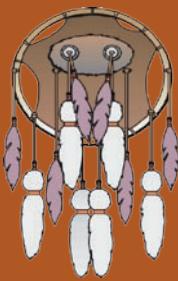


2007-08



Implementation Monitoring Committee Annual Report

1997 Manitoba Framework Agreement Treaty Land Entitlement



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Introduction

Eleven years ago, on May 29, 1997, the Treaty Land Entitlement Committee of Manitoba, Inc. (referred to as the "TLEC"), the organization established by 19 First Nations in Manitoba with entitlement to additional land under Treaties 1, 3, 4, 5, 6 and 10, entered into an agreement with Canada and Manitoba to secure additional Reserve land owed to those First Nations under their Treaties with Canada called the Manitoba Framework Agreement on Treaty Land Entitlement (referred to either as the "Framework Agreement" or "MFA").



MAY 29, 1997 Signing Ceremony of the Manitoba Framework Agreement on Treaty Land Entitlement (MFA)

Canada had long recognized that many Manitoba First Nations had not received the amount of land to be set aside as "Reserve" under the various Treaties in Manitoba. While Canada retained administration and control of the Crown Land within Manitoba, Canada was free to set apart land as reserve as it was selected by First Nations entitled to land for that purpose under Treaties. Treaties and adhesions to Treaties continued in Manitoba from 1871 until 1910

when the last adhesions to Treaty 5 were signed in the northern part of the Province. Accordingly, Canada was aware of its outstanding Treaty obligations when it was decided by Canada that it would transfer administration and control of Crown Land within the Province to the Crown in right of Manitoba in 1930. In fact, at the time of the transfer of administration and control of the land and resources from Canada to Manitoba under the Manitoba Natural Resources Transfer Agreement

signed on December 14, 1929, which became effective July 15, 1930 (now Schedule I of the Constitution Act, 1930) (more commonly referred to as the “MNRTA” in this Report), Canada formally advised Manitoba of its estimates of outstanding Treaty Land Entitlement

or “TLE”. Further, in paragraph 11 of that agreement, Canada reserved the right to select Crown Land to be transferred back to Canada to enable it to fulfill its Treaty obligations:

INDIAN RESERVES

11. All lands included in Indian reserves within the Province, including those selected and surveyed but not yet confirmed, as well as those confirmed, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada, and the Province will from time to time, upon the request of the Superintendent General of Indian Affairs, set aside, out of the unoccupied Crown lands hereby transferred to its administration, such further areas as the said Superintendent General may, in agreement with the Minister of Mines and Natural Resources of the Province, select as necessary to enable Canada to fulfil its obligations under the treaties with the Indians of the Province, and such areas shall thereafter be administered by Canada in the same way in all respects as if they had never passed to the Province under the provisions hereof.

Significant progress in addressing the outstanding Treaty Land Entitlement obligation was not made until after the Supreme Court of Canada issued its judgment in an aboriginal title case advanced by the Nisga'a of British Columbia in 1969 in *Calder v. Attorney-General of B.C.*, [1973] S.C.R. 313. Shortly after *Calder v. Attorney-General of B.C.*, Canada established its first claims policy and an Office of Native Claims. Canada also began to provide funding assistance to First Nations or their organizations to research and examine claims, including TLE. In Manitoba, this work was initially done within the organization then known as the Manitoba Indian Brotherhood and ultimately, as it is today, by the Treaty and Aboriginal Rights Research Centre of Manitoba, Inc. or by First Nations directly. Claims to additional TLE were prepared and submitted to Canada in the late 1970's and early 1980's.

After the recognition by Canada of most of the TLE claims submitted by Manitoba First Nations, negotiations took place which resulted in a comprehensive “agreement in principle” (AIP) in 1984. However, for various reasons, Canada, Manitoba and the First Nations decided not to proceed with the 1984 AIP shortly after its execution. It was not until early 1991, that the First Nations and Canada agreed to renew TLE negotiations on a comprehensive basis, at which time 19 of the then 26 First Nations with recognized outstanding TLE rights agreed to a coordinated approach to negotiations via their corporate body, the TLEC. The negotiations were undertaken on a dual bi-lateral basis; that is:

- the TLEC negotiated TLE with Canada in recognition of the basis of the Crown/First Nation Treaty relationship, and

- Canada negotiated with Manitoba on the basis of the Crown/Crown relationship reflected in paragraph 11 of the MNRTA.

The Framework Agreement was the result of the dual bi-lateral negotiations conducted over a five year period ending in May 1997. All of the 19 First Nations comprising the membership of the TLEC were entitled to individually choose to accept the terms of the MFA and, if so, enter into a specific Treaty Entitlement Agreement (referred to as a "TEA") with Canada and Manitoba. After the MFA, two of the original 19 First Nations decided to split into two additional First Nations, with the result that there are now 21 First Nations entitled to sign agreements under the Framework Agreement located throughout Manitoba. See the map illustrating the location of the First Nations entitled to enter into TEAs under the MFA attached as **Appendix A**.

Under the terms of the MFA, the combined 19 (now 21) Entitlement First Nations secured entitlement to an additional 1,100,626 acres of Reserve (approximately 1,720 square miles of land). Circumstances encountered during the negotiations led to the distinction between the selection of Crown Land as anticipated by the Treaties and the purchase or "acquisition" of private land on the open market as set out in Chart 1. Although all of the First Nations secured entitlement to select Crown Land, six of the First Nations in southern and western Manitoba were provided funds to purchase a portion of their TLE on the open market due to the lack of insufficient unoccupied Crown Land available in the vicinity of their existing Reserve land base. Accordingly, if all 21 First Nations entered into agreements, they would be entitled to select a total of 985,949 acres of provincial Crown Land for Reserve. In addition, the Brokenhead Ojibway, Buffalo Point, Opaskwayak Cree, Rolling River, Sapotaweyak and Wuskwi Sipihk Cree First Nations are entitled to purchase or otherwise acquire the balance of 114,677 acres of land for Reserve.

¹ Canada declared a division of the Mathias Colomb Cree Nation and Nisichawayasihk Cree Nation after the MFA settlement, accordingly, adding the Marcel Colomb Cree Nation (as of March 30, 1999) and the O-Pipon-Na-Piwin Cree Nation (as of November 25, 2005) to the list of MFA Entitlement First Nations. As of March 31, 2008, these two "new" First Nations had not executed TEAs under the MFA.

Chart 1: Amount of Crown Land and Other Land for Entitlement First Nations under the Manitoba Framework Agreement

| ENTITLEMENT FIRST NATIONS | TREATY NUMBER | CROWN LAND (ACRES) | OTHER LAND (ACRES) | TOTAL (ACRES) |
|---------------------------|---------------|--------------------|--------------------|---------------|
| BARREN LANDS | 10 | 66,420 | | 66,420 |
| BROKENHEAD | 1 | 4,344 | 10,137 | 14,481 |
| BUFFALO POINT | 3 | 3,432 | 607 | 4,039 |
| BUNIBONIBEE | 5 | 35,434 | | 35,434 |
| FOX LAKE | 5 | 26,391 | | 26,391 |
| GOD'S LAKE | 5 | 42,600 | | 42,600 |
| MANTO SIPI | 5 | 8,725 | | 8,725 |
| MARCEL COLOMB | 6 | 17,007 | | 17,007 |
| MATHIAS COLOMB | 6 | 217,364 | | 217,364 |
| NISICHAWAYASIHK | 5 | 61,761 | | 61,761 |
| NORTHLANDS | 10 | 94,084 | | 94,084 |
| NORWAY HOUSE | 5 | 104,784 | | 104,784 |
| OPASKWAYAK | 5 | 47,658 | 8,410 | 56,068 |
| O-PIPON-NA-PIWIN | 5 | 17,674 | | 17,674 |
| ROLLING RIVER | 4 | 2,356 | 44,756 | 47,112 |
| SAPOTAWEYAK | 4 | 108,134 | 36,045 | 144,179 |
| SAYSI DENE | 5 | 22,372 | | 22,372 |
| SHAMATTAWA | 5 | 24,912 | | 24,912 |
| WAR LAKE | 5 | 7,156 | | 7,156 |
| WUSKWI SAPIHK | 4 | 44,168 | 14,722 | 58,890 |
| YORK FACTORY | 5 | 29,173 | | 29,173 |
| TOTAL | | 985,949 | 114,677 | 1,100,626 |

The First Nations anticipated significant social, cultural and economic opportunities associated with the ability to acquire land for Reserve in the present day. Many First Nations have embarked on a considered and decidedly specific process of land selection to secure reserve for social, cultural and economic reasons including residential development, economic development, protection of cultural and historical land, tourism purposes and traditional uses considered of importance to their communities.

For example:

- **Rolling River First Nation: Land Purchase:**

Rolling River First Nation is located in the “rolling hills”, the backdrop for the Riding Mountain National Park, only a three hour drive from Winnipeg and a 15 minute drive to the Park. Rolling River First Nation purchased a 158 acre parcel of land located on Provincial Trunk Highway 10 which leads into the Park. Purchased in 1999 for its economic and development potential associated with the Park tourist traffic, the Rolling River First Nation has to date developed a locally owned gas bar, VLT lounge and health center on this site set apart as Reserve on May 29, 2006.

- **Wuskwi Sipihk Cree Nation: Crown Land Selection:**

Wuskwi Sipihk Cree Nation is located in the Swan River Valley approximately a five hour drive from Winnipeg and only an hour drive north of the Town of Swan River. Wuskwi Sipihk Cree Nation selected 226.18 acres of Crown Land located on Provincial Trunk Highway 10 (PTH 10) and the edge of Porcupine Mountain Provincial Forest 1999. The Selection was chosen for its residential, economic and development potential, its location near the main reserve and proximity to the Porcupine Mountain Provincial Forest and PTH 10. Since selecting the property, the Wuskwi Sipihk Cree Nation has developed a residential area with housing for its members and a locally owned gas bar and grocery store.

- **Nisichawayasihk Cree Nation: Crown Land Selection:**

Nisichawayasihk Cree Nation is located approximately 800 km north-west of Winnipeg and only 80 km west of the City of Thompson, the hub of the North. Nisichawayasihk Cree Nation's 1,000 acre Crown Land selection known as Monahawuhkan (previously named Birch Tree Brook) has enormous economic potential, boasts waterfront property and is situated at the junction point of PR 391 and PR 280. This parcel was selected in May 2000 with economic development in mind and is located just outside the City of Thompson. This Crown Land selection will allow Nisichawayasihk Cree Nation to capitalize on the steady flow of travelers as well as the spin-offs associated with the new hydro electric developments in Northern Manitoba. Nisichawayasihk Cree Nation plans include the future establishment of a First Nation Economic Development Zone just outside the boundaries of Thompson.

- **Nisichawayasihk Cree Nation: Crown Land Selection:**

Located approximately 30 km northeast of the main NCN Reserve, the Wapasihk (Leftrook Lake) site was selected for the cultural experience it could offer. This pristine lake is utilized by community members for cultural and spiritual activities such as hunting, gathering, fishing, recreation, ceremonial purposes and was considered a prime location to teach the youth and community at large about the rich cultural heritage found in Nisichawayasihk Cree Nation customs and traditions, as shown in the photos below. Originally selected as compensation lands under the Northern Flood Agreement related to the impacts of Hydro electric development, Nisichawayasihk Cree Nation has maximized the benefits of TLE by selecting additional land at this location under their TEA.

July 2002: Smoking fish at Leftrook Lake.



NCN Elder teaching youth how to sew.



July 2002: from left to right Stan Hnatiuk, INAC Environmental Officer, Wilson Moore and Felix Walker, NCN Representatives, Ed Vystrcil, TLEC Associate Director, and Taras Tataryn, INAC Survey Technologist, conducting Environmental Site Assessment at Leftrook Lake.

As of March 31, 2008, 15 of the 21 First Nations entitled to enter into TEAs to secure additional TLE (these First Nations are referred to as "Entitlement First Nations" or "EFNs") have entered into a TEA. For various reasons, six First Nations have chosen not to enter into TEAs to date. However, after further discussions this past year, a number of these First Nations have expressed an interest in considering entering into TEAs under the MFA. They are at different stages of discussion in the Land Selection Study ("LSS") and Community Approval Process ("CAP") established under the MFA for signing TEAs.

Chart 2: Entitlement First Nations that have signed TEAs

| ENTITLEMENT FIRST NATION | DATE TREATY ENTITLEMENT AGREEMENT (TEA) SIGNED |
|--|--|
| BARREN LANDS FIRST NATION | June 23, 1999 |
| BROKENHEAD OJIBWAY NATION | September 9, 1998 |
| BUFFALO POINT FIRST NATION | March 24, 1998 |
| BUNIBONIBEE CREE NATION (Formerly known as Oxford House Cree Nation) | February 17, 1999 |
| GOD'S LAKE FIRST NATION | May 28, 1999 |
| MANTO SIPI CREE NATION (Formerly known as God's River Cree Nation) | May 19, 1999 |
| MATHIAS COLOMB CREE NATION | October 1, 2003 |
| NISICAWAYASIHK CREE NATION (Formerly known as Nelson House Cree Nation) | September 1, 1998 |
| NORTHLANDS FIRST NATION | November 9, 1999 |
| NORWAY HOUSE CREE NATION | November 12, 1998 |
| OPASKWAYAK CREE NATION | January 22, 1999 |
| ROLLING RIVER FIRST NATION | March 6, 1998 |
| SAPOTAWEYAK CREE NATION | September 1, 1998 |
| WAR LAKE FIRST NATION | May 28, 1999 |
| WUSKWI SIPIHK CREE NATION | June 9, 1998 |

The First Nations that have not signed TEAs continue to have outstanding TLE rights. As recently as the IMC meeting held March 20, 2008, both Canada and Manitoba affirmed that they remained prepared to enter into agreements with the six First Nations, if the First Nations are prepared to confirm in writing their willingness to proceed with the CAP required by the MFA. In addition, the TLEC has affirmed it is ready and willing to assist these First Nations in gaining an understanding of the MFA and planning for a CAP.

During the MFA negotiations, Canada had estimated that the average period of time from the date of Selection or Acquisition of a parcel of land to the date the land was set apart as Reserve by Order in Council took, on average, 2.97 years. However, it appears that this estimated time period has, among other things, been impacted by the volume of TLE settlements and parcels of land going through the process of Reserve creation

in Manitoba and elsewhere in Canada. The average time period for Reserve creation today is both unknown and uncertain. All Parties have at times expressed concern that the period appears to be growing longer; rather than shorter, if measured by progress under the MFA over the last 11 years.

After 11 years of implementation, the Parties to the MFA have managed to succeed in setting apart some 187,538 acres of land for Reserve comprised of 58 separate parcels of land. This represents approximately 19% of the overall TLE of the 15 Entitlement First Nations that have signed agreements under the MFA. Of the total amount of Reserve set apart to date, some 140,466 acres comprised of 25 separate parcels of land (about 75% of the total acreage) were set apart as Reserve this past year, in 2007, supported by the mandates of both the Minister of Indian Affairs for Canada and the Minister of Aboriginal and Northern Affairs affirmed on

August 22, 2006. This standing Ministerial direction to improve and accelerate the Reserve creation process for land claim settlements in Manitoba has greatly impacted the overall fulfillment of the MFA objectives and has proven essential at times in dealing with impediments to implementation encountered on a day to day basis.

The MFA provided detailed guidelines in the form of Principles for Land Selection and Acquisition to provide direction for the First Nations in their Crown Land selection and purchase of private land. Canada and Manitoba agreed that land selected or purchased/acquired in accordance with the Principles would be eligible to be set apart as Reserve provided the requirements of the MFA were satisfied. If and when issues or matters in dispute arose, the MFA also provided a detailed process for resolution of any issues or matters in dispute, a structure for doing so, guidelines for means and methods for doing so, suggested timelines and procedures as well as a formal body – the Implementation Monitoring Committee (referred to as the “IMC”) – to supervise problem resolution, oversee implementation, report on implementation and recommend improvements as necessary over time. The IMC was to be and has been assisted by an independent Chairperson appointed by the Parties.

Early last year, after an increasing level of First Nation frustration with the pace of implementation of land claim settlements and TLE in Manitoba, within the context of the Ministerial mandates and following upon the report of the implementation of the MFA issued by the federal Auditor General in November 2005, the IMC agreed upon a special initiative to assist them in improving the MFA implementation process – the establishment of a separate office of the independent Chairperson of the IMC. This initiative has proven to be a positive step in ensuring a more effective IMC as anticipated by the MFA. Although significant challenges to implementation continue to exist and will exist throughout the exercise, the IMC Representatives are working diligently on several areas identified for improvement in the various interrelated elements of implementation, including information management, communications, working relationships, a range of implementation procedures and guidelines, monitoring of Reserve creation and dispute resolution.



IMPLEMENTATION MONITORING COMMITTEE

Front: Rod McLeod, Chairperson, Geneviève Boudreau, Assistant Chairperson, Nelson Genaille (TLEC)
Back: Emmanuel Atiomo (Canada) Carl Braun (TLEC), Rick Kosmick (Manitoba), Dave Hicks (Manitoba), Edgar Rasmussen

This Report is intended to inform the Parties of the progress in implementation of the MFA, the issues faced by the Parties during the past fiscal year, the areas for improvement that have been identified and the steps being taken to build on opportunities for improvement. On behalf of the IMC, the Chairperson of the IMC must provide an Annual Report to the President of the TLEC, the Minister of Indian Affairs and Northern Development for Canada and the Minister of Northern Affairs for Manitoba by June 30th each year during MFA implementation, including:

- (i) a summary of the progress of implementation of the MFA and any TEA;
- (ii) the recommendations of the IMC for the improvement of the implementation of the MFA and any TEA;
- (iii) a summary of the issues or matters in dispute which have been resolved during the reporting period;
- (iv) a summary of the issues or matters in dispute still outstanding at the end of the reporting period;

(v) recommendations for improvement of the implementation of the MFA and any TEA; and

(vi) an unaudited annual statement including:
a. all funds received by the IMC from the parties during the fiscal year;
b. a statement of how those funds were distributed; and
c. a statement of all contributions in kind to the costs of the IMC.

Under the terms of the MFA, the IMC is comprised of five members, two representatives appointed by the TLEC, one representative appointed by each of Canada and Manitoba and an independent Chairperson. The Chairperson is appointed by the consensus of the President of the TLEC (First Nations), the Deputy Minister of Aboriginal and Northern Affairs (Manitoba) and either of the Regional Director General of INAC Manitoba or the Assistant Deputy Minister of INAC (Canada).

As of March 31, 2008, the IMC representatives, alternate representatives, and chairperson are as follows:



Emmanuel Atiomo
Canada Representative,
Acting Regional Director,
Lands Directorate



Edgar Rasmussen
Canada Alternate
Representative, Senior Lands
Advisor, Lands Directorate



Nelson Genaille
TLEC Representative,
TLEC Board Vice President,
Sapotaweyak Cree Nation



Carl Braun
TLEC Representative, TLEC
Executive Director



Dave Hicks
Manitoba Representative, Director - Agreements
Management, Manitoba
Aboriginal & Northern Affairs



Rick Kosnick
Manitoba Alternate Representative, Agreements
Management, Manitoba
Aboriginal & Northern Affairs

Mr. Rod McLeod was appointed Chairperson of the IMC by the Parties effective March 1, 2007, for a two year term ending February 28, 2009.



Mr. McLeod has specialized in Aboriginal Law and Claims work for the past 24 years. In addition to acting for his own First Nation, he has acted for Grand Council Treaty 3, area Aboriginal Associations, Tribal Councils and tribal service organizations, as well as many First Nations in both Manitoba and NW Ontario. In particular, he acted as counsel to the Treaty and Aboriginal Rights Research Centers of Grand Council Treaty 3 and Manitoba for many years in the definition and advancement of Specific Claims. Mr. McLeod was the General Counsel to the Treaty Land Entitlement Committee of Manitoba Inc. (TLEC) during the negotiation of the 1997 Framework Agreement on TLE in Manitoba. Practicing out of his offices located at Agency IRI near Fort Frances, Ontario, he was also lead Claim negotiator in the recent settlement of the Treaty land entitlement of Peguis First Nation.

This Annual Report pertains to the fiscal year 2007/2008 which ended March 31, 2008. Reports were provided for prior years but unfortunately, due to the

early departure of the former IMC Chairperson Mr. Jack Chapman, no Annual Report was prepared for the fiscal year ending March 31, 2007.

Progress in Implementation of the MFA

In the earlier stages of implementation, it would be fair to say that all Parties struggled with understanding the scope and range of their duties and responsibilities, the meaning of "Best Efforts of the Parties," as well as the role that the IMC itself had been directed to assume in the overall process. Working relationships were tested as the demands associated with implementation and in particular, the steps leading to Reserve creation required to satisfy the MFA and federal Additions to Reserve Policy became evident. To some extent, these same factors bear upon the process today. The IMC has continued to struggle with its role in relation to resolution of disputes. Indeed, several of the issues or matters in dispute referred to the IMC Representatives shortly after the MFA was signed in 1997 remain unresolved. For example, the Parties have been unable to reach a consensus on the agreed form of Hydro Easement required under Article 12 of the MFA identified as a priority matter for attention in Article 38.

On the other hand, progress in implementation of the MFA has a number of elements around which positive performance in achievement of the MFA objectives may be measured.

1. STATISTICAL MONITORING

Manitoba's Crown Lands Branch developed an information management system it called "TRELES" (a short form of "Treaty Land Entitlement System") that has been relied on by all three Parties in tracking parcels of land through the provincial system leading up to transfer of the parcels to Canada. Although TRELES does not track land moving through the federal Reserve creation process after transfer to Canada, once Canada provides the information to Manitoba, TRELES can also track the amount of land accepted for transfer by Canada under The Federal Real Property and Federal Immovables Act and the amount of land set apart as Reserve by Ministerial Order or Order in Council. In order to produce the following graphical illustrations of Reserve creation from both an MFA and First Nation perspective, the IMC relied heavily upon the TRELES system developed and maintained by Manitoba.

The TLEC was near completion of its own internal electronic information tracking system at year end. It is expected to be operational early in fiscal year 2008-2009.

