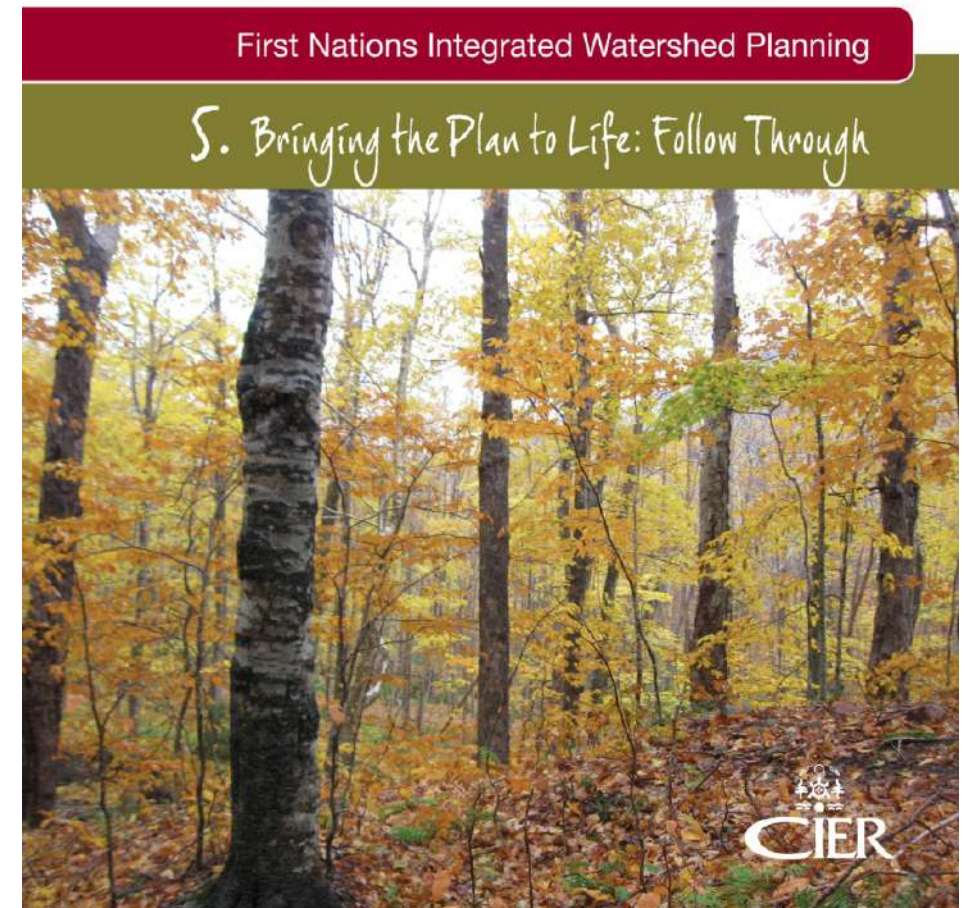
GB 4. Achieving Consensus on the Plan

- The vision statement
- Statement of values
- Goals and objectives
- Timeline or schedule for implementing the plan
- Indicators
- Evaluation plan



