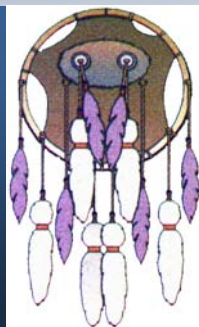


2009 - 2010



Implementation Monitoring Committee
Annual Report

1997 Manitoba Framework Agreement Treaty Land Entitlement

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1.0 INTRODUCTION

Thirteen years ago, on May 29, 1997, the Treaty Land Entitlement Committee of Manitoba, Inc. (referred to in this Report 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 Treaties with Canada called the *Manitoba Framework Agreement on Treaty Land Entitlement* (referred to in this Report as either the “Framework Agreement” or “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 after the confederation of Canada was formed in 1867, 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 virtually all 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 1 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.

Significant progress in addressing the outstanding Treaty Land Entitlement obligations of the Crown 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 the *Calder* decision, Canada established its first claims policy and an Office of Native Claims. Canada also began to provide funding assistance to First Nations or First Nation 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 first 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 in Manitoba 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:

- (a) the TLEC negotiated TLE with Canada in recognition of the basis of the Crown/First Nation Treaty relationship, and
- (b) 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 Manitoba¹. 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 the TLE for these six First Nations on the open market due to the lack of sufficient unoccupied Crown Land available in the vicinity of the existing Reserve land base for these six First Nations. Accordingly, if all 21 First Nations entered into agreements, the 21 EFNs would collectively be entitled to select a total of 985,949 acres of provincial Crown Land for Reserve. In addition, six of those First Nations - the Brokenhead Ojibway, Buffalo Point, Opaskwayak Cree, Rolling River, Sapotaweyak and Wuskwi Sipiik Cree First Nations - are entitled to purchase or otherwise acquire the balance of 114,677 acres of land for Reserve.

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
NISICHAWAYASIIHK	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
SAYISI DENE	5	22,372		22,372
SHAMATTAWA	5	24,912		24,912
WAR LAKE	5	7,156		7,156
WUSKWI SIPIHK	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 secure 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

¹ Canada declared divisions 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, 2009, these two “new” First Nations had not executed TEAs under the MFA.

residential development, economic development, protection of cultural and historical land, tourism purposes and traditional uses considered of importance to each First Nation community.

As of March 31, 2010, 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. The six unsigned EFNs 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
NISICHAWAYASIIK 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 November 26, 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 a 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 13 years.

After 13 years of implementation, the Parties to the MFA have managed to succeed in setting apart some 352,733.68 acres of land for Reserve comprised of 102 separate selections and 16 acquisitions of land. This represents approximately 36.6 % 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 38,757.65 acres comprised of 17 separate selections were set apart as Reserve during the 2009/2010 fiscal year (about 11% of the total acreage set apart to date).

In recognition of the frustration of EFNs arising from the slow pace of Reserve creation under the MFA and other TLE agreements in Manitoba, both the Minister of Indian Affairs for Canada and the Minister of Aboriginal and Northern Affairs publicly mandated a 4 year plan of action on TLE on August 22, 2006, directing their respective administrations to set apart a target 150,000 acres as Reserve each year. This supplementary 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 with respect to 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.

In early 2007, 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 proved to be a positive step in ensuring a more effective IMC as anticipated by the MFA. Although significant challenges to implementation continued to exist and will exist throughout the exercise, the IMC Representatives were working 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, until the IMC Chairperson departed on June 30, 2009.

On February 28, 2009, Rod McLeod’s two year term as independent Chairperson ended. On March 5, 2009 the Chairperson wrote the parties and stated: “As discussed, I am only prepared to accept a further appointment based upon certain clear understandings. I feel there is little point to my effort as your Chairperson if the parties cannot commit to the completion of certain fundamental tasks this fiscal year and into the future - the completion of IMC records and files, the confirmation of the Lists of issues/status/means of resolution, the completion of internal systems of tracking Reserve creation, the allocation or reallocation of sufficient resources (financial and human) to maximize the implementation efforts, the development and maintenance of essential strategic plans and, hopefully, the resolution of at least the TLEC hydro easement referral.”

Discussion was held at IMC meetings; however no firm commitments to retain Mr. McLeod were forthcoming until June, 2009, and by that time he had decided to depart effective June 30th, 2009.

Upon Mr. McLeod’s departure, the Assistant Chairperson requested within a discussion paper dated July 21, 2009; a) clarification from the parties as to how they wished to proceed to staff the vacancy, and b) confirmation respecting the authority of the Assistant Chairperson position in the interim. Although there was some discussion on these topics and decisions were made to move forward in various ways a few times, these were never confirmed and finalized by the representatives of the Parties, and the authority of the Assistant Chairperson was never confirmed by the representatives of the Parties. (Please refer to Section 2.5(d) for details.) The net result was that the IMC did not have a Chairperson for the last $\frac{3}{4}$ of the 2009/2010 fiscal year, and without a Chairperson the IMC was without a quorum as defined in the MFA and could not conduct business. This has been the major issue to be addressed by the Parties during the

2009/2010 fiscal year, as a high number of high priority matters have been referred to the IMC for resolution, and they could not be addressed by the IMC (lack of quorum) for the majority of the fiscal year.