Despite the recommendations of the federal Auditor General's office, Canada does not anticipate completion of a similar internal system of internal monitoring of Reserve creation until at least the end of 2009.

Firstly, in examining overall statistical performance under the MFA, the Parties must refer to the TLE for only the 15 EFNs that have signed TEAs to date as shown in Chart 3, rather than the entitlement of all of the EFNs under the MFA.

Secondly, the Parties should be aware of the overall rate of Crown land selection and private land purchase by the First Nations that have signed TEAs as shown in Charts 4 and 5.

Chart 3: Total amount of Crown Land and Other Land of the 15 Entitlement First Nations that have signed TEAs

| ENTITLEMENT FIRST NATIONS | CROWN LAND (ACRES) | OTHER LAND (ACRES) | TOTAL LAND (ACRES) |
|---------------------------|--------------------|--------------------|--------------------|
| BARREN LANDS | 66,420 | | 66,420 |
| BROKENHEAD | 4,344 | 10,137 | 14,481 |
| BUFFALO POINT | 3,432 | 607 | 4,039 |
| BUNIBONIBEE | 35,434 | | 35,434 |
| GOD'S LAKE | 42,600 | | 42,600 |
| MANTO Sipi | 8,725 | | 8,725 |
| MATHIAS COLOMB | 217,364 | | 217,364 |
| NISICHAWAYASIHK | 61,761 | | 61,761 |
| NORTHLANDS | 94,084 | | 94,084 |
| NORWAY HOUSE | 104,784 | | 104,784 |
| OPASKWAYAK | 47,658 | 8,410 | 56,068 |
| ROLLING RIVER | 2,356 | 44,756 | 47,112 |
| SAPOTAWEYAK | 108,134 | 36,045 | 144,179 |
| WAR LAKE | 7,156 | | 7,156 |
| WUSKWI SipiHK | 44,168 | 14,722 | 58,890 |
| TOTAL | 848,420 | 114,677 | 963,097 |

Chart 4: Rate and Amount of Crown Land Selection - 1997 to 2008 by the 15 Entitlement First Nations that have signed TEAs

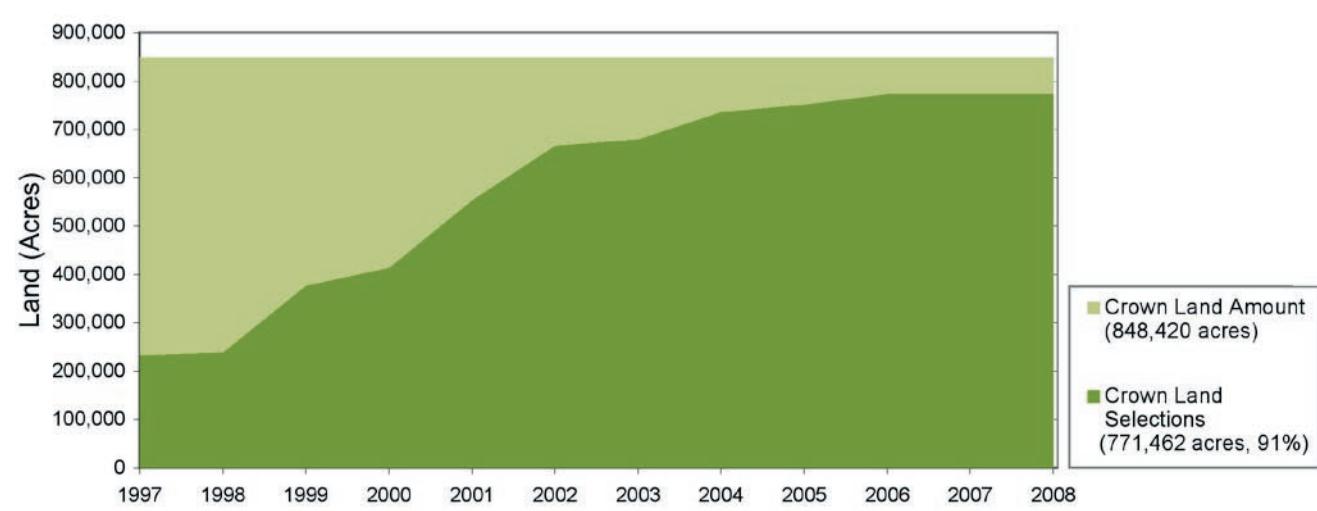
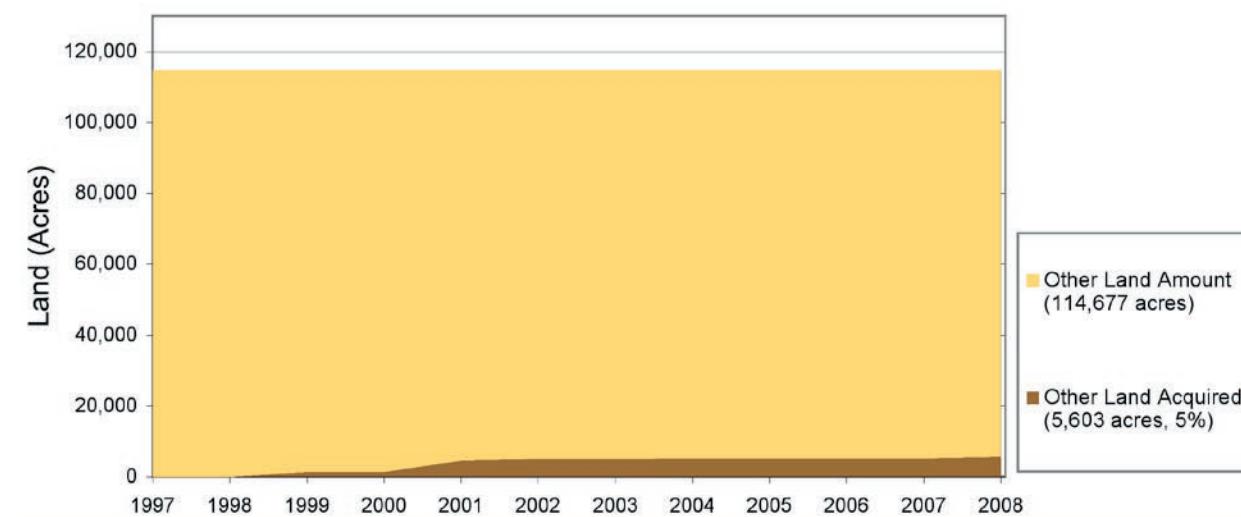


Chart 5: Rate and Amount of Other Land Acquisition - 1997 to 2008 by Entitlement First Nations that have signed TEAs



As can be seen, on an overall basis, the 15 EFNs had Selected 91% of their total Crown Land Amount (771,565 acres), but only acquired 5% of their total private purchase/Other Land Amount (5,603 acres).

Crown Land: Under the MFA, the EFNs were provided funds to complete a community planning and land selection exercise. The MFA provides for a target 3-5 year period for the completion of Crown Land selections. Only 7 of the EFNs have completed the selection of the total amount of their Crown Land entitlement to date. As anticipated by Article 4, extensions of target time periods were confirmed by the IMC in the earlier years of implementation, but there are no extensions of the time periods for Crown Land selection in place (except for EFNs affected by the Land in Severalty matter before arbitration) or plans for attending to the balance of Crown Land selections at present. This matter will be reviewed in the forthcoming year.

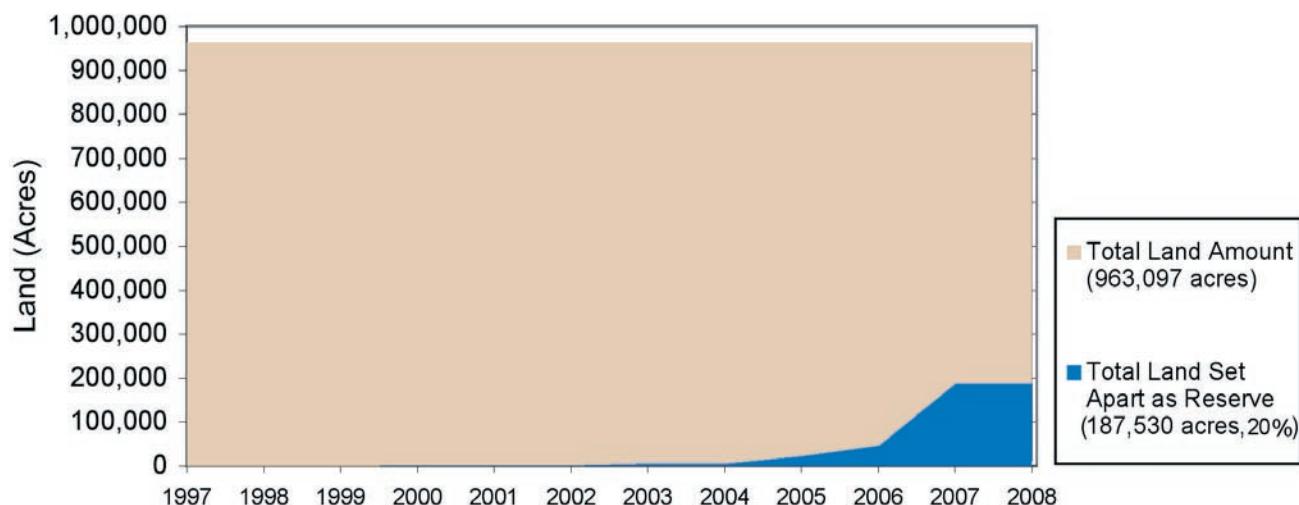
Other Land: Under the MFA, for the six EFNs entitled to purchase or otherwise acquire land for Reserve, the target period for completion of the purchase or other acquisition process was 15 years, approximately 2/3 of that period now having passed for most of the EFNs. None of the EFNs entitled to purchase land have acquired all of their land to date, nor are any of the EFNs near acquiring 2/3 of their entitlement as of this date.

It is then readily apparent that the six EFNs with Other Land entitlement are unlikely to complete their acquisition of private or Other Land within the target time period. Also expressly anticipated by Article 4, there are no plans in place for attending to the target level of land purchases with the six EFNs. This matter will also be reviewed in the forthcoming year.

Performance Measurement - Reserve Creation – Total Acres Set Apart as Reserve under the MFA:

For the purposes of the MFA, the measurement of progress has historically been the overall number of acres set apart as Reserve. Over the approximate 11 year period between May 29, 1997 and March 31, 2008, a total of 187,538 acres of Crown Land were set apart as Reserve representing 20% of the TLE of the 15 EFNs that have signed agreements under the MFA.

Chart 6: Rate of Reserve Creation - Total Land Amount - 1997 to 2008 by the 15 Entitlement First Nations that have signed TEAs



Acceleration in the rate of Reserve creation has been recent as illustrated in Chart 6. As can be seen, the rate of acceleration of Reserve creation on an overall basis has noticeably increased since the commitment of the respective Ministers responsible in August of 2006. Indeed, as noted, 75% of the land set apart as Reserve was set apart by Canada in the 2007/2008 fiscal year. However, it should be noted that several significant sized parcels of land were set apart as Reserve for the Sapotaweyak Cree Nation and Wuskwi Sipihk Cree Nation in 2007. If these parcels are removed from the equation, the rates of achievement and increase in Reserve creation between year end 2007 and year end 2008 as both a percentage of the Total Land Amount under the MFA and total acres set apart as Reserve for the 15 EFNs is markedly less, only 44,640 acres representing 5% of the TLE of the EFNs rather than 20%. Progress measured by way of acres set apart as Reserve may be a measure of performance on an overall basis against the Total Amount of Land set out in Chart 6 above, but it is also important to measure performance on a parcel basis and for each individual

EFN as illustrated in the charts for the individual EFNs set out in Chart 8 on pages 19 through 23.

Even so, the Parties are committed to the achievement of the overall target 150,000 acres for each of the next 3 years (note: the target is inclusive of the four other TLE settlement Agreements in Manitoba²). To a degree, internal planning and coordination efforts by the Parties are focused on Reserve creation proposals having the greatest likelihood of resolution each year and within that overall time period, but all Parties also agree that a focus on priority parcels of land identified by each EFN is an important element of the Reserve creation efforts. The achievement this past year was the direct result of the considerable efforts of staff responsible within Indian and Northern Affairs Canada (INAC), Aboriginal and Northern Affairs for Manitoba, Crown Lands Branch (Conservation) for Manitoba, TLEC and the individual EFNs involved. Similar continued efforts and cooperation can only be similarly productive in ensuring that the EFNs ultimately secure the additional land resources assured to them by Treaty.

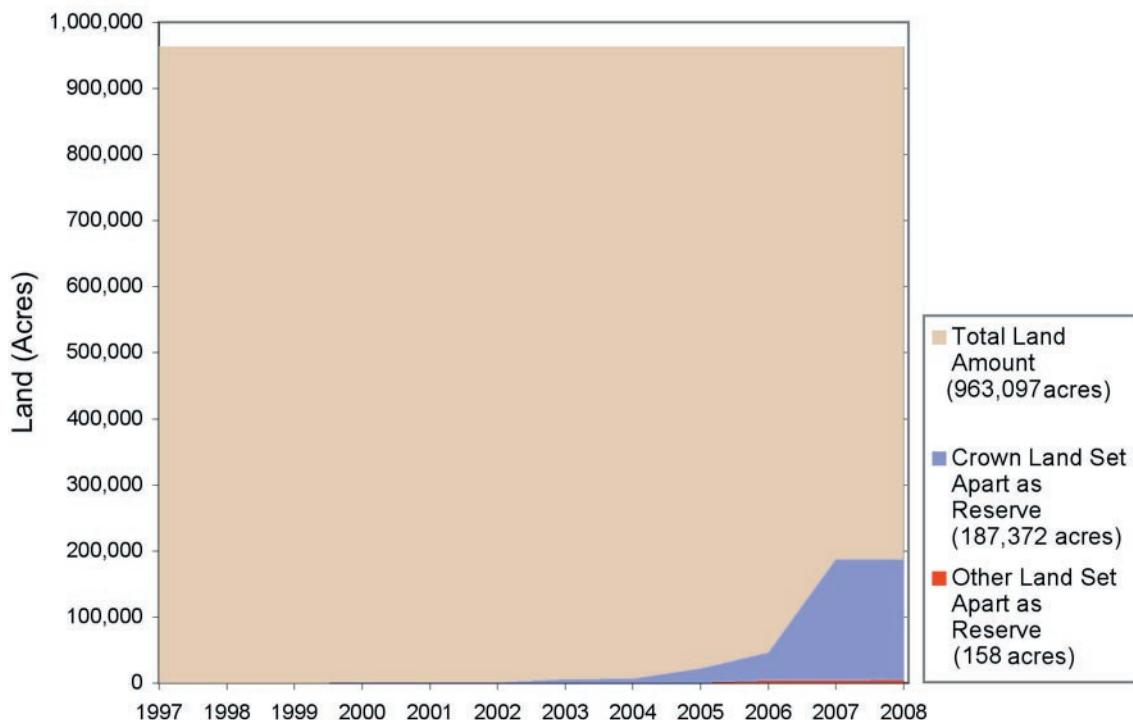
² Canada declared a division of the Mathias Colomb Cree Nation and Nisichawayasihk Cree Nation after the MFA settlement, accordingly, adding the Marcel Colomb Cree Nation (as of March 30, 1999) and the OPCN (as of November 25, 2005) to the list of MFA Entitlement First Nations. As of March 31, 2008, these two "new" First Nations had not executed TEAs under the MFA. Other TLE settlements in Manitoba were reached with the four Island Lake First Nations (Garden Hill, Red Sucker Lake, St. Theresa Point and Wasagamack) – 100,000 acres in 1994, Long Plain First Nation – 26,437 acres in 1994, Roseau River Anishinabe First Nation – 16,218 acres in 1996 as well as the Swan Lake First Nation – 13,035 acres in 1995, involving a combination of Crown land selection and private purchase of land. Of this total TLE for non MFA First Nations, 100,063 acres or 65% of the TLE was set apart as Reserve as of March 31, 2008.

Performance Measurement - Reserve Creation – Total Crown Land Acres versus Other Land Acres set apart as Reserve under the MFA:

When Crown Land acres and purchase land (Other Land) acres are separated out for comparison purposes as shown in Chart 7, it is quite evident that the purchase of land by First Nations for Reserve is lagging far behind the Crown Land selection and Reserve

creation process. This element of implementation will be given greater attention in the work plans associated with the six Entitlement First Nations purchasing private land, beginning fiscal year 2008/2009.

**Chart 7: Rate of Reserve Creation - Crown Land versus Other Land - 1997 to 2008
by Entitlement First Nations that have signed TEAs**



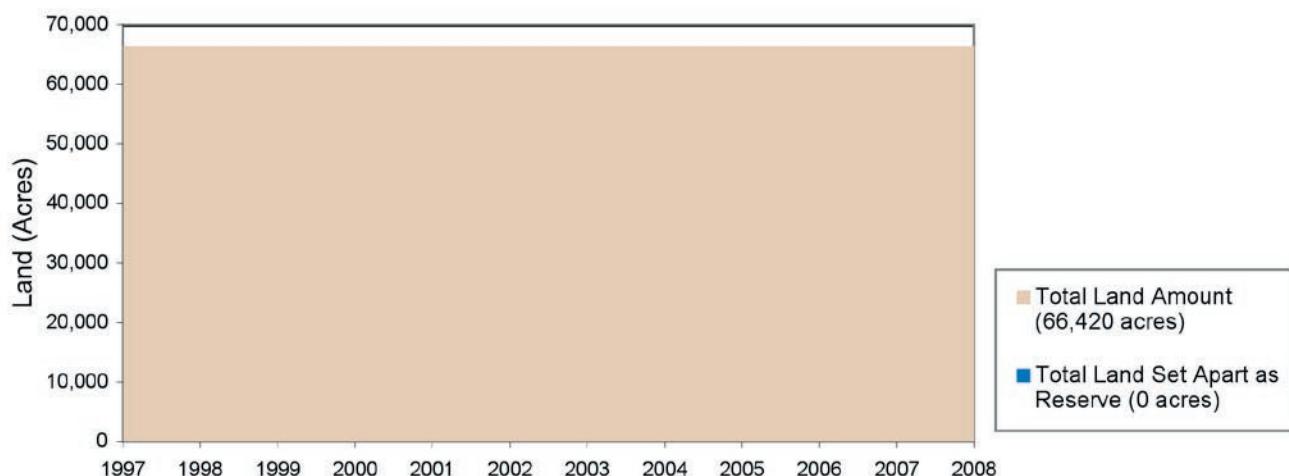
Performance Measurement - Reserve Creation – Acres Set Apart as Reserve by each Entitlement First Nation:

Examination of the acres of land set apart as Reserve for each EFN as a measurement of performance over the last 11 years tells another, more graphic story. For example, at one end of the spectrum, seven First Nations have not had any land set apart for Reserve to date, while at the other end of the spectrum, the Wuskwi Sipihk Cree Nation has had some 23,468 acres

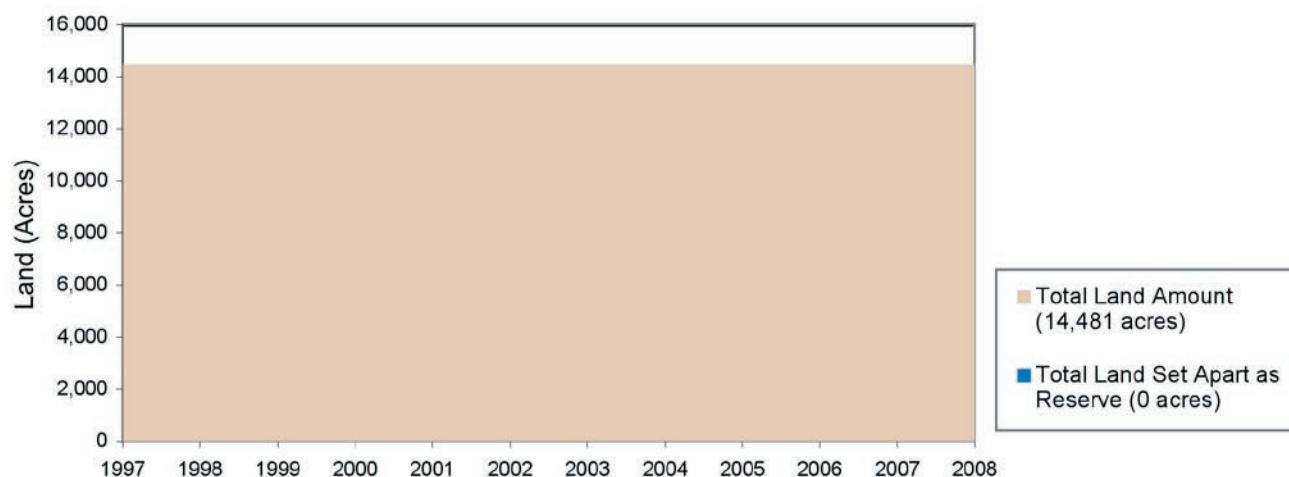
or 53% of its Total Land Amount set apart as Reserve. Wuskwi Sipihk Cree Nation and other EFNs such as Sapotaweyak Cree Nation selected larger parcels of land used for traditional purposes soon after the signing of their TEAs and have remained very active in pursuing their entitlement at the community level.