GB 5. Bringing the Plan to Life

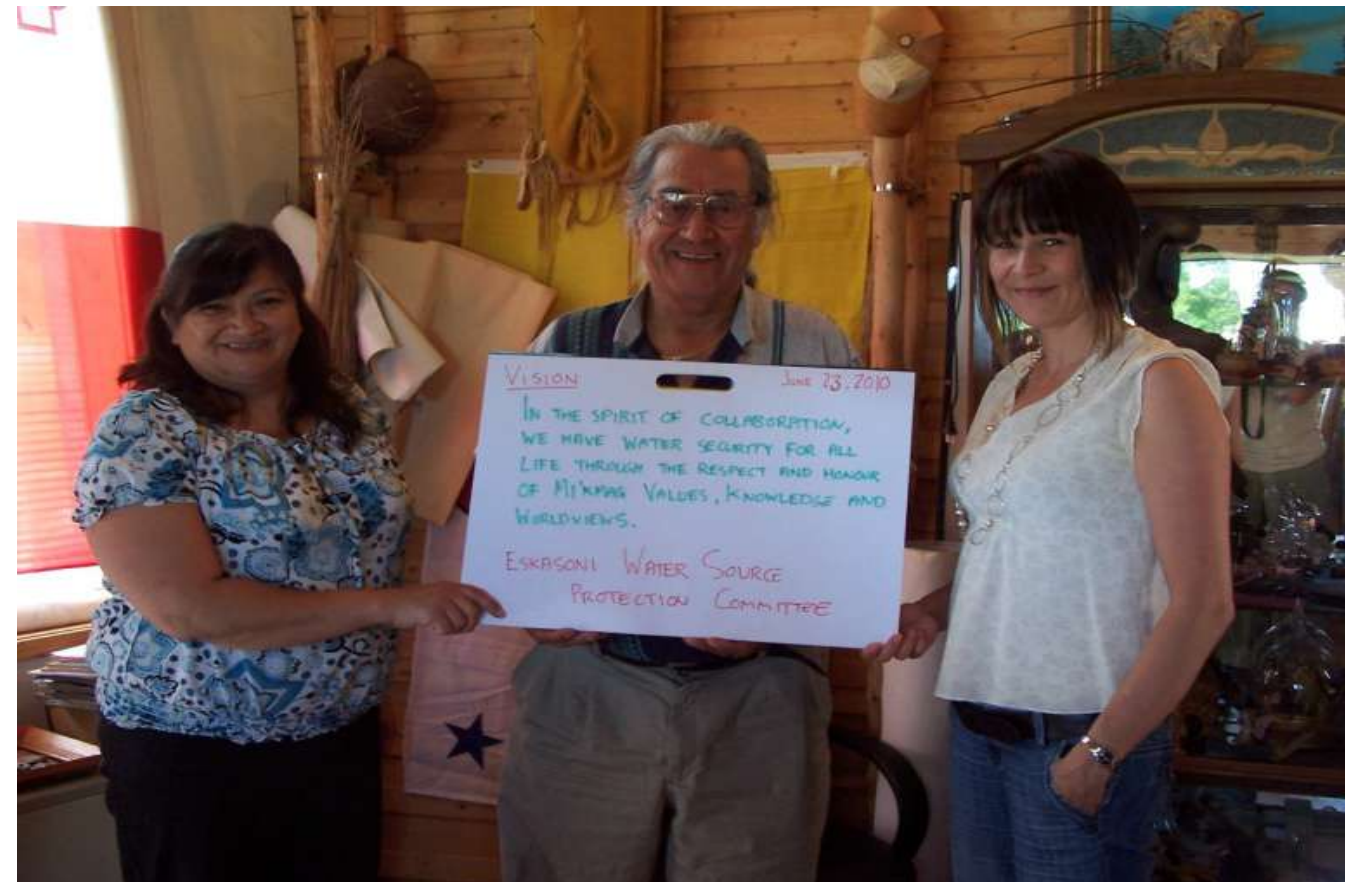
- Funding
- Implementation
- Evaluation
- Monitoring
- Revisiting the plan...



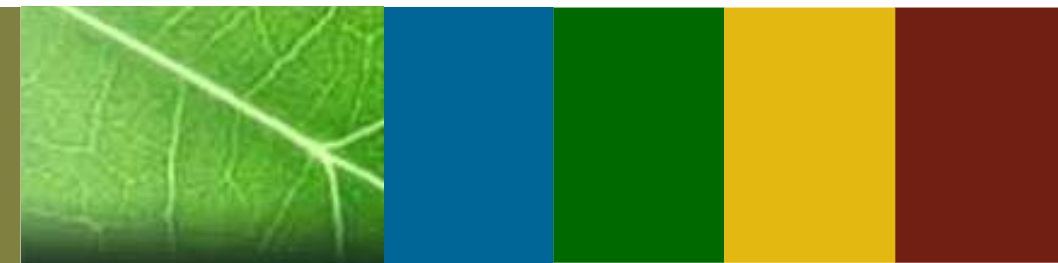


Indigenous values on water

“In the spirit of collaboration, we have water security for all life through the respect and honour of Mi’kmaq Knowledge, traditions and worldviews.”



Indigenous Watershed Planning



We need not to be let alone.

We need to be really bothered once in a while.

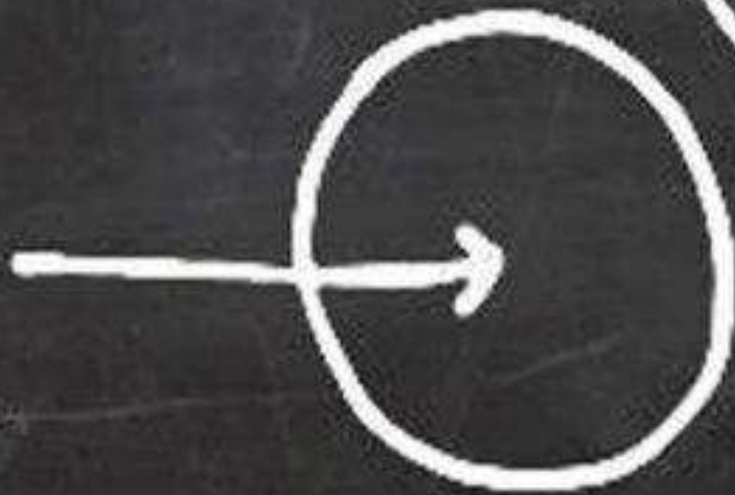
How long is it since you were really bothered?

About something important, about something real?

Ray Bradbury

Where the
magic happens

Your
Comfort
Zone



- past, present and future
 - First Nations and non-First Nations
 - people and ecosystems
 - world views and values
 - local and watershed
- ...a space of reconciliation.**





Thank you for listening.

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