By December, 2009, the Senior Advisory Committee had decided to change the IMC model, and served notice to both the Assistant Chairperson and Executive Assistant that the parties planned to terminate their employment, end the IMC office model, and tender the position of independent Chairperson, in a manner whereby the bidding consultant would operate from his own offices, and provide administrative support on behalf of the IMC.

In the interim, the representatives of the parties asked the Assistant Chairperson to facilitate a series of Strategic Planning meetings, to enable the parties to develop a commonly held and supported Strategic Plan to guide implementation of the MFA. A series of meetings were held and the Parties were progressing with this initiative at fiscal year end.

On March 22, 2010 the Senior Advisory Committee (SAC) wrote the Assistant Chairperson and advised that SAC had met with the IMC representatives on March 17, 2010 and directed the IMC representatives to meet with the Assistant Chairperson and discuss; a) the terms and conditions concerning the Assistant Chairperson serving as Chairperson for 2010/2011, and b) confirmation of a 2010/2011 budget that would not exceed \$300,000.00.

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:

- (a) a summary of the progress of implementation of the MFA and any TEA;
- (b) the recommendations of the IMC for the improvement of the implementation of the MFA and any TEA;
- (c) a summary of the issues or matters in dispute which have been resolved during the reporting period;
- (d) a summary of the issues or matters in dispute still outstanding at the end of the reporting period;
- (e) recommendations for improvement of the implementation of the MFA and any TEA; and
- (f) an unaudited annual statement including:
 - all funds received by the IMC from the Parties during the fiscal year;
 - a statement of how those funds were distributed; and
 - a statement of all contributions in kind to the costs of the IMC.

This Annual Report pertains to the fiscal year 2009/2010 which ended March 31, 2010.

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, 2010, the IMC Representatives, alternate Representatives and Chairperson were as follows:

Merrel-Ann Phare	TLEC representative
Paul Chief	TLEC representative
Dave Hicks	Manitoba representative
Rick Kosmick	Manitoba Alternate representative
Winona Embuldeniya	Canada representative
Edgar Rasmussen	Canada Alternate representative

CHAIRPERSON: (April 1, 2009 – June 30, 2009) Rod McLeod was appointed Chairperson of the IMC by the Parties effective March 1, 2007, for a two year term which ended February 28, 2009. The IMC representatives extended his term until June 30, 2009.

CHAIRPERSON: (July 1, 2009 – March 31, 2010) – The Chairperson position was vacant from July 1, 2009 to fiscal year end.

ASSISTANT CHAIRPERSON: (April 1, 2009 - March 31, 2010) - Lloyd Grahame has over 25 years experience working with First Nations in Manitoba, the majority of which was directly related to fulfillment of outstanding TLE. Lloyd has a Bachelor of Environmental Studies degree and a Masters degree in Urban Planning. Lloyd was the Federal representative on the Lands Technical Working Group that was established during the MFA negotiations, and shared the federal lead role in developing the Land Transfer and Reserve Creation Process Manual; the three Party companion document to the MFA. Lloyd managed the Land Entitlement and Claims Implementation Office at INAC and chaired Canada's Additions to Reserve Policy Committee for five years. Prior to negotiation of the MFA, Lloyd was responsible for the implementation of the Island Lake First Nation TLE Settlement Agreements. Lloyd has visited and met with every MFA First Nation community, managed over thirty Land Capability, Use, and Selection Studies and completed site assessments on over 125 TLE selections.

2.0 PROGRESS IN IMPLEMENTATION OF THE MFA

As observed in the Annual Report for fiscal year 2007/2008, it would be fair to say that all Parties struggled with understanding the scope and range of each Party's duties and responsibilities in the earlier stages of implementation, with 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, as affirmed by the Reports of the federal Office of the Auditor General of November 2005 and March 2009. Clearly, many of these same factors bear upon the process today. The IMC has continued to struggle with its role in relation to resolution of disputes, and the IMC representatives have struggled with addressing the key issue of the 2009/2010 fiscal year - of quickly ensuring the IMC regained a quorum and could function upon the resignation of Mr. McLeod on June 30, 2009. 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, despite substantial efforts over the last year, the Parties have been unable to reach a consensus on the various issues inhibiting the definition of an agreed form of Hydro Easement required under Article 12 of the MFA and identified as a priority matter for attention in Article 38. (Please refer to Section 5.0(i) for more detail on this matter.) During the Chairperson vacancy, the parties were encouraged to meet and work towards resolution of the issues referred to IMC, but efforts in this regard appear to have been minimal.