Chart 8: Total Acres set apart as Reserve for each of the 15 Entitlement First Nations

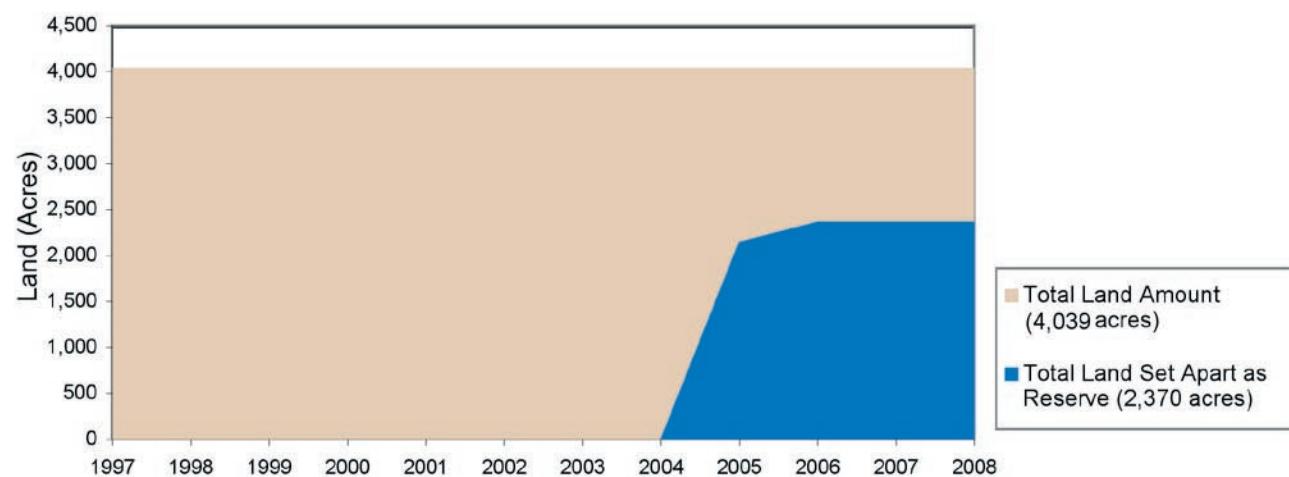
Barren Lands First Nation



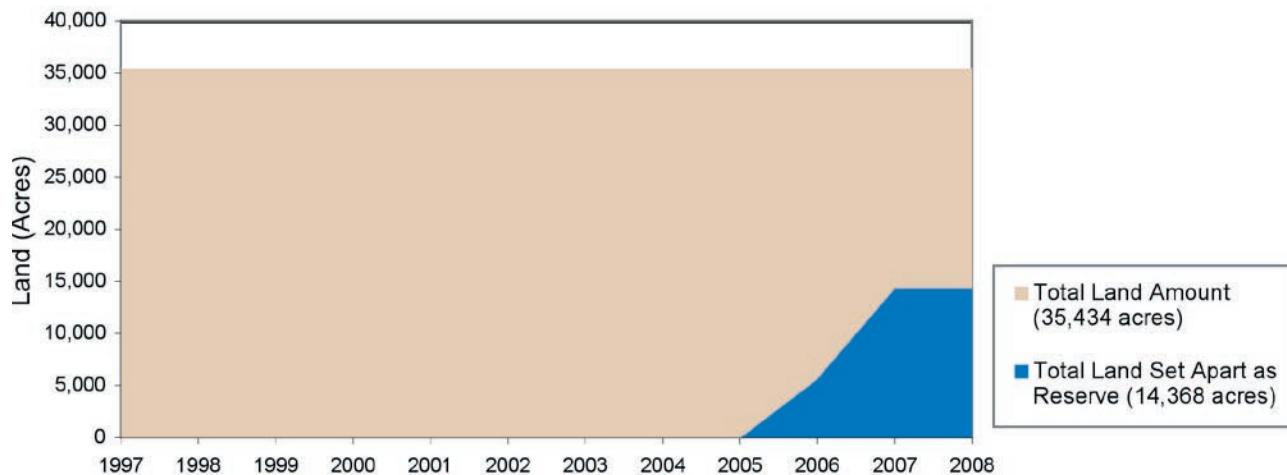
Brokenhead Ojibway Nation



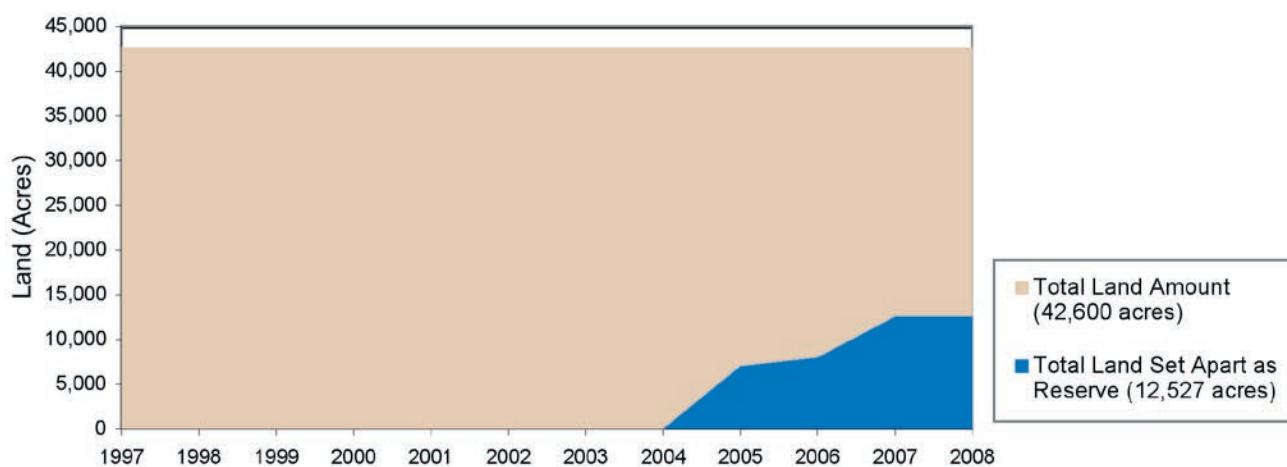
Buffalo Point First Nation



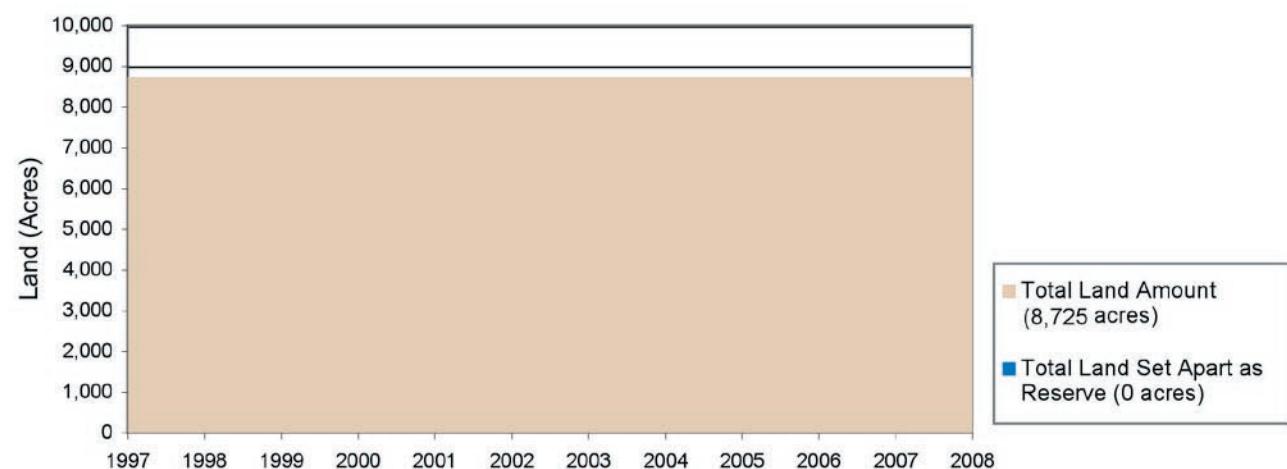
Bunibonibee Cree Nation (Oxford House)



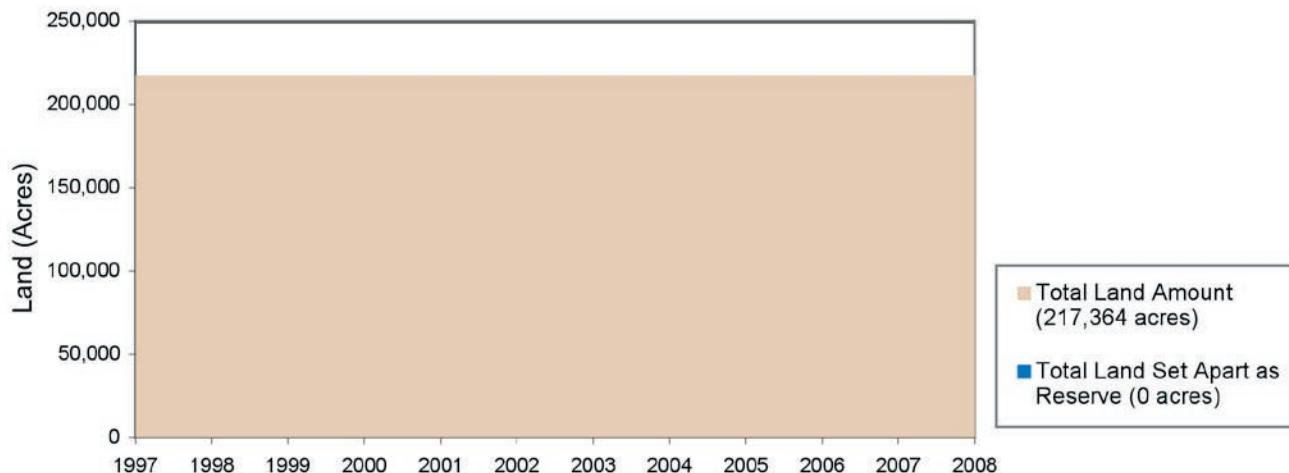
God's Lake First Nation



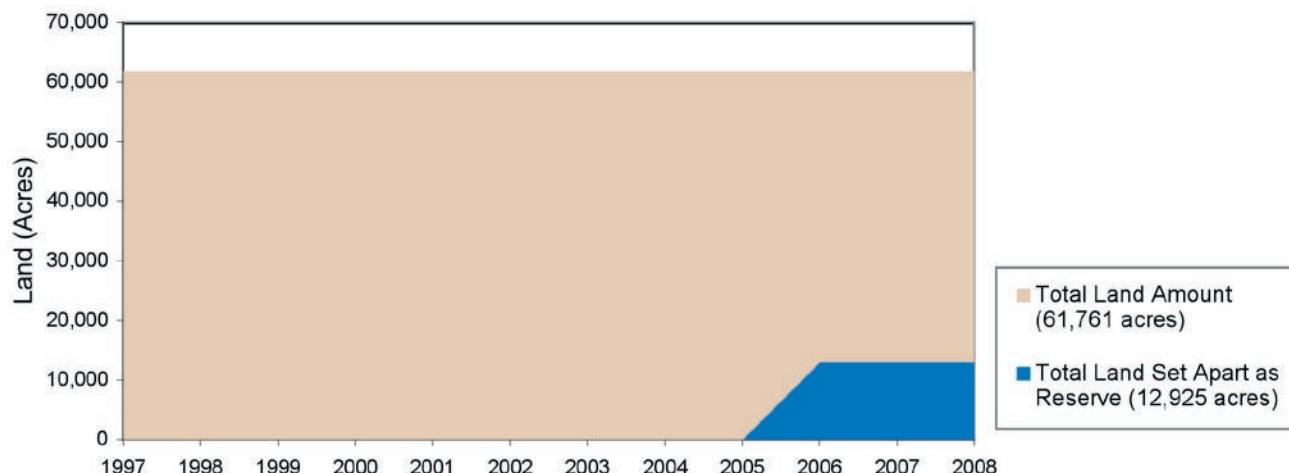
Manto Sipi Cree Nation



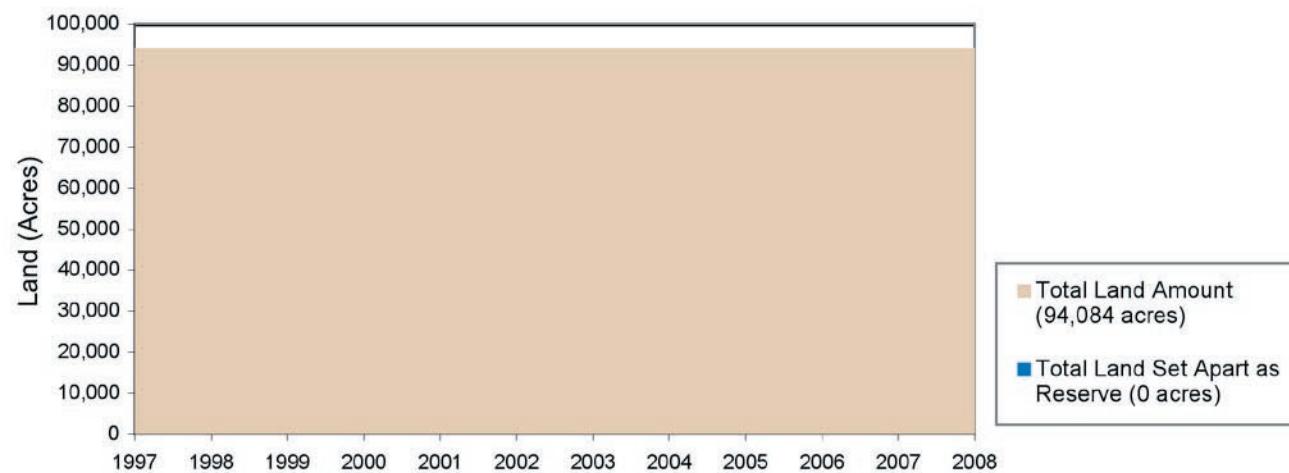
Mathias Colomb First Nation



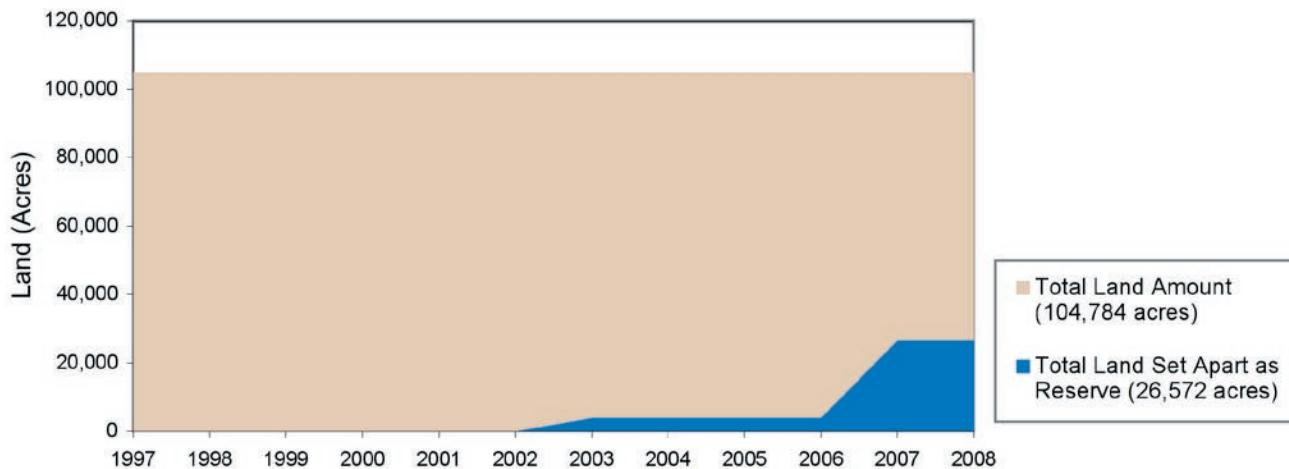
Nisichawayasihk Cree Nation



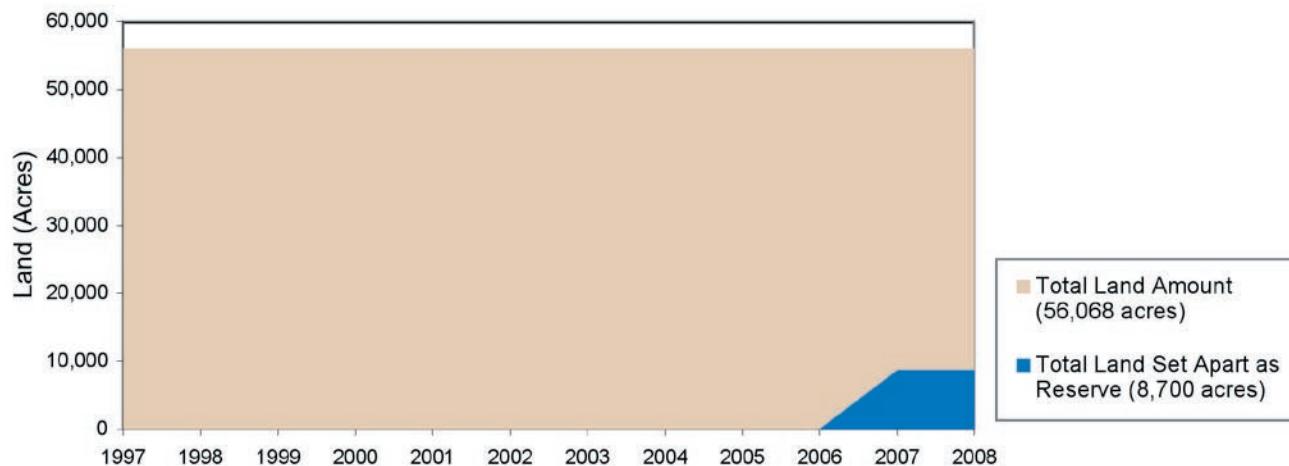
Northlands Dene First Nation



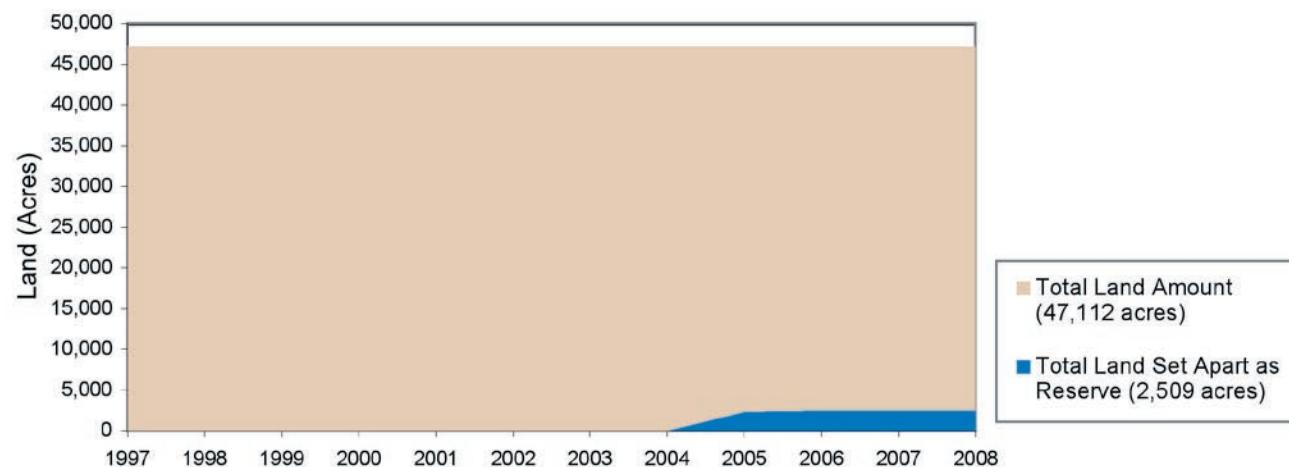
Norway House Cree Nation



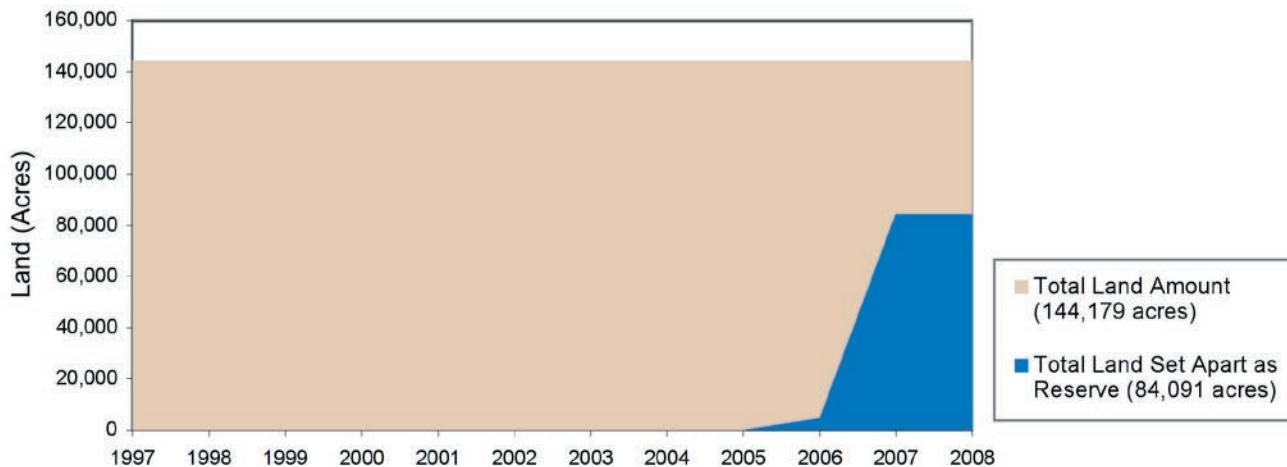
Opaskwayak Cree Nation



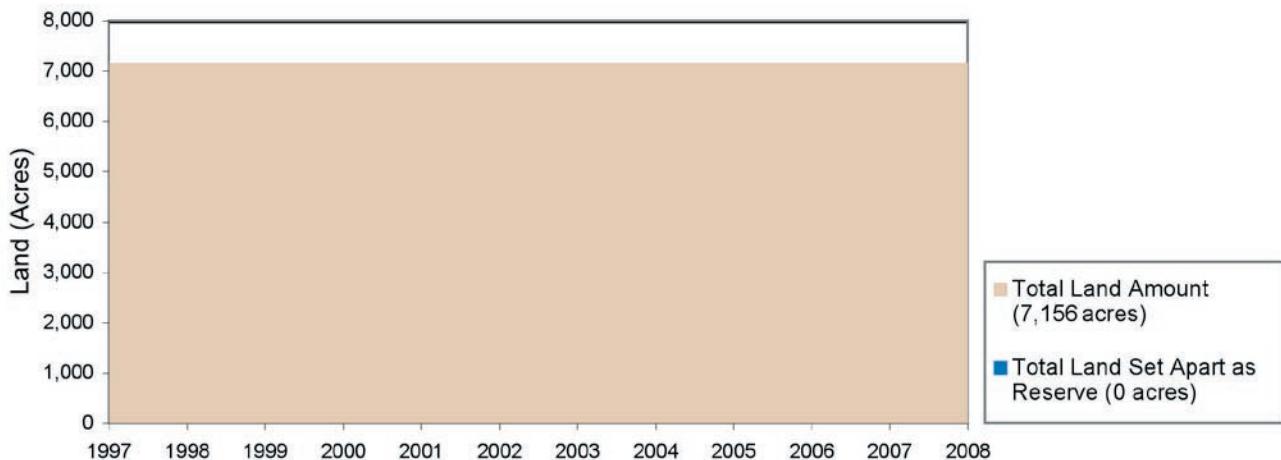
Rolling River First Nation



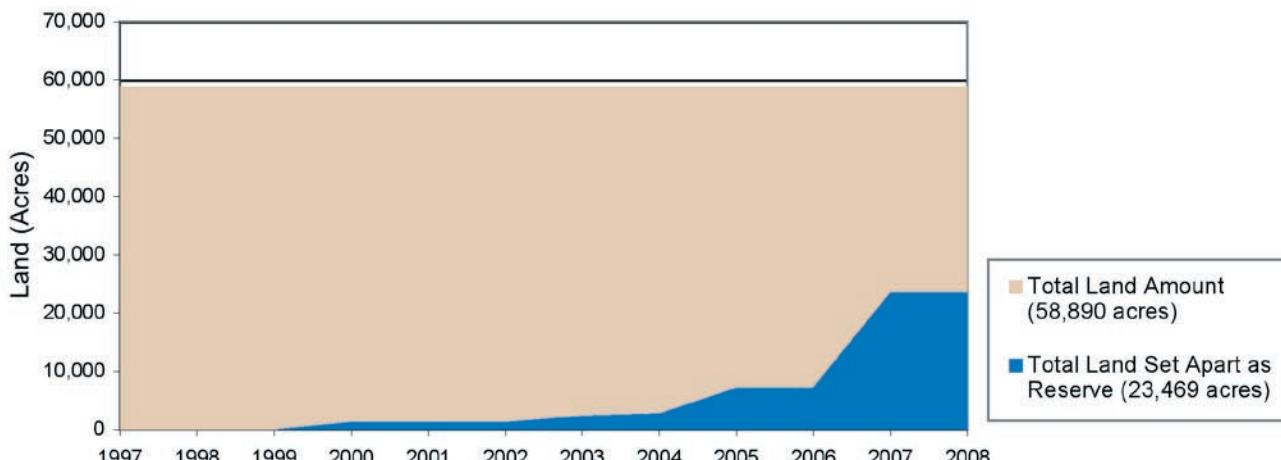
Sapotaweyak Cree Nation



War Lake First Nation



Wuskwi Sipihk Cree Nation



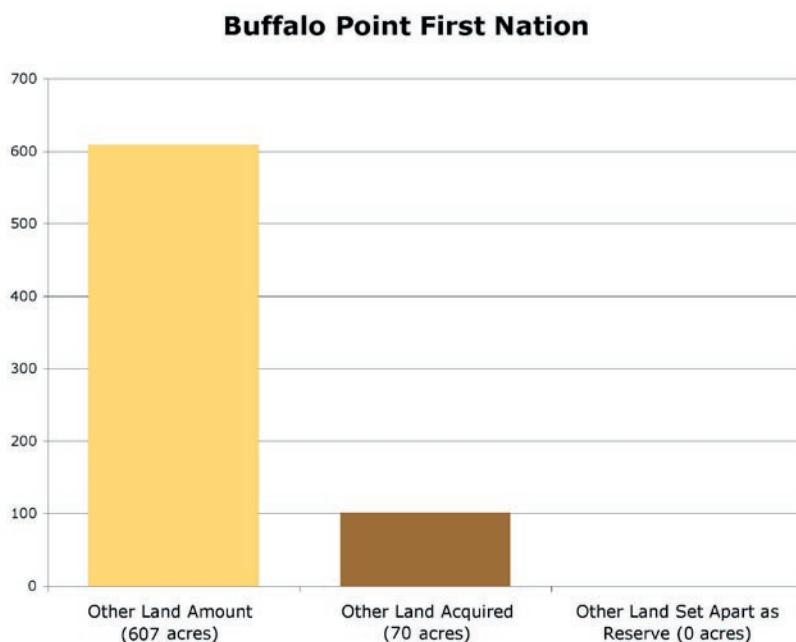
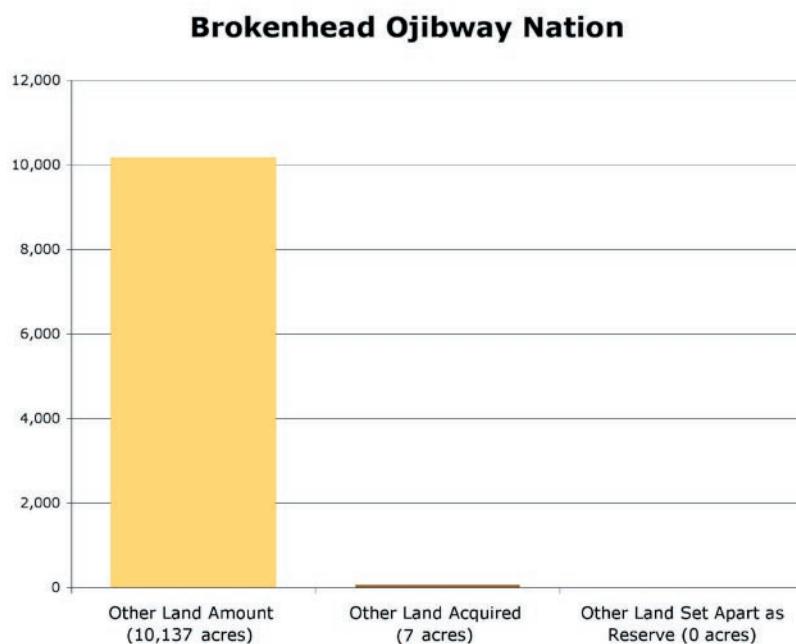
Performance Measurement - Reserve Creation –

Other Land Acres Set Apart as Reserve – Six Entitlement First Nations:

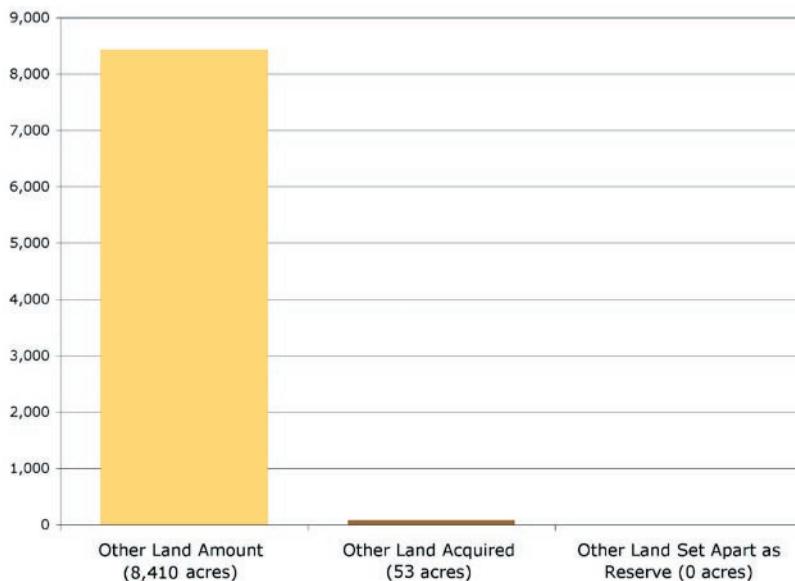
When the Crown Land acres are separated from the total land acres, leaving only the private land (Other Land) acres for the six EFNs with purchase rights; another picture emerges which can assist in measuring the performance of the parties, and which is illustrated on Chart 9 below. Of the 5,603 acres of land acquired for Reserve by the six

EFNs having this right under their TEAs, less than 1% of that amount representing one parcel of land consisting of 158.14 acres has been set apart as Reserve (for the Rolling River First Nation). Purchase land represents a distinct and unique challenge that deserves greater attention by the Parties and six involved EFNs in the future.

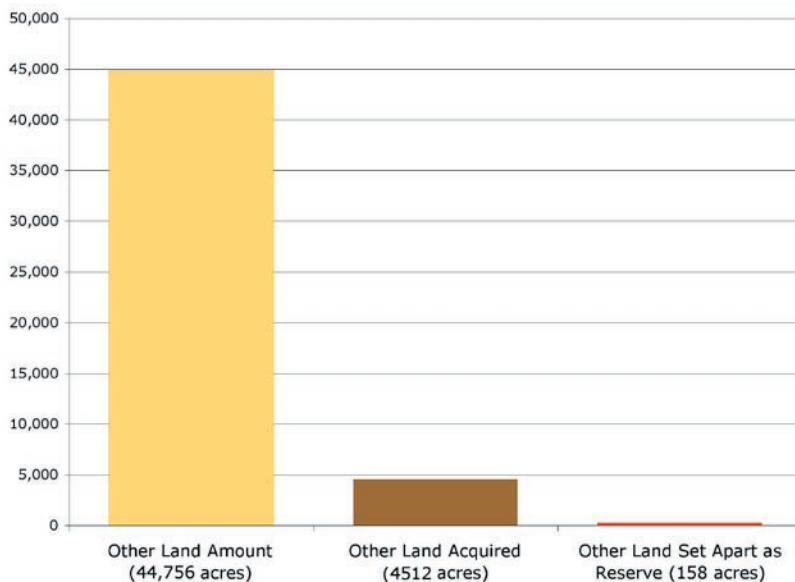
Chart 9: Other Land Amount, Other Land Acquired, and Other Land Set Apart as Reserve



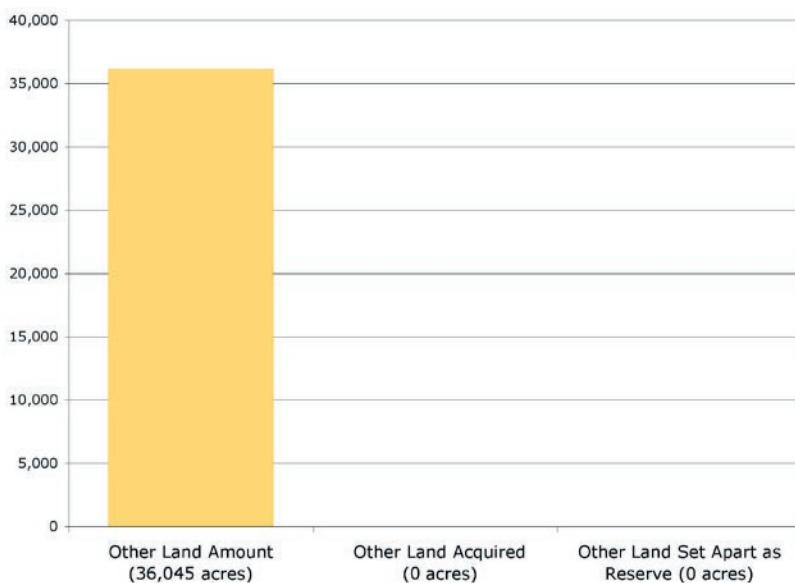
Opaskwayak Cree Nation



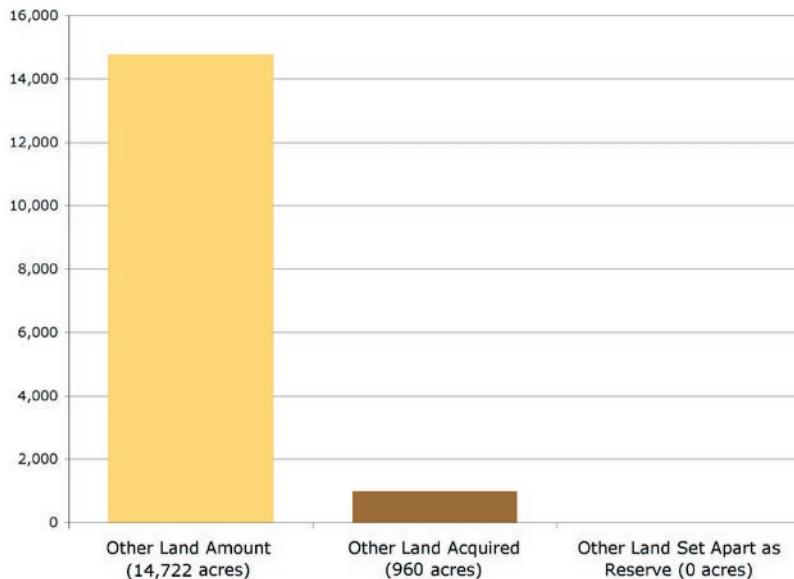
Rolling River First Nation



Sapotaweyak Cree Nation



Wuskwi Sipihk Cree Nation



Unfortunately, as can be seen in Chart 9, there has been minimal progress in terms of Reserve creation associated with the purchase or other acquisition of land by the six EFNs which have a purchase/Other Land

entitlement over the past 11 years. Purchase or other acquisition of land is initiated by the involved EFNs. The Parties plan to examine the reasons for this situation during fiscal year 2008/2009.

2. STRATEGIC PLANNING AND IDENTIFICATION OF PRIORITIES

Overall coordination and communications improved markedly this past year; partially assisted by the target of 150,000 acres of Reserve creation in Manitoba by August 22, 2007 set by the Ministers responsible for Canada and Manitoba.

Year to Year and Future Planning:

Indian Affairs led the exercise in annual and future planning to identify priority parcels of land for Reserve creation and in producing a focus list of parcels of land by EFN considering the key tasks and issues affecting each parcel (e.g. timelines for completion of title examination, environmental clearance, survey, resolution of third party interests, size, use agreements, etc.). Emerging plans for each EFN were discussed in

parcel review meetings among the Parties and directly with the EFNs on a regular basis. Although effective, the process is not fully supported by an information monitoring system accessible or available to all Parties and is seriously impaired by the limited staff resources at TLEC available to assist EFNs at the community level and the even more limited administrative capacity of the EFNs to respond to the Parties' demands and timelines. Achievement of the targets of 150,000 acres per year will be an increasingly difficult challenge in 2008/2009 and years thereafter without: the allocation of increased resources to TLEC; further improved coordination and communications among the Parties; the resolution of priority referrals by the IMC and other process improvements.

Improvements in IMC Administration and Practices

In an effort to move forward as part of the renewal initiative, the Parties began a review of existing practices and processes involving the IMC this year, an internal examination with a view to identifying means and methods for improvement in the functioning of the IMC.

Although one of the IMC's primary tasks is to make recommendations to the Parties for the resolution of any issue or matter in dispute relating to the implementation of the MFA or any TEA referred to it by any Party or EFN, it was evident to the Parties that the IMC was not functioning effectively in the manner directed by the MFA. Relatively few issues or matters in dispute had been adequately defined or addressed in the manner anticipated by the MFA after its execution in 1997. As a result, the majority of issues or matters in dispute had remained partially or completely unresolved for an inordinate amount of time.

Action: Agreement on Historic List of Issues or Matters in Dispute:

The Parties resolved to review the IMC proceedings with a view to define both historic and current Lists of Issues or Matters in Dispute. After an extensive file review with the cooperation of all Parties, the draft lists were prepared, issues identified, status of resolution or means of resolution determined and confirmed. See **Appendix B** for the draft list of Historic Issues or Matters in Dispute as identified by the IMC Representatives, which remained a work in progress at year end.

Action: Structured Approach to Problem Solving:

With respect to unresolved issues or matters in dispute identified on the draft Current List referred to the IMC, the Parties further recognized the need for a more structured approach to determination of the issue, assembly of the relevant facts, assessment/interpretation of the applicable provisions of the MFA, the identification of options or alternatives for resolution of the issue and consideration of the recommendations of the Chairperson. In the event the IMC was unable to resolve an issue or matter in dispute, the IMC or Chairperson are obliged to provide the Senior Advisory Committee with an overall summary statement containing the above stated information/review. Accordingly, with the assistance of the IMC office, an agreed format for the referral and review of an issue or matter in dispute was developed and confirmed by the IMC Representatives for use in relation to dispute resolution. See the Protocol for the Referral and Review of Issues or Matters in Dispute now in use attached as **Appendix C**.

Action: Issuance of Explanatory Bulletins:

It is important that all Parties clearly agree upon the means or methods for resolution of disputes under the MFA. Equally important, the staff and officials involved in implementation on a day to day basis must be informed about the means or methods for resolution to be able to appreciate the implications of clarifications of the MFA and put them into practice for the overall betterment of the process of implementation. This type of communication or explanatory process did not

exist. At its March 2008 meeting, the IMC discussed this shortcoming in records and communications practice, directing the IMC office to establish a form of information bulletin and begin the practice of drafting bulletins dealing with issue resolution. For example, the first bulletin to be issued in the forthcoming year will deal with the concept of "eligibility" of a Selection or Acquisition to be set apart as Reserve under the MFA.

Action: Interim Report of the Chairperson:

In December, 2007, the Chairperson reported on the preliminary organizational steps taken since March 1, 2007. The Report also provided the Chairperson's general observation of each Party's unique approach to implementation under the MFA. This Report was prepared by the new Chairperson to inform the President of the TLEC, the Minister of Indian Affairs and Northern Development of Canada and the Minister of Northern Affairs of Manitoba of the preliminary organizational steps being taken, to provide an independent view to the Parties of their unique approaches to implementation under the MFA and to provide recommendations for improvement to their respective approaches and working relationships with each other on a day to day basis.

Summary of Issues or Matters in Dispute Resolved

The IMC did not resolve any active disputes during the past fiscal year. Efforts were directed to internal organization, file organization, development and confirmation of the draft historical and draft current list of issues as discussed in the above section. Progress was made in other ways:

Issue Resolution:

After the IMC Representatives confirmed the standardization of their approach to review of issues or matters in dispute in the form of the “protocol”, as it was called (see **Appendix C**), the IMC office assembled file information from each Party and prepared current draft statements summarizing the state of review of the priority issues or matters in dispute, inclusive of the Issue and Fact portions before the IMC, being:

1. The “hydro easement issue” as referred by the TLEC.
2. The “portage issue” as referred by the Bunibonibee Cree Nation and TLEC.
3. The “land in severalty issue” as referred by the Barren Lands First Nation and TLEC.
4. Eligibility of Land for Selection and Acquisition issue as referred by the TLEC.

Certain *interim steps* were also taken with reference to each referral, for example:

I. “Hydro Easement Issue” (Bill 32) – Since the Manitoba legislature did not proceed with Bill 32 to amend the Real Property Act of Manitoba, this aspect of this referral file was closed with a recommendation from the Chairperson that Manitoba address any necessary consultation requirements should the Bill be re-tabled in the future. It is noted that Manitoba did not accept that it had a consultation obligation in relation to this proposed legislation.

2. “Portage Issue” - In order to deal with Selections in advanced stages, the IMC Representatives agreed to an interim arrangement that Manitoba could use with the Mathias Colomb Cree Nation: the completion of the Selection survey in 2 parts (one for the portage area in issue), offering the EFN the option to proceed with the Selection in two stages pending resolution of the “portage issue”. Once the “portage issue” was resolved the portage land would proceed through the Reserve creation process, either as Reserve not subject to a portage easement or subject to the easement sought by Manitoba. In this manner, the survey was completed inclusive of both parts and the Mathias Colomb Cree Nation Selection was able to proceed;

3. “Land in Severalty Issue” – The IMC office completed the IMC file record to define the issue and to assemble and confirm all current relevant facts. However, further IMC review was deferred by the IMC pending a formal review of the status of the draft terms of reference for the renewal of the arbitration process.

4. "Review of Concept of Eligibility of Land for Selection and Acquisition" – As a result of Manitoba's practice of review of Selections less than 1,000 acres in area, a list of issues impeding the processing of Selections had been developed. The Parties held focus meetings to review the list of Selections of less than 1,000 acres resulting in an organized review of the Selections and various discussions on the list of ineligible Selections (46 Selections based on other

applicable Principles and 31 Selections based on Competing Considerations). Of equal importance was the development of a practice advisory in the form of a "discussion paper" on the review process and related questions of "competing considerations" and other eligibility principles. At year end, the IMC Representatives had confirmed a consensus and directed the preparation of the first informational "bulletin" to all Parties on this matter.

Summary of Issues or Matters in Dispute Not Resolved

A draft list of the Current Issues or Matters in Dispute not resolved at March 31, 2008, is attached as **Appendix D**. The parties agreed that this list remained in draft form at year end, and is a work in progress targeted for completion in early 2008/09. In summary, the draft Current List consists of the following 10 issues:

- 1999-BPFN-001 – Land in a Provincial Park, Ecological Reserve, Wildlife Refuge or Proposed National Park (Subsection 3.30(6)): Buffalo Point First Nation referred this issue to the IMC when its Selection within Birch Point Provincial Park was determined ineligible by Manitoba. The TLEC has agreed to follow up with Buffalo Point First Nation to ascertain whether this is still an issue for IMC attention.
- 1999-NCN-003 –Effective Date of Agreement (Section 30.01): The Nisichawayasihk Cree Nation referred this issue to the IMC when it disagreed with Canada on the Date of Execution of the Nisichawayasihk Cree Nation's TEA. The IMC via the TLEC is following up with the Nisichawayasihk Cree Nation to ascertain whether this is still an issue for them.
- 2003-BON-001 – Surplus Federal Land (Section 3.10): The Brokenhead Ojibway Nation referred this matter to the IMC in relation to the designation of surplus federal land by Canada (Kapyong Barracks in Winnipeg, Manitoba) it had Selected as a "strategic disposal". Although this remains an open I/M Referral, on January 25, 2008, the Treaty I First Nations, including Brokenhead Ojibway Nation (an EFN) filed a lawsuit against Canada in relation to the designation of this surplus land. The TLEC has undertaken to

communicate with the EFN and provide the IMC with an update of the status of this issue.

- 2004-BLFN/TLEC-002 – Land in Severalty (Section 9.01): This referral to the IMC pertains to the assertion of the right of individual Members of the Barren Lands First Nation to elect to take Land in Severalty. The matter was referred to binding arbitration by the IMC, which is held in abeyance at present pending a revision of the terms of reference for the arbitrator to include a non-binding determination on the legal question of the existence of the right to Land in Severalty. TLEC is reviewing the matter with its new legal counsel. The IMC has deferred further review under its referral protocol pending the question of renewal of the arbitration process.
- 2006-Manitoba-001 – Process for Land Selection and Acquisition Section 6.02(6)): In this referral, the Bunibonibee Cree Nation alleged that Manitoba breached its MFA obligations by permitting several registrations to be made against a Lease affecting the EFN's Selection involving Knee Lake Lodge. The TLEC has undertaken to review the matter with the EFN in the 2008/2009 fiscal year to ascertain the status of this issue.

- 2006-BCN/TLEC-003 – General Principles for Selection and Acquisition of Land (Subsection 3.02(12)): The Bunibonibee Cree Nation and TLEC referred this matter to the IMC disagreeing with Manitoba's request that portage areas on the Trout Falls and Wipanipanis Selections be excluded from the Reserve to be created or if included be subject to an access agreement. The IMC is actively reviewing this referral.

• 2006-TLEC-004: General Principles for Selection and Acquisition of Land (Subsections 3.02(3) - (7)): The TLEC referred this issue to the IMC disagreeing with Manitoba's interpretation of the Principles of eligibility being applied by Manitoba in relation to competing considerations on Selections less than 1,000 acres in area. This issue was the topic of two focus meetings and a Discussion Paper. Progress has been made in that the list of Selections with issues has been reduced from 139 (from September 2005) to 77 and the process of review improved. The IMC anticipates that this issue will be resolved in the 2008/2009 fiscal year.

• 2007-BPFN-001: Road Right of Way (Section 13.01): Manitoba is ordinarily entitled to a right of way along provincial trunk highways under the MFA. The Buffalo Point First Nation acquired land along Provincial Trunk Highway #12. BPFN objected to excluding the control zone from the land to be set apart as reserve, asserting its future development needs should be given greater weight in considering the right of way requirement, or perhaps offset Manitoba's right. Both the EFN and MANA presented their views at the December 12, 2007 IMC meeting

and offered ideas for potential resolution of the matter. Manitoba and the EFN agreed to further discussions to resolve the issue.

• 2007-TLEC-002 – Hydro Easement (Section 12.05): The TLEC referred two issues within this referral: firstly, TLEC is asserting that Manitoba is not entitled to retain even partial constitutional jurisdiction required to support an easement required by Manitoba Hydro and secondly, that the Hydro Easement should set out a resolution process where the EFNs can address alleged impacts on the EFNs existing aboriginal and Treaty rights as well as any potential claim to compensation in respect to the easement area. The IMC is actively reviewing this issue as discussed below.

• 2007-TLEC-003 – Constitutional or Legislative Changes (Section 40.12): The TLEC referred Manitoba Bill 32, an amendment to the Real Property Act, alleging a failure to consult or accommodate. After it was confirmed that Bill 32 is no longer actively under consideration in the Manitoba legislature, the IMC closed its file early in the 2008-2009 fiscal year.

In light of the establishment of the "Protocol for the Referral and Review of an Issue or Matter in Dispute", or for short, the "I/M Referral Protocol", the IMC office had undertaken to incorporate the facts and efforts at resolution of certain issues or matters in dispute into the I/M Referral Protocol format. At year end, the IMC Representatives were actively reviewing the following matters:

• **2004-BLFN/TLEC-002 – Land in Severalty (LIS) (Section 9.01):**

The Barren Lands First Nation referred the matter to the IMC alleging that Canada had failed to enter into discussions with individual Members of the Barren Lands First Nation in regards to the nature and extent of the rights asserted to elect to take Land in Severalty within the time frame set out in the MFA. The IMC office assembled the file documentation and set out the issue and summary of applicable facts in the form of the I/M Referral Protocol. Each Party was requested to review the draft for accuracy and completeness. Once confirmed, the IMC office would typically prepare the Interpretation sections of the issue review, but in this case, in light of its referral to arbitration, that step has been deferred pending

the outcome of arbitration. The issue was defined by the IMC office as follows:

"The BLFN and TLEC each asserted that Canada materially failed to comply with a fundamental term or condition of the MFA, specifically the requirements set out in Sections 9.01 and 9.02. Specifically:

1. That a number of Members of the Barren Lands First Nation asserted their individually held Treaty right to LIS in accordance with Subsection 9.01(3) either:

- (a) before the Selection of 50% of the Barren Lands First Nation's Crown Land amount under its TEA; or*
- (b) 1 year from the Date of Execution of its TEA; and*

2. That Canada failed to enter into the discussions about LIS as described in Subsection 9.01(4) "as soon as reasonably practicable", those discussions intended to be concluded within one year of the date of the last notice of a LIS election was received by Canada".

- **2006-BCN/TLEC-003 – General Principles for Selection and Acquisition of Land (Subsection 3.02(12)):**

Manitoba is asserting a right to exclude land affected by an existing portage or to an easement agreement over the portage area in relation to two of the Bunibonibee Cree Nation Selections. The IMC office assembled the file documentation and set out the issue and summary of applicable Facts in the form of the I/M Referral Protocol. The parties were requested to review the draft for accuracy and completeness. The issue was defined by the IMC office as follows:

"The BCN and TLEC each asserted that Manitoba materially failed to comply with a fundamental term or condition of the MFA, specifically in characterizing portages as "reasonable competing considerations" and thereby refusing to proceed with the transfer of the Selections to Canada contrary to the requirement of Subsections 3.02(6) and 7.01(2) and the definition of Crown Reservations set out in Subsection 1.01(21). Specifically:

1. On December 23, 2002, Manitoba notified Bunibonibee Cree Nation of the outcome of its review of Bunibonibee Cree Nation's Selections which included Site 15.02, called the "Trout Falls" and Site 20-02 called the "Wipanipanis Portage" (both estimated to be less than 1,000 acres in area) advising, among other things, that Manitoba had identified "another competing interest" on both of these Selections which it wished to protect, the right of public use of an existing portage on each Selection.

2. On March 22, 2006, Manitoba referred the allegations of material failure by Bunibonibee Cree Nation and TLEC to the IMC for review in accordance with Subsection 36.01(2)."

- **2007-TLEC-002 – Hydro Easement (Section 12.05), Hydro Easement:**

Provincial or federal administration and control and a forum to deal with the rights of the EFN's. The IMC office assembled the file documents and set

out the issue and summary of applicable Facts in the form of the I/M Referral Protocol. The Parties were requested to review the draft for accuracy and completeness. The issue was defined by the IMC office as follows:

"TLEC asserted in its Referrals that the Agreed Forms Committee ("AFC") had reached an impasse in its efforts to reach an agreement on a form of Hydro Easement to recommend to the IMC for approval. Due to the interrelationship of the facts and issues involved in the two Referrals made, the IMC Representatives directed that they be consolidated. Each Party then replied to the Referrals as a single I/M. The issues identified by TLEC related to the inability of the AFC to reach a consensus on a recommended form of Hydro Easement can be summarized as follows:

A. In TLEC's opinion, the Hydro Easement granted to Manitoba and Manitoba Hydro in relation to Reserve set apart for an EFN adjacent to a Developed Waterway should include a requirement for a process by which any Treaty or aboriginal rights of the EFN affected by the easement rights may be discussed, and if appropriate, reconciled with the grant of rights in the Hydro Easement, the process to include access to a forum for discussion, access to suitable funding for the EFN to participate in discussions and a mechanism for determination of any compensation to which the EFN may be entitled for the rights granted or negative impacts on Treaty or aboriginal rights;

B. In TLEC's opinion, although Manitoba and Manitoba Hydro are entitled to a Hydro Easement in the circumstances set out in Subsection 12.05(1) of the MFA, the easement rights to be held by Manitoba and/or Manitoba Hydro should be established by way of a Replacement Interest, either instrument issued under the FRPFA (Federal Real Property and Federal Immovables Act), the Indian Act or other means/mechanism as may be agreed by the Parties, not involving a transfer of partial administration and control to Manitoba by Canada."

Action: Agreement on Current List of Issues or Matters in Dispute:

The Parties resolved to review the IMC proceedings with a view to define both historic and current Lists of Issues or Matters in Dispute. After an extensive file review with the cooperation of all Parties, the draft Lists were prepared, issues identified, and the status of resolution or means of resolution determined and confirmed. The parties agreed that this list remained in draft form at year end, and is a work in progress targeted for completion in early 2008/09. See **Appendix D** for the Draft List of Current Issues or Matters in Dispute as at year end.

Action: Identification of Priorities:

In terms of resolution of disputes, the IMC Representatives identified the following matters as priority issues for resolution:

- **Referral 2007-TLEC-002 – Hydro Easement (Section 12.05):** Hydro Easement:

As stated above, this referral involves complex questions of provincial or federal administration and control and EFNs views of impacts on Treaty and aboriginal rights in relation to consultation. The IMC office is continuing its analysis of this matter, in particular, the more challenging Interpretation sections. This matter is estimated to be impeding the setting apart of some 77 Selections comprising approximately 68,871.23 acres for EFNs who have signed their TEAs.

- **Referral 2006-BCN/TLEC-003 – General Principles for Selection and Acquisition of Land (Subsection 3.02(12):**

This matter is in relation to portages on two Bunibonibee Cree Nation Selections. Although this referral is in regards to these two Selections only, it has implications for Selection of Crown Land generally in that portages have been identified as issues in relation to some 14 Selections affecting 41,676 acres of land for a number of EFNs.

- **Implementation Issue - Third Party Interests:**

Third Party Interests (TPI) are not the subject of a specific referral, but the task of resolving the long list of TPIs with a variety of means and methods was identified as the key issue affecting Reserve creation. Indeed, TPIs affect some 63 parcels of

land encompassing a total of 93,700 acres of land. The IMC office produced an illustration of the types of Third Party Interests impeding the setting apart of parcels for the IMC Representatives. Manitoba has undertaken to develop a similar TPI impact report from TRELES which can then be used to develop a more strategic plan for the resolution of Third Party Interests in 2008/2009.

- **Agreements with Six Unsigned First Nations:**

As of this date, the following First Nations have not decided to enter into TEAs under the MFA for various reasons:

- Fox Lake First Nation
- Sayisi Dene First Nation
- Marcel Colomb Cree Nation
- Shamattawa First Nation
- O-Pipon-Na-Piwin Cree Nation
- York Factory First Nation

Each First Nation listed in the MFA may choose to consider entering into a TEA or choose not to do so. The IMC Representatives have agreed to make a concerted effort to assist those First Nations interested in pursuing a TEA in fiscal year 2008/2009, or move on to other priority matters. Each of these First Nations is at a different stage or level of readiness to commence or proceed with the LSS and CAP for executing their TEAs. All three Parties made the effort to inform and offer support to these six communities in deciding whether or not to proceed with a CAP this forthcoming year. In the 2008/2009 fiscal year, the Parties are to develop a work plan with timelines to go forward with those First Nations interested in TEAs.

- **Extensions to Periods of Selection and Acquisition:**

No extensions were requested during the 2007/2008 fiscal year, but 7 of the 15 EFNs who have signed their TEAs have not selected all of their Crown Land Entitlement and all six EFNs who are entitled to Other Land have not purchased all of their Other Land. An EFN may request extension of periods in accordance with Section 4.02 for both Selections and Acquisitions. The IMC may also request a plan from an EFN if it appears it will not complete its Selections or Acquisitions within the target time periods.

In accordance with Paragraph 4.01(a) of the MFA, an EFN may select land up to its Crown Land Amount within three years from the date its TEA comes into force. In 2002 and 2003, some EFNs requested extensions for their Selections, but other than the extensions accorded to the Barren Lands First Nation and Northlands First Nation, all the extensions accorded by the IMC have expired. For Barren Lands and Northlands, the extension will be extended for an additional three year period after the date of resolution of the land in severalty issue.

In accordance with Paragraph 4.01(b) of the MFA, an EFN may acquire land up to its Other Land Amount within 15 years from the date

their TEA comes into force. As the six EFNs with land purchase rights signed their TEAs in or about 1999, they have 5/6 years to complete their purchases with the benefit of the Principles for Land Selection and MFA based Additions to Reserve guidelines. However, since little progress has been made in relation to land purchase, the development of specific plans for each EFN is a matter of priority.

TLEC has undertaken the lead role in addressing these questions with the EFNs. Plans for the completion of Selections and Acquisitions are expected to be defined during this next fiscal year.

Recommendations for Improvements in Implementation

Although the Parties are each fully responsible and liable for the due performance of their respective obligations under the MFA, the MFA prescribes a specific role and list of duties for the IMC and the IMC Chairperson distinct from the roles and responsibilities of the Parties (e.g. Sections 34.07 and 34.09 of the MFA). The IMC's task is to:

- generally facilitate the implementation of the MFA, by among other things:
 - monitoring of the progress in implementation;
 - making recommendations to the Parties for the resolution of an issue or matter in dispute relating to the implementation of the MFA or any TEA referred to it by any Party or EFN; and
 - considering the appropriate method of resolution of an issue or matter in dispute;

Under the general direction of the independent Chairperson in:

- maintaining and distributing a record of decisions, awards and other pertinent information:
 - determining the sufficiency of information provided to the IMC in relation to implementation;
 - if necessary, requesting that appropriate steps be taken to provide information as may be deemed appropriate related to implementation;
 - in relation to the resolution of issues or matters in dispute, proposing time periods for responding to referrals, directing the completion

of reports, identifying strengths and weaknesses of proposed solutions; directing IMC members to assist in resolving issues or matters in dispute and proposing solutions;

- retaining technical, special or legal advisors to provide advice, guidance and opinions to assist in the proper discharge of the duties of the IMC, in dealing with implementation matters or handling of issues or matters in dispute, with or without the agreement of the IMC;
- recording the means of resolution or inability of the IMC to determine a means of resolution of an issue or matter in dispute referred to the IMC;
- referring any matter the IMC cannot resolve by consensus to the Senior Advisory Committee along with a statement of the issue, means recommended for resolution by the Chairperson, summary of directions given and response of each IMC party to the recommendation; and
- preparing and tabling annual and other special reports to the Parties on the overall state of implementation, including a summary of issues addressed and resolved and recommendations for improvement of any aspect of the MFA implementation process.

The IMC representatives, recognizing the independent status of the Chairperson of the IMC, requested that he provide the IMC with advice and recommendations for improvements with respect to the IMC's obligations,

many of which it implemented and acted upon during the 2007/2008 fiscal year; as well as a priority list of recommendations for improvements over the course of the IMC planning process at year end and into fiscal year 2008/2009. Steps taken in response to the independent Chairperson's recommendations during the 2007/2008 fiscal year are summarized below:

Issue: That the IMC develop a sufficient internal administrative capacity to manage IMC matters, to ensure timely steps were taken toward the resolution of IMC issues and to act more effectively as a coordinating body to monitor and direct a renewal of the MFA/IMC implementation process.

Up until June 1, 2007, the IMC Chairperson used the offices of the TLEC and modest administrative support services provided by the TLEC. The past

Chairpersons did not act full time, but on an as needed basis, as does the current Chairperson. In these circumstances, it was evident that, after 10 years of existence, that neither the IMC as a group, nor the Chairperson was able to commit the time or resources necessary to effectively fulfill their respective duties and responsibilities as summarized in the above paragraphs.

Action: Set up a separate office for the administration of the IMC and focus point for the work of the Chairperson in relation to the general facilitation of the implementation process.

With the support of the Parties, INAC provided funding to rent space, staff and equip office space for an IMC office at 200-400 St. Mary Avenue in Winnipeg. Two support staff were recruited, employed and in training by mid-June 2007.



Geneviève Boudreau practiced law in Nova Scotia before moving to Winnipeg with her husband and daughter. Ms. Boudreau also completed her Master in Laws with a thesis focus on Charter rights which was in part published in the International Journal of Canadian Studies. She recently presented her views at the 25th Anniversary of the Canadian Constitution Conference in Edmonton, Alberta. Prior to becoming a lawyer, Genevieve obtained her Bachelor of Science in Chemical Engineering and designed facilities for MacDonald Engineering in Alberta. Ms. Boudreau also is and has been very involved as a volunteer in her Acadian community and as a member or executive of a number of non-profit community service organizations.



Marion Wilson is a member of the Peguis First Nation who is currently residing in Winnipeg with her family. Upon graduating from high school in her home community of Peguis in 1995, she moved to the City of Winnipeg to further her education in the administrative field with the National Training Institute and Red River College. After successfully completing her diploma in Data Processing and Introduction to Microcomputers, Marion gained over twelve years of work experience in the administrative field. Marion was the Executive Assistant to the Director of the Treaty Land Entitlement Committee of Manitoba Inc. prior to commencing with the IMC. Marion also held various positions with the Peguis First Nation and the Town of Churchill liaising with other Manitoba First Nations and Organizations.

Funding for this initiative was renewed for a second fiscal year ending March 31, 2009 and is expected to be long term in nature. Although both Manitoba and the TLEC have agreed to accountable advance funding, INAC has been prohibited from doing so due to a minor administrative impediment found in the MFA. The Chairperson has recommended an administrative amendment to the MFA to resolve this matter during fiscal year 2008/2009.

Issue: That the IMC assemble and organize a historical record of its activities and decisions.

Although active for 10 years, the IMC had not established or maintained a comprehensive file management system suitable for IMC records maintenance, implementation monitoring, tracking of Reserve creation, treatment/resolution of issues or matters in dispute or general administration of IMC matters.

Action: Set up a File/Information Management System:

The IMC office now has three key groups of files, one group includes all files dealing with issues or matters in dispute, classified as "active", "resolved" or "no longer at issue". However, these files are not necessarily complete and current (see the comments in this regard below). The second group of files deal with the monitoring of Reserve creation and includes the various types of reports produced by the Parties. The third group consists of the IMC general office files covering all other subjects necessary to manage IMC matters.

Action: Prepare Preliminary Historic and Current Lists of the Issues or Matters in Dispute.

Preliminary draft historic and current lists of the issues or matters in dispute were created to confirm a complete record of the issues or matters in dispute by Party, by EFN, by issue, and by means of resolution. The draft Current List will be updated regularly by the IMC office and placed on the IMC website to enable all Parties and the EFNs to determine the status of a matter.

Completion of the Lists will have a number of positive results. It will produce a historical record of issues that are addressed under the MFA for the

reference of all Parties to be applied in implementation today and into the future. It will also be an IMC monitoring and reporting tool to be maintained, as well as a public record of progress (or lack thereof) in the resolution of issues and the role of the IMC in support of that process. The continued cooperation of all Parties is important and will be required in the future.

Issue: That the IMC had not developed nor maintained an accepted procedure to deal with issues or matters in dispute referred to the IMC and their means of resolution or current status over the last 10 years of its existence in spite of the extensive directions in that regard set out in the MFA

Action: Development of a Guideline or Protocol for the Definition and Efforts at Resolution of Issues or Matters in Dispute.

The IMC representatives agreed upon a guideline or format for issue definition and resolution which was called the "Protocol for the Referral and Review of an Issue or Matter in Dispute", or for short, the "I/M Referral Protocol", essentially an attempt at a standardized form for the submission of a referral which would also be used to define and track the review of the referral over time by the IMC. Ultimately, as submitted and then revised during the IMC referral review process, the I/M Referral Protocol is to be used to first document the referral, then the steps toward resolution of the referred issue and its means of resolution. If not resolved, it would contain the summary statement of the attempt of the Parties to resolve the issue upon referral of the matter to the SAC under the MFA. See Appendix C.

Issue: That the IMC had evolved into an administrative bottleneck arising from the premature referral of issues or matters in dispute without sufficient discussion among the Parties, in particular including communications with the affected EFN(s) on the resolution of issues and implementation procedure.

Each Party has the obligation to accept its responsibilities and discharge its duties under the MFA in good faith with due diligence in keeping with their stated Best Efforts, the terms, spirit and intent of the MFA. Each Party has the obligation to do so on a day to day basis in regular communication with the other

Parties and EFNs as necessary. Unfortunately, at times it appeared that the practice was to frame any issue or difficulty that arose as “an issue or matter in dispute” and refer it to the IMC, before all Parties had exhausted reasonable efforts to deal with the issue or difficulty. In addition, the Parties had shown a tendency to act on an issue or matter in dispute only upon and at IMC meetings once the matter was tabled before or referred to the IMC, thereby greatly delaying attempts at resolution. This practice was revisited.

Action: The Chairperson and IMC representatives have and will continue to encourage the Parties to make every effort to resolve implementation matters before making a referral to the IMC and when doing so, will expect the referral to reflect the fullest extent of that effort.

A referral can be made to the IMC based on any aspect of the MFA, however, the MFA anticipates that each Party will have fully determined the issue and made their best efforts to resolve the issue or matter in dispute prior to referral. Institution of the agreed review of the I/M Referral Protocol this year provided a format for referral. The IMC office has acted more deliberately to direct adherence to the I/M Referral Protocol resulting in a more structured review and approval of each stage of the review of an issue or matter in dispute. All Parties must continue to cooperate in responding to this approach to referrals on a timely basis.

Issue: Insufficiency of established practices to affirm the MFA obligations of each Party.

In simple terms, each Party must act in accordance with and assume its responsibilities assigned to it under the MFA. There appeared to be insufficient guidelines prepared by any of the Parties to assist the EFNs and other Parties in appreciating the concepts and guidelines of the MFA.

Action: Schedule Regular Focus Meetings

The Parties have instituted more regular tripartite meetings apart from day to day affairs and formal IMC meetings which have been called “focus meetings” to discuss specific issues that are impeding the implementation of the MFA. In these focus meetings, the Parties are encouraged to build upon, rather than defend past approaches, to take a constructive, rather

than positional approach to problem solving, and to come to the table open to new perspectives and solutions in the spirit of cooperation as reflected in the MFA.

Action: Revisit Operational Concepts that have Impeded Relationship Building

Concepts discussions are meant for the IMC Representatives to review and discuss concepts reflected in the MFA to ensure they are being reflected in the handling of issues at the IMC and by the Parties in their day to day practice. Subjects or provisions giving rise to MFA concepts requiring discussion are being identified by either the IMC representatives or the Chairperson from time to time. These concepts are general topics that may improve understanding of the MFA and IMC support for implementation like the role of the IMC, ideas/plans for improvements and the application of the concepts reflected in the MFA settlement.

By way of example, Manitoba was asked to review its approach to the review of Selections submitted by EFNs in light of concerns about past practice as it may or may not be in compliance with the directions reflected in the provisions of the MFA – the concept of “land eligible to be set apart as Reserve”. At the March 20, 2008, meeting, Manitoba affirmed it would begin to apply a new practice and approach to its review of land Selections and Acquisitions. The IMC agreed that the “concept of eligibility” discussed would be set out in an informational bulletin for the reference of all Parties and EFNs in early 2008/2009.

Action: Encourage open discussion of Issues around Discussion Papers

The implementation of the MFA has been impeded by the Parties conflicting interpretations of certain provisions of the MFA. However, other than by way of referral of issues or matters in dispute, the IMC had not developed any other practice for resolution of conflicting views of the intent or meaning of the MFA. In recognition of this shortcoming, the IMC has instituted a new practice. After there is sufficient understanding of the nature of the conflicting views, a discussion paper will be prepared by the IMC office based upon an understanding of the views of the Parties and independent view of the directions or requirements of the MFA to assist the Parties in consideration of a new perspective on the provisions at issue.

The first draft Discussion Paper on the question of treatment of Selections of Crown Land of less than 1,000 acres was prepared by the IMC Office and provided to the Parties for consideration on October 26, 2007. After two focus meetings to discuss the Paper, the IMC confirmed their consensus on the Paper in March 2008 and instructed the IMC office to prepare it for issuance to the Parties and EFNs as an informational bulletin.

Action: Increase communications among the Parties and with the EFNs

The combined effect of these new initiatives will be an increased level of communication among the Parties, within the Departments involved in implementation on behalf of each Party and between the Parties and the EFNs. To the extent that the Parties continue the efforts begun in the 2007/2008 fiscal year, communications will increase in the form of:

- an increase in the level of tri-partite communications in relation to the monitoring of the Reserve creation process among the Parties and definition of suitable performance measurements;

- the informational bulletins on issue resolution and clarification of MFA procedure and practice;

- the regularly scheduled focus meetings among the Parties to deal with year to year planning, resolution of specific implementation issues, identification of priorities and coordination requirements; and

- the development of Discussion Papers to clarify MFA procedure and, upon affirmation, provide guidance to all Parties in implementation;

Action: Increase communications between the Chairperson and IMC office with the IMC Representatives

An increased level of communication between the IMC Representatives and the Chairperson as well as the IMC Office to provide guidance when needed for increased efficiency of the implementation of the MFA.

Recommendations of the IMC Chairperson

Monitoring of the Progress of Implementation:

The monitoring of implementation could be improved. Manitoba has developed its TRELES system which appears to be sufficient for Manitoba's purposes. However, TRELES is relied upon by all three Parties for information and statistical monitoring to some degree. Manitoba is the only Party that has developed an electronic data base and software application to manipulate the data providing various types of reports for monitoring and performance measurement purposes. Statistical information monitoring by Canada and the TLEC is otherwise a matter of manual entry and assembly of file by file and First Nation by First Nation tracking. Considering the extent and complexity of the steps in Reserve creation over an extended period of time, all three Parties should have an in-house, manipulative data base to track the status of each parcel of land through the process by each First Nation over time. Without a comprehensive information management system, it is virtually impossible to effectively track Reserve creation in a time efficient manner, much less to establish appropriate performance measurements and to monitor the standards set for that purpose.

Canada:

Canada had stated that it is in the midst of development of an internal information management tracking system, however, the details of that planning and the expected outcomes of the system are unknown to the IMC as a whole, as is the timetable for completion of key tasks and the overall system. Certainly, Indian and Northern Affairs Canada (INAC) will produce the system it determines as acceptable, but the lack of open information sharing at times and consultation in

relation to tracking of common information exhibits a fundamental misunderstanding of the tri-partite nature of the Reserve creation process, be it MFA based or not. It is suggested that there be more open communications among the Parties, as has been the case with TLEC's Reserve tracking system, as mentioned below.

TLEC:

Although also long overdue, the TLEC, with financial support from Canada, is now near the completion of its own internal Reserve creation tracking system. The TLEC made a determined effort to share details of its development process at key stages in the process with Canada and Manitoba in an effort to produce a more collaborative and cost effective product more likely to produce a more functional system of monitoring and more useful informational outputs for all the Parties. TLEC's efforts to date are on the development concept, tracking details, report outputs and collaborative possibilities of its new internal Reserve creation tracking system.

It is imperative that Canada and TLEC each undertake to do everything to ensure that they each have a comprehensive information management and Reserve creation monitoring system in place by March 31, 2009.

Monitoring of the Progress of Implementation - Performance Measurement:

The charts and illustrations of progress and the form of the various measurements set out in this Annual Report were created by the IMC office for the purposes of this Report. Except for the MFA entitlement summary,

Chart 2, none of these Reports in the form presented were available from any of the Parties, nor able to be produced by any of the Parties except by way of a time consuming or error prone process of file by file examination or update. It is again recommended that Canada and the TLEC complete their software applications to monitor MFA implementation as soon as absolutely possible.

As recommended in the above comments, regardless of the completion of a software application to track Reserve creation, to provide statistical reports to monitor the various aspects of the process and progress year to year; it is further recommended that the Parties collaborate in the types and forms of report suitable for tri-partite/IMC monitoring purposes.

In this regard, the Chairperson has further recommended that the Reports produced include:

- reporting on the basis of the number of parcels of land set apart as Reserve as tracking only by acres set apart can be misleading on an overall MFA and on an EFN by EFN basis if only a few large parcels are set apart as Reserve;
- reporting that distinctly tracks the setting apart of Crown Land and purchase/Other Land as Reserve;
- and that these reports be issued to individual EFNs on a not less than quarterly basis in the future.

Pace and Impact of Implementation - Revisit Planning:

It is often assumed that Reserve creation under the MFA begins with the Selection or Acquisition of land by a First Nation that has signed a TEA. However, it can also be said to begin before actual selection or purchase, with the examination of the existing needs of the First Nation and planning for the future by its Chief and Council and Members. In the focus on Reserve creation, it is important that this preliminary step be acknowledged in light of its importance for the First Nation community and its place in the overall exercise of fulfillment of the Parties obligations under the MFA.

It is noted that Article 22 of the MFA speaks to this planning exercise. The community planning exercise formally begins within 30 days after the initiation of the CAP leading to the signing of its TEA. Under the MFA Canada is obliged to provide a reasonable amount of funding reflecting the circumstances of the specific First Nation for the completion of a Land Selection Study that includes:

“... a community planning and development process with the objective of determining, in consultation with its Members, the best interests of the Entitlement First Nation in the Selection or Acquisition of land and to identify suitable land for Selection or Acquisition which will address those interests.”

Considering the slow pace of implementation until this past year, the difficulties encountered and the passage of time as it would affect community understanding of their TEA, the changes in First Nation Councils and administration and the existence of a whole new generation of First Nation members involved in implementation, the various Studies that were completed may be outdated and out of sync with the current views and aspirations of the First Nations. It may be advisable to revisit the community planning aspect of the MFA for these reasons, especially with the acceleration of the overall pace of implementation and the need to complete land Selections or Acquisitions. The Parties appreciate the importance of the community planning exercise, especially in hindsight, and have discussed ensuring full involvement in the exercise to be undertaken by any of the unsigned First Nations who decide to proceed with the CAP and enter into TEAs in the future.

Focus on Priorities and Parcel Selections:

The continued development of tri-partite efforts to identify and work with an agreed list of priorities assembled on an EFN by EFN and parcel by parcel basis is strongly recommended and supported by all Parties. TLEC is strongly advocating that each EFN identify its four priority parcels and commit the effort and resources required to attend to resolution of all issues and interests affecting those parcels, regardless of size.

This particular element of priority planning will engage the EFNs in our view; improve communications and perception of the MFA implementation process – that is happening in the EFN community, not in Winnipeg or Ottawa. Further results will improve by and across the spectrum of EFNs if the MFA achievements annually are measured by the overall amount of acres set apart as Reserve as well by EFN.

Increased EFN Communication and Information Sharing:

In its most basic sense, the setting apart of all of the TLE due to each EFN is the measure of successful achievement of the MFA. However, the EFNs have expressed the view that their involvement seems to be of a limited nature and they have minimal understanding

of the general Reserve creation process. This past year, the IMC has focused on MFA policy identified as important to the EFNs, beginning with the somewhat confusing concept of eligibility of Selections under the MFA. The IMC Representatives approved of a concept statement at year end and directed the preparation and issuance of the first IMC informational bulletin on this topic. With the financial support of INAC, the TLEC organized and hosted their second annual Third Party Interest Workshop on March 12 and 13, 2008. The EFNs were presented with tools for and information of roles and responsibilities in the resolution of Third Party Interests. From this Workshop, the TLEC incorporated parcels with Third Party Interests in TLEC's work plan for 2008/2009. These initiatives and other means of communication, including the development of an IMC website accessible by the EFNs will be expanded in 2008/2009.

Summary Comments

Reserve creation in a modern day context is a challenging exercise, as had been proven here in Manitoba as well as elsewhere in Canada.

At the same time as the EFNs have a unique opportunity to secure enduring benefits and opportunities arising from their entitlement to additional Reserve (whether it involves land for community needs, economic development, cultural preservation or traditional uses), the complexity of the process has tended to overwhelm local administrations which are typically not funded, trained or otherwise prepared to assume the myriad of responsibilities involved, much less make the required decisions to advance land Selections and Acquisitions through the federal Reserve creation system.

The TLEC, as the central support agency for the EFNs, has struggled with its responsibilities, but has clearly made significant advances in its communications with the EFNs, training support capacity, monitoring and prioritization of implementation issues. That said, TLEC has forcefully asserted that it remains under-resourced and under-staffed for the task, an assertion that has been acknowledged by the federal Department of Indian Affairs. INAC provided supplementary funding to TLEC to expand its delivery capacity in 2007/2008 and is planning to do so in 2008/2009 and beyond as the need can be justified. As TLEC extends its support to the EFN community administration in the future, it is expected that the EFN community level capacity to respond to Reserve creation demands will increase with positive results.

Manitoba continues to refine and expand its statistical monitoring of Reserve creation, essential to technical tracking of the process and measurement of performance for all Parties. Supported by a strong Ministerial level mandate, Aboriginal Affairs and Northern Affairs have increased its staff and First Nation consultation capacities in 2007/2008. Efforts at improved communications and orientation have been reflected in active participation in focus meetings on specific issues, tasks and referrals to the IMC. Manitoba continues to recognize the need for a constant review and re-examination of provincial administration of the MFA, which has included a restatement of the process for review of Selections and Acquisitions around the concept of "eligibility" of those parcels to be set apart as Reserve under the MFA.

Canada accepts its primary role in the overall exercise in support of the lead initiative of the TLEC. Certainly, the achievement of the first year target of setting aside of 150,000 acres of land as Reserve (inclusive of all TLE EFNs, not only those under the MFA) was a notable accomplishment during 2007. All Parties must continue to cooperate in the strategic planning exercises essential to the accomplishment of this target again by August 2008 and beyond.

The IMC office as the new element in the implementation of the MFA can be expected to assume a more general role in relation to the facilitation of implementation this next fiscal year. The Parties have responded positively to its emphasis on increased communications, specific discussions on key implementation practices, organization of the process

for formal referral of issues and matters in dispute, the conduct of neutral focus meetings and other discussions on issues, tasks or matters arising during implementation requiring independent perspective.

Regardless, however, the tougher challenges lay ahead. It is evident that disputes unresolved for years must be resolved, for example, the requirement for a form of Hydro Easement, that more emphasis on priorities identified by certain EFNs may be required to ensure that they also secure the benefits of Reserve creation, that continuous cooperation among the Parties,

including a more active role for the EFNs is required to attain the overall target 150,000 acres of Reserve each year, and that strategic planning at all levels is the key to successful implementation of the MFA. Ultimately, the IMC recognizes and acknowledges that it is the improved social, cultural and economic conditions and potential of the individual EFNs that is of greatest importance, the underlying objective of the successful implementation of the MFA, not the achievement of arbitrary "targets" of acres of Reserve creation each year. It is that objective that must sustain IMC efforts over the years ahead.

On behalf of the Implementation Monitoring Committee established under Section 34.01 of the 1997 Manitoba Framework Agreement on Treaty Land Entitlement, I herewith respectfully submit this the Annual Report of the IMC to the President of the TLE Committee, the Minister of Indian Affairs and Northern Development and the Minister of Aboriginal and Northern Affairs for Manitoba, as of March 31, 2008.

James R. McLeod
Chairperson

Summary of Appendices

Appendix A - MFA Entitlement First Nations Map

Appendix B - Draft List of Historic Issues or Matters in Dispute

Appendix C - Protocol for the Referral and Review of an Issue or Matter in Dispute

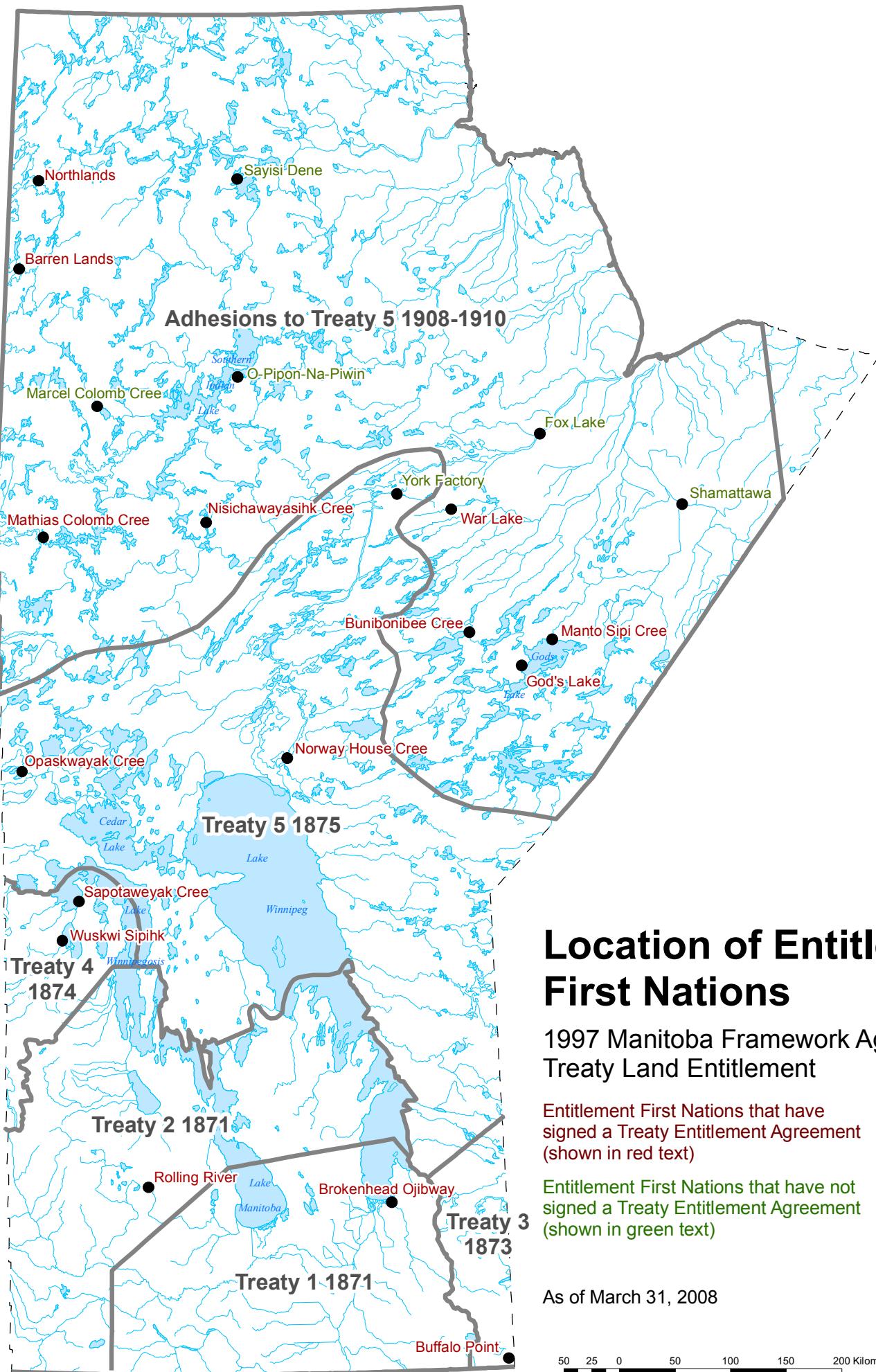
Appendix D - Draft List of Current Issues or Matters in Dispute not resolved

Appendix E - Definitions used in the 2007/2008 IMC Annual Report

Appendix A

MFA Entitlement First Nations Map





Location of Entitlement First Nations

1997 Manitoba Framework Agreement on Treaty Land Entitlement

Entitlement First Nations that have signed a Treaty Entitlement Agreement (shown in red text)

Entitlement First Nations that have not signed a Treaty Entitlement Agreement (shown in green text)

As of March 31, 2008





Appendix B

Draft List of Historic Issues or Matters in Dispute



DRAFT LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE

| IMC File Number Party/EFN RE: | Referral Date | MFA Sections | MFA Headings | General Issue / Background | Missing Documents | Means of Resolution | Other Related Files |
|---|---------------|--|--|---|--|---|---------------------|
| 1999-BPFN-002 Buffalo Point First Nation RE: Reed River Selection | 6/23/1999 | 1.01(62), 6.02(8), 12.01, 12.02 | Definitions and Interpretation, Defined Words and Phrases, Navigable Waterway, Ordinary High Water Mark; Water Interests, Selection or Acquisition of Non-navigable Waterways, Reserve Boundaries on Navigable Waterways | ISSUE: Is the Reed River a navigable waterway OR is bed of Reed River eligible for transfer? BACKGROUND: On December 21, 1999, Manitoba advised the Buffalo Point First Nation (BPFN) that their Reed River Selection was adjacent to a Navigable Waterway and as such the bed of Reed River below the Ordinary High Water Mark was ineligible for Selection under Paragraph 12.02(b). On June 23, 1999, BPFN referred the matter to the IMC under Subsection 6.02(8) regarding the question of whether the Reed River was a Navigable Waterway. | Letter from Manitoba advising the BPFN that the Reed River is a Navigable Waterway and bed not available for selection for Reserve. | The affected property (formerly known as Gould's Point) was set apart as Reserve on March 14, 2005. | |
| 1999-RRFN-004 Rolling River First Nation RE: Certain Selections | 9/19/1999 | 1.01(105), 3.11, 6.02(7) 13.05 | Definitions and Interpretation, Defined Words and Phrases, Undeveloped Road Allowance; Principles for Land Selection and Acquisition, Reference of Matters to the Implementation Monitoring Committee; Land Selection and Acquisition Process, Process for Land Selection and Acquisition; Roads, Highways and Airports, Undeveloped Road Allowances | ISSUE: The Rolling River First Nation (RRFN) alleged that Manitoba identified an Undeveloped Road Allowance affecting certain Selections a considerable time after Manitoba responded to the RRFN that the Selections were eligible for Selection under Subsection 6.02(7). BACKGROUND: On September 19, 2001, the RRFN referred the matter to the IMC under Section 3.11. | Documents referred to in the RRFN Letter to the IMC on September 19, 2001, such as the June 14, 2000 response to the RRFN from Manitoba. | The selections, including the Undeveloped Road ROW were set apart as Reserve May 9, 2005. | |

DRAFT LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE

| IMC File Number Party/EFN RE: | Referral Date | MFA Sections | MFA Headings | General Issue / Background | Missing Documents | Means of Resolution | Other Related Files |
|---|---------------|------------------------------|--|--|---|---|--|
| 1999-MCCN-005 Mathias Columb Cree Nation RE: Non transfer of Federal Payment to MCCN TLE Trust | 11/29/1999 | 18.01, 36.01, 40.20(4) | Federal Payment, Payment of Federal Payment; Material Failure and Events of Default, Material Failure to Comply with Fundamental Term or Condition; Miscellaneous Provisions, Effect of Amalgamation and Creation of First Nations | ISSUE: On August 4, 1999, Canada advised the Mathias Columb Cree Nation (MCCN) that the conditions in Subsection 40.20(4) had to be satisfied, in addition to the condition precedent set in Section 30.02, prior to the parties executing a TEA with MCCN and more precisely, prior to Canada executing that agreement. On November 29, 1999, the MCCN referred that matter to the IMC alleging that Canada had materially failed to comply with a fundamental condition of both the MFA and the TEA by executing the TEA on April 15, 1999 but not transferring the Federal Payment to the MCCN TLE Trust. The MCCN also alleged that Canada behaved in an inappropriate manner by creating the Marcel Columb First Nation during the execution phase of the TEA, as well as overturning the election of all councilors in July, 1999. BACKGROUND: Discussions between the MCCN and the Marcel Columb First Nation occurred regarding the allocation of the TLE assets until September 27, 2000 when the MCCN referred the matter of allocation to the IMC. | | The matter was resolved by the Mediated Settlement Agreement dated March 24 th , 2003. Pursuant to the Mediated Settlement Agreement, the MCCN signed a new TEA on October 1, 2003, that Canada had materially failed to comply with a fundamental condition of both the MFA and the TEA by executing the TEA on April 15, 1999 but not transferring the Federal Payment to the MCCN TLE Trust. The MCCN also alleged that Canada behaved in an inappropriate manner by creating the Marcel Columb First Nation during the execution phase of the TEA, as well as overturning the election of all councilors in July, 1999. BACKGROUND: Discussions between the MCCN and the Marcel Columb First Nation occurred regarding the allocation of the TLE assets until September 27, 2000 when the MCCN referred the matter of allocation to the IMC. | 2000-MCCN-002, 2001-CANADA-004, 2002-MCCN-TLEC-001 |
| 2000-CANADA-001 Canada / TLEC RE: GST Remission Order | 3/10/2000 | 36.01, 37.01 | Material Failure and Events of Default, Material Failure to Comply with Fundamental Term or Condition; Taxation, Goods and Services Tax | ISSUE: On February 11, 2000, Canada received a notice from TLEC in accordance with Subsection 36.01(1) alleging a material failure to comply with a fundamental term or condition of the MFA. On March 10, 2000, Canada referred the matter to the IMC in accordance with Paragraph 36.01(2) (b). The TLEC asserted that Canada had failed to comply with Section 37.01 in failing to issue the GST Remission Order. BACKGROUND: Barry Effler was appointed as adjudicator for the binding arbitration. | A copy of the Remission Order (P.C. 2000-1767). | On December 13, 2000, Canada issued the GST Remission Order (P.C. 2000-1767) to the TLEC and a Consent Award was signed December 28 th , 2001 by the adjudicator. | |

DRAFT LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE

| IMC File Number Party/EFN RE: | Referral Date | MFA Sections | MFA Headings | General Issue / Background | Missing Documents | Means of Resolution | Other Related Files |
|---|---------------|--------------------|---|--|-------------------|--|--|
| 2000-MCCN-002 Mathias Colomb Cree Nation / Marcel Colomb First Nation RE: Allocation of TLA and Federal Payments between MCCN and MCFN | 9/27/2000 | 1.01(23), 40.20 | Definition and Interpretation, Defined Words and Phrases, Date of Execution, Miscellaneous Provisions, Effect of Amalgamation and Creation of First Nations | ISSUE: On September 27, 2000, the Mathias Colomb Cree Nation (MCCN) requested the assistance of the IMC in resolving the question concerning the allocation of the TLA and Federal payments between the MCCN and the new Marcel Colomb First Nation (MCFN). BACKGROUND: On November 15, 2000, the TARR Centre was appointed by the IMC as an independent fact finder to identify relevant dates and populations of the respective EFNs. The parties agreed to the fact finder's report dated December 4, 2000, on the recommended allocation of the TLA and Federal Payments between the MCCN and the MCFN. | | On August 23, 2001, the MCCN withdrew its reference to the IMC in regards to the resolution of the allocation of TLE assets between MCCN and MCFN. | 1999-MCCN-005, 2001-CANADA-004, |
| 2001-RRFN-001 Rolling River First Nation RE: Extension of Crown Land Selection Time Period | 3/26/2001 | 4.02, 4.02(1) | Periods of Selection and Acquisition of Land, Extension of Periods | ISSUE: On March 26, 2001, the Rolling River First Nation (RRFN) requested an extension of its Crown Land Selection period under Subsection 4.02. BACKGROUND: The RRFN alleged it was unable to Select its land within the Period of Selection due to extended discussions with Manitoba regarding the eligibility of their Selections. After the setting apart as Reserve of the Selection at issue in file 1999-RRFN, the RRFN would have only 5.7 acres of its Crown Land Amount to Select. | | Plan from RRFN, Letter from IMC to RRFN re the IMC's decision on the RRFN's extension request. Decision of the IMC is not on file. | No further action required, file closed. |

DRAFT LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE

| IMC File Number Party/EFN RE: | Referral Date | MFA Sections | MFA Headings | General Issue / Background | Missing Documents | Means of Resolution | Other Related Files |
|---|---------------|--|--|---|---|---|---------------------|
| 2001-NCN-002 Nisichawayasihk Cree Nation | 7/18/2001 | 4.02, 4.02(1), 4.02(2), 4.02(4), 4.02(6) | Periods of Selection and Acquisition of Land, Extension of Periods | <p>ISSUE: On July 18, 2001, the Nisichawayasihk Cree Nation (NCN) requested an extension of its Crown Land Selection period under Subsections 4.02(2) and 4.02(6).</p> <p>BACKGROUND: The NCN alleged it was unable to Select its land within the Period of Selection due to the failure of Canada and Manitoba to fulfill their respective obligations under the MFA.</p> <p>IMC received responses from Canada and Manitoba and agreed to a land selection extension under 4.02(3) at meeting on September 20, 2001.</p> <p>On November 2, 2001, the IMC decided it would be more appropriate to consider the Period of Selection pursuant to Subsection 4.02(4).</p> | <p>Response letter from the IMC to the NCN's letter dated July 4, 2003; in which a further extension till June 11, 2004 was requested.</p> <p>(January 19, 2004 meeting notes indicate that the IMC Chairperson was to send response stating that all Crown land has been selected and therefore the extension is not necessary.)</p> | <p>On January 31, 2002, the IMC decided to extend the Period of Selection for the NCN for up to two additional 1 year periods to July 30, 2003 pursuant to Subsections 4.02(4) to accommodate the creation of O-Pipon-Na-Piwin (South Indian Lake) conditional upon the NCN submitting a detailed plan of the remainder of its Crown Land Amount within 120 days.</p> <p>On May 10, 2002 (revised September 13, 2003), the NCN submitted a plan to the IMC.</p> | |

DRAFT LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE

| IMC File Number Party/EFN RE: | Referral Date | MFA Sections | MFA Headings | General Issue / Background | Missing Documents | Means of Resolution | Other Related Files |
|---|---------------|--|---|---|--|--|--|
| 2001-SCN-003 Sapotaweyak Cree Nation RE: Extension of Crown Land Selection Time Period | 8/16/2001 | 4.02, 4.02(1), 4.02(6), 4.02(7) | Periods of Selection and Acquisition of Land, Extension of Periods | ISSUE: On August 16, 2001, the Sapotaweyak Cree Nation (SCN) requested an extension of its Crown Land Selection period under Subsection 4.02(1). BACKGROUND: The SCN alleged it was unable to Select its land within the Period of Selection due to the failure of Canada to fulfill its obligations under the MFA, in particular, the SCN advised that the Dawson Bay Selection had been rejected by Canada's Additions to Reserve Committee. | Letter dated February 1, 2002 from the IMC to SCN re their request for extension of period referred to in March 14, 2002 letter from Canada to the IMC. (NOTE: This may be the January 31, 2002 letter from IMC.) | On November 2, 2001, the IMC decided to grant a reasonable extension to the Period of Selection for the SCN pursuant to Subsection 4.02(6) and (7). On January 31, 2002, the IMC informed the SCN of its decision. | 2002-SCN-008 |
| 2001-CANADA-004 Canada / Mathias Colomb Cree Nation RE: Date of Execution of MCCN TEA | 8/30/2001 | 1.01(23), 30.03 | Definitions and Interpretation, Defined Words and Phrases, Date of Execution; Coming into Force, Effective Date of Execution of Agreement | ISSUE: On September 19, 2001, Canada requested the assistance of the IMC in resolving the question concerning the Date of Execution of the Mathias Colomb Cree Nation's (MCCN) TEA. BACKGROUND: On August 4, 1999, Canada advised the MCCN, that the conditions in Subsection 40.20(4) had to be satisfied, in addition to the condition precedent set in Section 30.02, prior to the parties executing a TEA with MCCN and more precisely, prior to Canada executing that agreement. On May 15, 2002, the issue was referred to the SAC pursuant to Subsection 34.09(8) and on July 25, 2002, the SAC referred the matter back to the IMC pursuant to Subsection 34.10(6). In September, 2002, the IMC appointed Lawrie Cherniack as adjudicator for mediation. | | Resolved concurrent with the Related Referral 2002 MCCN/TLEC- 001. | 1999-MCCN-005, 2000-MCCN-002, 2002-MCCN/TLEC-001 |

DRAFT LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE

| IMC File Number Party/EFN RE: | Referral Date | MFA Sections | MFA Headings | General Issue / Background | Missing Documents | Means of Resolution | Other Related Files |
|---|-----------------|---------------------------------|---|---|-------------------|---|--|
| 2001-NHCN-005 Norway House Cree Nation RE: Extension of Crown Land Selection Time Period | 10/29/2001 1 | 4.02, 4.02(1), 4.02(4) | Periods of Selection and Acquisition of Land, Extension of Periods | ISSUE: On October 29, 2001, the Norway House Cree Nation (NHCN) requested an extension of its Crown Land Selection period. BACKGROUND: The NHCN did not provide a reason for its inability to Select within the Period of Selection. On February 1, 2002, the IMC decided and informed the NHCN that rather than addressing the request under 4.02(1), Canada and Manitoba have agreed to consider referring matter under 4.02(3). If Canada or Manitoba refer the matter under 4.02(3), then NHCN needs to develop and submit a plan as per 4.02(4). On February 8, 2002, Manitoba referred the matter under 4.02(3). | | Referral 2001-NHCN-005 was replaced by Referral 2002-Manitoba-006. | 2002-Manitoba-006 |
| 2002-MCCN/TLEC-001 Mathias Colomb Cree Nation / TLEC RE: Date of Execution of MCCN TEA | 1/16/2002 | 1.01(23), 30.03, 40.20(4) | Definitions and Interpretation, Defined Words and phrases; Date of Execution; Coming into Force, Effective Date of Treaty Entitlement Agreement; Miscellaneous Provisions, Effect of Amalgamation and Creation of First Nations | ISSUE: On January 16, 2002, the MCCN and TLEC requested the assistance of the IMC in resolving the question concerning the Date of Execution of the MCCN's TEA. BACKGROUND: On May 15, 2002, the issue was referred to the SAC pursuant to Subsection 34.09(8) and on July 25, 2002, the SAC referred the matter back to the IMC pursuant to Subsection 34.10(6). In September, 2002, the IMC appointed Lawrie Cherniack as adjudicator for mediation. | | The TLA and Federal Payment allocation matter was resolved by the Mediated Settlement Agreement dated March 24 th , 2003. Pursuant to the Mediated Settlement Agreement, the MCCN signed a new TEA on October 1, 2003. | 1999-MCCN-005, 2000-MCCN-002, 2001-CANAD A-004 |

DRAFT LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE

| IMC File Number Party/EFN RE: | Referral Date | MFA Sections | MFA Headings | General Issue / Background | Missing Documents | Means of Resolution | Other Related Files |
|--|---------------|------------------------------|---|--|-------------------|---|---------------------|
| 2002-BCN-002 Bunibonibee Cree Nation | 1/28/2002 | 4.02, 4.02(1), 4.02(4) | Periods of Selection and Acquisition of Land, Extension of Periods | <p>ISSUE: On January 28, 2002, the Bunibonibee Cree Nation (BCN) requested an extension of its Crown Land Selection period under Subsection 4.02(1).</p> <p>BACKGROUND: The BCN alleged it was unable to Select its land within the Period of Selection because the BCN did not have sufficient time to confirm Selections in the amount of its Crown Land Amount that satisfied Selection objectives established by the members of the BCN.</p> | | On January 31, 2002, the IMC discussed the matter and agreed that it would be preferable if Manitoba or Canada referred the matter under 4.02(3). BCN was advised by letter dated January 31, 2002. IMC further advises that it could then extend the Period of Selection pursuant to Subsection 4.02(4). Manitoba referred the matter under 4.02(3) on February 8, 2002. Referral 2002-BCN-002 was replaced by Referral 2002-Manitoba-004. | 2002-MANITOBA-004 |
| 2002-OCN-003 Opaskwayak Cree Nation | 1/31/2002 | 4.02, 4.02(1), 4.02(4) | Periods of Selection and Acquisition of Land, Extension of Periods | <p>ISSUE: On January 31, 2002, the Opaskwayak Cree Nation (OCN) requested an extension of its Crown Land Selection period under Subsection 4.02(1).</p> <p>BACKGROUND: The OCN alleged it was unable to Select its land within the Period of Selection due to the lack of suitable Crown Land within reasonable proximity that met the requirements set out in the MFA and the OCN's own criteria for Selection.</p> | | On January 31, 2002, the IMC discussed the matter and agreed that it would be preferable if Manitoba or Canada referred the matter under 4.02(3). OCN was advised by letter dated January 31, 2002. IMC further advises that it could then extend the Period of Selection pursuant to Subsection 4.02(4). Manitoba referred the matter under 4.02(3) on February 8, 2002. Referral 2002-OCN-003 was replaced by Referral 2002-Manitoba-005. | 2002-MANITOBA-005 |

DRAFT LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE

| IMC File Number Party/EFN RE: | Referral Date | MFA Sections | MFA Headings | General Issue / Background | Missing Documents | Means of Resolution | Other Related Files |
|-------------------------------|---------------|------------------------------|---|--|--|--|---------------------|
| 2002-MANITOBA-004 | 8/2/2002 | 4.02, 4.02(3), 4.02(4) | Periods of Selection and Acquisition of Land, Extension of Periods | <p>ISSUE: On February 8, 2002, in response to a request from Bunibonibee Cree Nation (BCN) for an extension to their land selection period, Manitoba referred the matter to the IMC under section 4.02(3) of the MFA.</p> <p>BACKGROUND: The selection period was to expire on February 17, 2002, and as of February 8, 2002 Manitoba advised that BCN had only selected 1,277.31 acres and 34,156.69 acres were yet to be selected.</p> <p>Please refer to Referral 2002-BCN-002 for additional detail.</p> | <p>Letter referred to in Fax dated March 18, 2002 to INAC from the IMC Chairperson. (A draft letter INAC was to send to BCN, NHCN and OCN by March 5, 2002.)</p> <p>February 6, 2003 letter from IMC to BCN.</p> | <p>On March 1, 2002, the IMC decided to extend the Period of Selection for the BCN for one year to February 17, 2003 pursuant to Subsection 4.02(4) upon condition that the BCN develop a detailed plan for the Selection of the remainder of its Crown Land Amount within 120 days. On March 21, 2002, the IMC informed the BCN of its decision. On April 23, 2002, the BCN submitted a plan to the IMC and at the request of the IMC; the BCN submitted a more detailed plan on May 29, 2002 to the IMC.</p> <p>On June 25, 2002 IMC acknowledged receipt and confirmed the extension till February 17, 2003. In the IMC February 17, 2003 meeting minutes, a second one year extension is discussed along with a February 6, 2003 letter from IMC to BCN. IMC decides to extend for one additional year to February 17, 2004.</p> | 2002-BCN-002 |

DRAFT LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE

| IMC File Number Party/EFN RE: | Referral Date | MFA Sections | MFA Headings | General Issue / Background | Missing Documents | Means of Resolution | Other Related Files |
|---|---------------|------------------------------|--|---|--|--|---------------------|
| 2002-MANITOBA-005 Opaskwayak Cree Nation / Manitoba | 8/2/2002 | 4.02, 4.02(3), 4.02(4) | Periods of Selection and Acquisition of Land, Extension of Periods | <p>ISSUE: On February 8, 2002, in consideration of a request from OCN, Manitoba confirmed its view that the Opaskwayak Cree Nation (OCN) had not Selected its Crown Land Amount within the Period of Selection set out in Section 4.02, and referred the matter as per 4.02(3).</p> <p>BACKGROUND: On January 31, 2002, the Opaskwayak Cree Nation (OCN) requested an extension of its Crown Land Selection period under Subsection 4.02(1). The OCN alleged it was unable to Select its land within the Period of Selection due to the lack of suitable Crown Land within reasonable proximity that met the requirements set out in the MFA and the OCN's own criteria for Selection.</p> <p>RE: Extension of Crown Land Selection Time Period</p> | <p>Letter referred to in Fax dated March 18, 2002 to INAC from the IMC Chairperson. (A draft letter INAC was to send to BCN, NHCN, and OCN by March 5, 2002.)</p> <p>(In their later letter dated December 10, 2003, OCN references the earlier IMC decision, to put their request for an extension in abeyance until the outcome of the decision on the eligibility of certain selections by Manitoba, which decision was not made until December 30, 2002.)</p> <p>On September 17, 2002, the IMC informed the OCN that it appeared unnecessary for the IMC to grant an extension of the Period of Selection at this time because the OCN had actually selected its Land within the 3 year period provided under the MFA. If selections are later withdrawn, IMC can consider again at that time as per 4.02(6) & (7).</p> | <p>On March 21, 2002 IMC advised OCN that extension for 1 year till January 22, 2003 was approved subject to submission of a plan. On July 22, 2002, the OCN submitted a plan to the IMC as per 4.02(4).</p> | 2002-OCN-003 |

DRAFT LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE

| IMC File Number Party/EFN RE: | Referral Date | MFA Sections | MFA Headings | General Issue / Background | Missing Documents | Means of Resolution | Other Related Files |
|--|---------------|------------------------------|--|--|---|--|---------------------|
| 2002-MANITOBA-006 Norway House Cree Nation / Manitoba | 8/2/2002 | 4.02, 4.02(3), 4.02(4) | Periods of Selection and Acquisition of Land, Extension of Periods | <p>ISSUE: On February 8, 2002, Manitoba in consideration of a request from NHCN, confirmed its view that the Norway House Cree Nation (NHCN) had not selected its Crown Land Amount within the Period of Selection, and referred the matter to IMC under section 4.02(3).</p> <p>BACKGROUND: Please refer to Referral 2001-NHCN-005 for additional information.</p> <p>RE: Extension of Crown Land Selection Time Period</p> | <p>Letter referred to in Fax dated March 18, 2002 to INAC from the IMC Chairperson. (A draft letter INAC was to send to BCN, NHCN, and OCN by March 5, 2002.)</p> <p>NOTE: The IMC annual Report for years ending March, 2002, 2003, and 2004 states that the NHCN land selection extension was for two 1 year periods?</p> | <p>On March 21, 2002, the IMC wrote to NHCN and advised that at a IMC meeting on March 1, 2002 it was decided to extend the Period of Selection for NHCN for one year to November 12, 2002 pursuant to Subsection 4.02(4) upon condition that the NHCN develop a detailed plan for the Selection of the remainder of its Crown Land Amount within 120 days. On May 10, 2002, the NHCN submitted a plan to the IMC.</p> | 2001-NHCN-005 |

DRAFT LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE

| IMC File Number Party/EFN RE: | Referral Date | MFA Sections | MFA Headings | General Issue / Background | Missing Documents | Means of Resolution | Other Related Files |
|---|---------------|-----------------------|---|---|-------------------|--|---------------------|
| 2002-BLFN-007 Barren Lands / First Nation / Canada | 9/13/2002 | 4.02(1), 9.01-9.04 | Periods of Selection and Acquisition of Land, Extension of Periods; Land in Severalty, Land Outside Manitoba and Land of Cultural and Historical Significance in Existing Provincial Parks, ecological Reserves, Wildlife Refuges and National Parks, Land in Severalty | ISSUE: On September 13, 2002, the Barren Lands First Nation (BLFN) requested an extension of its Crown Land Selection period under Subsection 4.02(1). BACKGROUND: The BLFN alleged it was unable to Select its land within the Period of Selection due to Canada's delay in finalizing its policy on Land in Severalty and enter into discussions with the BLFN in that regard. | | On October 23, 2002, the IMC decided that the BLFN was granted a one year extension to October 23, 2003 for the purpose of allowing Canada to finalize its position and policy on Land in Severalty (LIS). In addition, that the BLFN Period of Selection would be extended for an additional three year period after the date Canada affirms its LIS policy. In a letter dated February 6, 2003, the IMC informed the BLFN of its decision. On June 22, 2005 the IMC chairperson wrote to BLFN and advised that Canada has not completed its policy on LIS and therefore the extension has not yet commenced. | 2004-BLFN-002 |

DRAFT LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE

| IMC File Number Party/EFN RE: | Referral Date | MFA Sections | MFA Headings | General Issue / Background | Missing Documents | Means of Resolution | Other Related Files |
|--|---------------|--------------------|--|--|---|--|---------------------|
| 2002-SCN-008 Sapotaweyak Cree Nation RE: Extension of Crown Land Selection Time Period | 9/30/2002 | 4.02, 4.02(1) | Periods of Selection and Acquisition of Land, Extension of Periods | ISSUE: On September 30, 2002, the Sapotaweyak Cree Nation (SCN) requested a second extension to its Crown Land Selection period under Subsection 4.02(1). BACKGROUND: The SCN alleged it was unable to Select its land within the first one year extension to their period of Selection due to the failure of Canada to fulfill its obligations under the MFA. | Letter with IMC's response to SCN re their request for extension of period. | On February 17, 2003, the IMC met and decided that it appeared unnecessary for the IMC to grant a second extension to the Period of Selection at this time, because the SCN had actually selected more than its total Crown Land Amount under the MFA. In 2003, the IMC informed the SCN of its decision. | 2001-SCN-003 |
| 2003-IMC-003 Northlands First Nation / IMC / Canada RE: Extension of Crown Land Selection Time Period | 6/2/2003 | 4.02, 9.01-9.04 | Periods of Selection and Acquisition of Land, Extension of periods; Land in Severally, Land Outside of Manitoba and Land of Cultural and Historical Significance in Existing Provincial Parks, Ecological Reserves, Wildlife Refuges and National Parks, Land in Severally | ISSUE: On February 6, 2003, the IMC offered to extend the Northlands First Nation (NFN) Period of Selection in light of the fact that Canada had not yet entered into discussions with the NFN's members regarding the land in Severally issue per Subsection 9.01(4) and (5). This was not a formal referral. Instead, IMC decided to extend the same accommodation that had been reached re BLFN request for extension, given their similar circumstances. BACKGROUND: THE IMC offered a one year extension effective from October 23, 2002, and once Canada finalized its position on severally the NFN land selection period would be extended for an additional three year period. | Letter from IMC June 2005. (NOTE: Similar to the June 22, 2005 letter to BLFN) | On October 23, 2002, the IMC decided that the NFN was granted a one year extension to October 23, 2003 for the purpose of allowing Canada to finalize its policy/ discussion paper on Land in Severally (LIS); adding that the NFN Period of Selection would be extended for an additional three year period after its LIS Policy. In a letter dated February 6, 2003, the IMC informed the NFN of its decision. | 2002-BLFN-007 |

DRAFT LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE

| IMC File Number Party/EFN RE: | Referral Date | MFA Sections | MFA Headings | General Issue / Background | Missing Documents | Means of Resolution | Other Related Files |
|-------------------------------------|---------------|--------------|---|--|---|---------------------|---------------------|
| 2004-SCN-001 | 2/26/2004 | 23.04 | Costs of Environmental Audit and Survey of Land, Survey to Meet Standards | <p>ISSUE: On February 26, 2004, the Sapotaweyak Cree Nation (SCN) referred the matter to the IMC alleging that errors in cutting survey lines on their Pelican Rapids Selection Phase 1 survey resulted in lost timber and unwanted access to the land and that Canada's surveyor did not adhere to accepted survey standards in completion of the survey.</p> <p>BACKGROUND: In March 2005, the IMC retained an independent surveyor (All Sect Surveys Ltd.) as a fact finder.</p> <p>The EFN subsequently refreshed the boundaries of the Selection.</p> | <p>Letter dated March 9, 2004 from SCN to the IMC referenced in letter dated April 6, 2004 from SCN to IMC.</p> <p>Letter dated May 27, 2004 from the TLEC and other documents from the IMC and SCN referenced in letter dated June 1, 2004 from D'Arcy & Deacon to TLEC.</p> <p>Document appointing fact finder in March, 2005.</p> <p>October 20, 2005 document reference in letter dated October 31, 2005 from SCN to IMC.</p> | | |

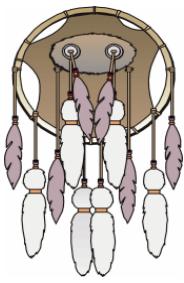
DRAFT LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE

| IMC File Number Party/EFN RE: | Referral Date | MFA Sections | MFA Headings | General Issue / Background | | Missing Documents | Means of Resolution | Other Related Files |
|---|---------------|--------------|---|--|---|-------------------|--|---------------------|
| | | | | | | | | |
| 2006-RRFN-002 Rolling River First Nation | 2/27/2006 | 7.01(2) | Transfer of Land and Interests from Manitoba to Canada, Manitoba to transfer Crown Land and Interests to Canada RE: Transfer of Administration and Control from Manitoba to Canada | ISSUE: Rolling River First Nation (RRFN) alleged that there is a "regulatory gap" that occurs when the administration and control of all interests of Manitoba in land is transferred from Manitoba to Canada arising from the existence of a contractor lien on title. BACKGROUND: On February 27, 2006, RRFN referred the matter to the IMC. This issue arose as a result of a matter between the First Nation and one of its contractors and was resolved as between them. | Confirmation of actions referred to in the IMC Draft Minutes of May 23 & 24, 2006/ June 1 & 2, 2006, i.e. the Chairperson writing to Canada requesting clarification on this issue and Canada's and Manitoba's responses. | | The Crown Land was transferred and set apart as Reserve on May 29, 2006. | |

Appendix C

Protocol for the Referral and Review of an Issue or Matter in Dispute





IMC

IMPLEMENTATION MONITORING COMMITTEE

PROTOCOL FOR THE REFERRAL AND REVIEW OF AN ISSUE OR MATTER IN DISPUTE UNDER THE 1997 MANITOBA FRAMEWORK AGREEMENT ON TREATY LAND ENTITLEMENT

1. DEFINITIONS:

For the purposes of this Protocol the following short forms or definitions are used:

- “EFN” means a First Nation that has signed a TEA as defined in the MFA;
- “I/M” means an issue or matter in dispute which requires resolution;
- “MFA” means the 1997 Manitoba Framework Agreement on Treaty Land Entitlement; and
- “TEA” means an agreement with an EFN signed under the MFA.

2. THE ISSUE OR MATTER IN DISPUTE:

Provide a brief, even point form statement explaining the I/M being referred to the IMC for review.

3. THE FACTS:

Set out the facts and key dates relevant to understanding of the I/M, including, as may be applicable:

- a. The parties (Canada, Manitoba and/or TLEC) and EFN involved
- b. Date the I/M was first arose or was identified
- c. Identification of the parcel of land (attach a map)
- d. If a third party or other interest or consideration is involved, the type of interest or consideration of concern
- e. If a third party or other interest or consideration is involved, the location of the interest in/on/over the land
- f. All facts that directly relate to the relevant provisions of the MFA

4. INTERPRETATION OF THE MFA:

State your interpretation of the facts and how the provisions of the MFA apply to the facts as stated giving rise to the issue or matter.

5. PROPOSED RESOLUTION AND OPTIONS CONSIDERED:

State the preferred means of resolution of the I/M and summarize the options considered to deal with the I/M, if any, including:

- a. The reasons for your preferred resolution
- b. Any other options for resolution proposed to the other parties or EFN
- c. The pros and cons of each proposed option for resolution of the I/M
- d. Consideration of how each option for resolution may have addressed the concerns of the other parties or EFN involved
- e. Comments on how each option for resolution would reflect the spirit and intent of the MFA

6. INTERPRETATION OF THE MFA BY THE OTHER INVOLVED PARTIES:

Describe, to the best of your knowledge, the interpretation of the facts and provisions of the MFA being advanced by the each of the other involved parties or EFN with respect to the I/M, including:

- a. Any other provisions of the MFA
- b. The interpretation of the MFA advanced by each other party or EFN
- c. The preferred method of resolution of the I/M proposed by each other party or EFN involved
- d. Any other options for resolution proposed by the other parties or EFN involved and reasons provided by the other party for any options

7. BACKGROUND INFORMATION:

Attach or include in the file submitted with the Referral, key background information in chronological order wherever possible:

- a. Correspondence between the parties and the EFN regarding the I/M
- b. Maps and other documents useful in understanding the I/M
- c. Minutes of meetings specific to the I/M
- d. Any other documents considered important to review by the parties and the IMC

Appendix D

Draft List of Current Issues or Matters in Dispute Not Resolved



DRAFT LIST OF CURRENT ISSUES OR MATTERS IN DISPUTE

| IMC File Number Party / EFN RE: | Referral Date | MFA Sections | MFA Headings | General Issue / Background | Missing Documents | Means of Resolution | Other Related Files |
|---|---------------|----------------------------------|---|--|--|-------------------------------------|---------------------|
| 1999-BPPFN-001 Buffalo Point First Nation RE: Selection within a Provincial Park | 6/23/1999 | 3.02(12), 3.03(6), 6.02(8) | General Principles for Selection and Acquisition of Land; Specific Principles for Selection of Crown Land, Land in a Provincial Park, Ecological Reserve, Wildlife Refuge or Proposed National Park; Process for Land Selection and Acquisition | ISSUE: BPPFN alleges that its Selection within Birch Point Provincial Park should not be excluded under Subsection 3.03(6) and that Manitoba mistakenly applied Subsection 3.02(12) to the Selection. BACKGROUND: On September 16, 1998, Manitoba advised the Buffalo Point First Nation that its Selection within Birch Point Provincial Park was not eligible for Selection under Subsection 3.03(6) because Birch Point was designated under the Provincial Lands Act and the park is only the only provincial facility to provide access to the Lake of the Woods. On June 23, 1999, the BPPFN referred the matter to IMC under Subsection 6.02(8). | The IMC has the following documents: June 23, 1999 letter from BPPFN and June 25, 1999 letter from the IMC but missing any other relevant documents. | Not determined as of March 31, 2008 | |
| 1999-NCN-003 Nisichawayasihk Cree Nation RE: Date of Execution of the NCN TEA | 8/25/1999 | 1.01(23), 30.01 | Definition and Interpretation, Defined Words and Phrases, Date of Execution, Coming into Force, Effective Date of Agreement | ISSUE: To determine the date of the TEA. BACKGROUND: On August 25, 1999 (NCN) and June 6, 2001 (Canada), the matter concerning the Date of Execution of the NCN's TEA was referred to the IMC. The NCN alleged that the Date of Execution was July 30, 1998. This was the date that was typed on the TEA, and the date of the signing ceremony in Nelson House. All parties signed the EFN TEA that day excepting Canada who had a representative initial beside the signature block. Canada subsequently sent the TEA to the Minister's office where it was signed by Minister Stewart, who also hand dated her signature September 1, 1998. The July 30, 1998 date is also the 90th anniversary date of NCN signing adhesion to Treaty No. 5. Canada has taken the position that the date of execution was Sept 1, 1998. On November 10, 1999, a Technical Working Group meeting was convened to discuss the issue. | Opinions from the party's legal counsel on the effective date of the TEA in preparation for the Technical Working Group meeting scheduled for November 10, 1999. Any documents other than the August 25, 1999 letter from NCN, the September 9, 1999 letter from IMC, and the May 4, 2000 letter from NCN. | Not determined as of March 31, 2008 | |

DRAFT LIST OF CURRENT ISSUES OR MATTERS IN DISPUTE

| IMC File Number Party / EFN RE: | Referral Date | MFA Sections | MFA Headings | General Issue / Background | Missing Documents | Means of Resolution | Other Related Files |
|---|---|-------------------------------|---|---|---|---|---------------------|
| 2003-BON-001 Brokenhead Ojibway Nation | 1/23/2003 RE: Disposal of Surplus Real Property and MFA Process. | 1.01(88), 3.10, 3.10(1) | Definitions and Interpretation, Defined Words and Phrases, Surplus Federal Land; Principles for Land Selection and Acquisition, Specific Principles for Acquisition of Surplus Federal Land | <p>ISSUE: Brokenhead Ojibway Nation (BON) alleged that Canada failed to forward notice of Surplus Federal Land, the Kapyong Barracks, to the BON and that Canada mistakenly interpreted that the MFA did not apply.</p> <p>BACKGROUND: On December 4, 2002, Canada advised the Brokenhead Ojibway Nation (BON) that the Kapyong Barracks had been designated as a "strategic disposal" under the Treasury Board Policy on the Disposal of Surplus Real Property and that it would be transferred to the Canada Lands Company for disposal. In addition they advised that the MFA did not apply to the strategic disposal process as the interest of the EFNs can not be considered on a priority basis. On January 22, 2003, the BON referred the matter to the IMC.</p> <p>The First Nations of Treaty 1, including BON, filed a Notice of Application in Federal Court on January 25, 2008.</p> | The IMC has the following documents: Letter dated January 22, 2003 from BON to IMC, letter dated February 6, 2003 from the IMC to the BON, and letter dated March 27, 2003 from Canada to the IMC but missing any other relevant documents. | Matter deferred pending outcome of litigation or negotiation as of March 31, 2008 | |

DRAFT LIST OF CURRENT ISSUES OR MATTERS IN DISPUTE

| IMC File Number Party / EFN RE: | Referral Date | MFA Sections | MFA Headings | General Issue / Background | Missing Documents | Means of Resolution | Other Related Files |
|---|---------------|----------------------------------|---|---|-------------------|-------------------------------------|---------------------|
| 2004-BLFN/TLEC-002 Barren Lands First Nation / TLEC RE: Severalty | 5/5/2004 | 9.01, 9.02, 9.04, 36.01 | Land in Severalty, Land Outside Manitoba and Land Cultural and Historical Significance in Existing Provincial Parks, Ecological Reserves, Wildlife Refuges and National Parks, Land in Severalty, Election by members, Right and Status of Land in Severalty; Material Failure and Events of Default, Material Failure to Comply with Fundamental Term or Condition | <p>ISSUE: BLFN alleges that Canada had materially failed to comply with a fundamental term of the MFA and asserted that although its members had given Canada notice of their election to take Land in Severalty in accordance with Subsection 9.01(1), Canada had failed to enter into discussion with those members under Subsection 9.01(4).</p> <p>BACKGROUND: On May 5, 2005, the BLFN referred the matter to the IMC. On June 14, 2004, TLEC jointly referred the matter to IMC with the BLFN.</p> <p>On January 2, 2005, Lawrie Cherniak was appointed as adjudicator for the binding arbitration regarding the procedural issue of the conduct of consultations concerning the nature and extent of the Land in Severalty right. On June 29, 2005, Canada provided to the Arbitrator a listing of dates when they assert they conducted consultation with members of the BLFN. On July 18, 2006, the revised terms of reference for the binding arbitration were drafted by the TLEC to accommodate a representative member case study for purposes of considering the question of the continued availability of the option to elect Land in Severalty. On July 19, 2006, the review of the revised terms of reference was postponed pending appointment of a new legal counsel for the BLFN and TLEC. In October, 2006, new legal counsel was appointed for the BLFN and TLEC and the file is now under review by the new counsel.</p> <p>On September 19, 2005 BLFN requested Canada's position on Land in Severalty. As well, Chief Halkett reflects his impression that Canada would at a minimum have provided a report (information) on the May 2005 discussions for BLFN to make an informed decision on how to proceed with arbitration. BLFN asserts that this information is required to determine if the meetings fulfilled meaningful consultation.</p> | | Not determined as of March 31, 2008 | |

DRAFT LIST OF CURRENT ISSUES OR MATTERS IN DISPUTE

| IMC File Number Party / EFN RE: | Referral Date | MFA Sections | MFA Headings | General Issue / Background | Missing Documents | Means of Resolution | Other Related Files |
|--|---------------|---|---|--|---|--------------------------------------|---------------------|
| 2006-MANITOBA-001 Bunibonibee Cree Nation / Manitoba RE: Registration of an Assignment for Collateral Purposes against a lease (TP) on the Knee Lake Lodge selection. | 2/3/2006 | 6.02(6), 36.01 | Process for Land Selection and Acquisition; Material Failure and Events of Default; Material Failure to Comply with Fundamental Term or Condition | ISSUE: BCN allege that Manitoba breached obligations under Subsection 6.02(6) by permitting several registrations to be made against a lease affecting the BCN's Knee Lake Lodge Selection. BACKGROUND: On January 13, 2006, Manitoba was given notice by the BCN in accordance with Subsection 36.01 asserting a material failure by Manitoba to comply with a fundamental term or condition. On February 3, 2006, Manitoba referred the matter to the IMC in accordance with Paragraph 36.01(2)(b). | Manitoba's response to the BCN's Knee Lake Lodge Selection, letter dated April 7, 2006 (referred to in letter dated June 28, 2006 from the IMC to BCN). | Not determined as of March 31, 2008. | |
| 2006-BCN/TLEC-003 Bunibonibee Cree Nation / Manitoba / TLEC RE: Effect of a Portage on a Selection in relation to MFA provisions | 4/7/2006 | 1.01(21), 3.02(6), 3.02(12), 7.01(2), 36.01 | Definitions and Interpretation, Defined Words and Phrases, Crown Reservations; General Principles for Selection and Acquisition of Land; Transfer of Lands and Interests from, Manitoba to Transfer Crown Land and Interests to Canada; Material Failure and Events of default, Material Failure to Comply with Fundamental Term or Condition | ISSUE: The BCN allege that Manitoba was incorrectly characterizing a portage as a competing consideration and as a result refusing to transfer administration and control of Trout Falls and Wipanipanis Portage Selections (both under 1,000 acres) to Canada. BACKGROUND: On December 23, 2002, Manitoba gave notice to the BCN of the existence of a portage across Trout Falls and Wipanipanis Portage Selections asserting that a portage was a "competing consideration" and therefore that the Selections were not eligible under the Principles. On February 27, 2006, Manitoba was given notice jointly by the BCN and TLEC in accordance with Subsection 36.01 asserting a material failure by Manitoba to comply with a fundamental term or condition. On March 22, 2006, Manitoba referred the matter to the IMC in accordance with Paragraph 36.01(2)(b). On April 7, 2006, the BCN and TLEC jointly requested the IMC to direct the matter to binding arbitration under Subsection 36.01(5). On February 27, 2007, Manitoba sent a letter to the BCN to discuss the retention of the right of public access to the Selections' portages either by way of an access agreement or possible exclusion under Subsection 3.02(12). As directed by the IMC, The IMC office is consolidating the review of the Referral into the format of the I/M Referral Protocol. | Review in the Protocol format is in process, however, not determined as of March 31, 2008 | | |

DRAFT LIST OF CURRENT ISSUES OR MATTERS IN DISPUTE

| IMC File Number Party / EFN RE: | Referral Date | MFA Sections | MFA Headings | General Issue / Background | Missing Documents | Means of Resolution | Other Related Files |
|---|---------------|----------------------|--|--|--|--------------------------------------|---------------------|
| 2006-TLEC-004 IMC / Manitoba RE: Competing considerations and Eligibility of selections less than 1,000 acres. | 5/19/2006 | 3.02(3)-(7), 3.11 | General Principles for Selection and Acquisition of Land, Reference of Matter to the Implementation Monitoring Committee | <p>ISSUE: The TLEC allege that Manitoba was incorrectly characterizing selections ineligible due to competing considerations (e.g. the cost of survey of a Hydro Easement line) on many Selections under 1,000 acres. In addition that Manitoba was raising the issue a considerable time after it responded to the EFNs regarding the eligibility of the Selections under Subsection 6.02(7).</p> <p>BACKGROUND: On May 19, 2006, TLEC referred the matter to the IMC under Section 3.11. On June 7, 2007, Manitoba provided an update of their September 7, 2005 report on the "Less than 1000 acres" issue. At the IMC request, Manitoba provided a report itemizing the 77 Selections of less than 1000 acres that Manitoba "deemed" not eligible because of competing considerations. Two focus meetings have been held to review and discuss the varying interpretations and applications of the relevant MFA provisions. In addition a discussion paper has been prepared by IMC.</p> | Letter dated November 18, 2004 and letter dated January 28, 2005 referred to in TLEC's letter of referral dated May 19, 2006 to the IMC. | Not determined as of March 31, 2008. | |
| 2007-BPFN-001 Buffalo Point First Nation | 3/15/2007 | 13.02, 13.03 | Roads, Highways and Airports, Exclusion of Certain Land, Widths of Road Right of Way | <p>ISSUE: On June 26, 2006, Manitoba advised the BPFN that among other things Manitoba was entitled to a control zone to be excluded from the land purchased by the BPFN along PTH No.12.</p> <p>BACKGROUND: This would result in the exclusion of a 39.52 metre wide strip of land along PTH No.12 in accordance with Section 13.03, and Manitoba has offered to purchase it from BPFN. On March 15, 2007, the BPFN referred the matter to the IMC. BPFN and Manitoba presented their views at the IMC meeting on December 12, 2007. Negotiations and consideration of options have continued.</p> | Not determined as of March 31, 2008. | | |

DRAFT LIST OF CURRENT ISSUES OR MATTERS IN DISPUTE

| IMC File Number Party / EFN RE: | Referral Date | MFA Sections | MFA Headings | General Issue / Background | Missing Documents | Means of Resolution | Other Related Files |
|--|---------------|---|--|---|-------------------|--|---------------------|
| 2007-TLEC-002 TLEC / Manitoba RE: Hydro Easement | 8/27/2007 | 1.01(40), 7.01, 12.05, 12.07, 12.08, 12.09, 12.10, 38.01, 40.11 | Definitions and Interpretation, Defined Words and Phrases, Hydro Easement; Manitoba to Transfer Crown Land and Interests to Canada; Water Interests, Hydro Easement and Determination of Easement Line, Land Below Easement Line Not to be Part of Total Land Amount, Limit on Liability for Certain Land to be Selected or Acquired, Land Physically Required by Manitoba Hydro, Riparian Rights; ; Agreed Forms, Use of Agreed Forms; Miscellaneous Provisions, No Effect on Existing Aboriginal or Treaty Rights. | ISSUE: TLEC referred two issues within this referral: firstly TLEC is asserting that Manitoba is not entitled to retain even partial constitutional jurisdiction required to support an easement required by Manitoba Hydro; and secondly that the hydro easement should set out a resolution process where the EFNs can address alleged impacts on the EFN's existing aboriginal and Treaty rights, as well as any potential claim to compensation in respect of the easement area. BACKGROUND: On August 27, 2007, the TLEC referred the matter to the IMC. The IMC directed the IMC Chairperson to consolidate the submissions of the Parties into the format of the protocol for review of a Referral for further discussion, expected in August 2008. | | Not determined as of March 31, 2008. | |
| 2007-TLEC-003 IMC RE: BILL 32 consultation and MFA subsection 40.12 | 8/27/2007 | 10.02, 40.12 | Miscellaneous Provisions, Constitutional or Legislative Changes | ISSUE: TLEC alleged that Manitoba failed to consult with the TLEC as per the common law duty to consult and accommodate, as well as under Subsection 40.12 in regards to the introduction of Bill 32. BACKGROUND: On August 27, 2007, the TLEC referred the matter to the IMC. TLEC further asserts that Bill 32 would unilaterally take away the right of the EFNs to determine the scope of the rights in the Replacement Interest under Subsection 10.02. | | Bill 32 did not proceed and died on the Order Paper. File closed. Decision made at May 14, 2008 IMC Meeting. Therefore while this matter was current as of March 31, 2008, it is now resolved. | |

Appendix E

Definitions used in the 2007/2008 IMC Annual Report



DEFINITIONS USED IN THE ANNUAL REPORT OF THE IMC 2007/2008

“AFC” means Agreed Forms Committee;

“AIP” means Agreement in Principal;

“BCN” means Bunibonibee Cree Nation;

“BLFN” means Barren Lands First Nation;

“BON” means Brokenhead Ojibway Nation;

“BPFN” means Buffalo Point First Nation;

“CAP” means Community Approval Process;

“EFN” means Entitlement First Nation;

“FRPFIA” means Federal Real Property and Federal Immovables Act;

“IMC” means the Implementation Monitoring Committee;

“I/M Referral Protocol” means the agreed format or “Protocol” for the referral and review of an Issue or Matter in Dispute;

“LIS” means Land In Severalty;

“LSS” means the Land Selection Study;

“MANA” means Manitoba Aboriginal and Northern Affairs;

“MCCN” means Mathias Colomb Cree Nation;

“MCFN” means Marcel Colomb First Nation;

“MFA” or **“Framework Agreement”** means the 1997 Manitoba Framework Agreement on Treaty Land Entitlement;

“MNRTA” means the Manitoba Natural Resources Transfer Agreement;

“NCN” means Nisichawayisihk Cree Nation;

“NHCN” means Norway House Cree Nation;

“OCN” means Opaskwayak Cree Nation;

“OPCN” means O-Pipon-Na-Piwin Cree Nation;

“RRFN” means Rolling River First Nation;

“SCN” means Sapotaweyak Cree Nation;

“TEA” means a Treaty Entitlement Agreement; and,

“TLEC” means the Treaty Land Entitlement Committee of Manitoba, Inc.

“TLE” means Treaty land entitlement under any Treaty in Manitoba.

“TPI” means Third Party Interests;

“TRELES” means Treaty Land Entitlement System;

“WSCN” means Wuskwi Sipihk Cree Nation;



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