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.

2.1 STATISTICAL MONITORING

Shortly after the signing of the MFA, 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. However, being a provincial system TRELES was not designed to track Crown land moving through

the Federal Reserve creation process before or after transfer to Canada. Prior to the end of the 2008/2009 fiscal year, Manitoba agreed it could, based on information to be provided to Manitoba by Canada, add data fields to TRELES to track key information including the status of the Environmental Site Audit, the status of the site survey, and the date of approval in principle pursuant to the Additions to Reserves Policy. Canada has committed to ensuring that this summary information is made available to Manitoba for this purpose, however by the end of the 2009/2010 fiscal year, this had not occurred. 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.

Although a recommendation of the federal Auditor General's office in its report of November 2005, by the end of the 2009/2010 fiscal year end Canada had still not developed a comprehensive, functional system of internal monitoring of Reserve creation under the MFA through which Canada can advise and inform the other Parties and EFNs of progress in implementation.

During the 2009/2010 Strategic Planning initiative the parties agreed to refine the Land Transfer and Reserve Creation Process Manual land transfer steps, and date populate the steps so as to be able to advise each other party and the EFNs, respecting; the order of steps, responsibility for completing each step, and the date each step was completed. This objective could not be accomplished without an extensive file review, and by fiscal year end was still underway. While the parties should be commended for agreeing to undertake this work, it is noteworthy that a comprehensive understanding of steps completed, steps outstanding, responsibility, and the relative order of steps could not be completed in short order and communicated between the Parties and with the EFNs.

In examining overall statistical performance under the MFA, this Report focuses on the efforts of 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. As noted in previous Reports, six EFNs entitled to enter into TEAs under the MFA have not executed an agreement to secure additional Treaty land.

Chart 3: Total amount of Crown Land and Other Land of the Fifteen 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

2.2 RATE OF CROWN LAND SELECTION AND PRIVATE LAND ACQUISITION

The overall rates of Crown Land selection and private land acquisition/purchase by the First Nations that have signed TEAs are shown in **Charts 4** and **5**.

Chart 4: Rate and Amount of Crown Land Selection - 1997 to 2010 by the Fifteen Entitlement First Nations that have signed TEAs

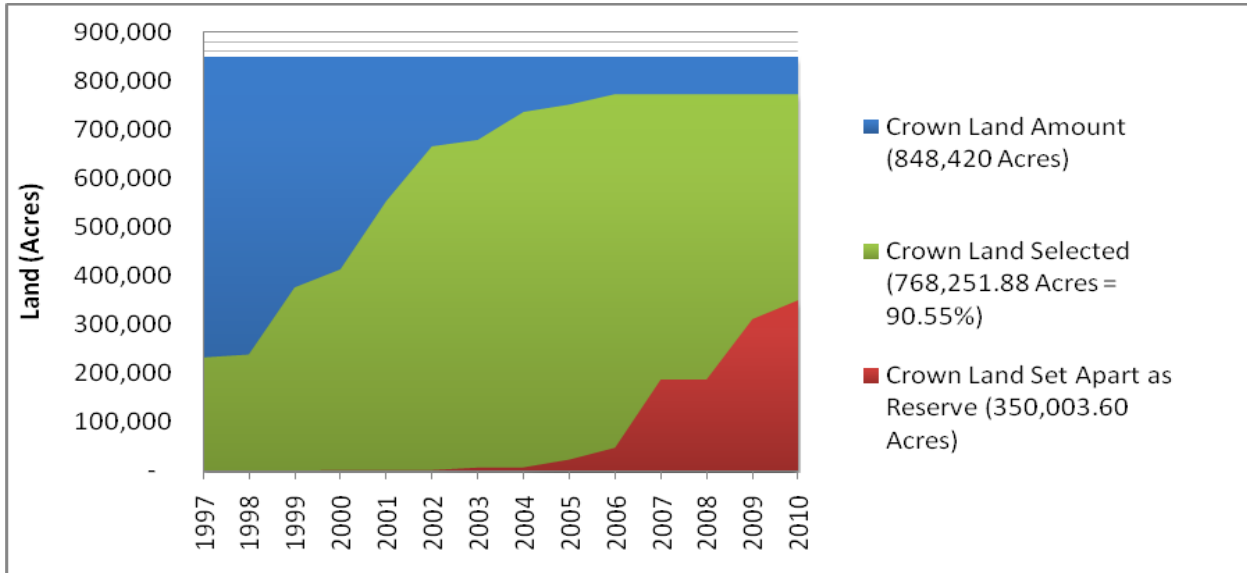
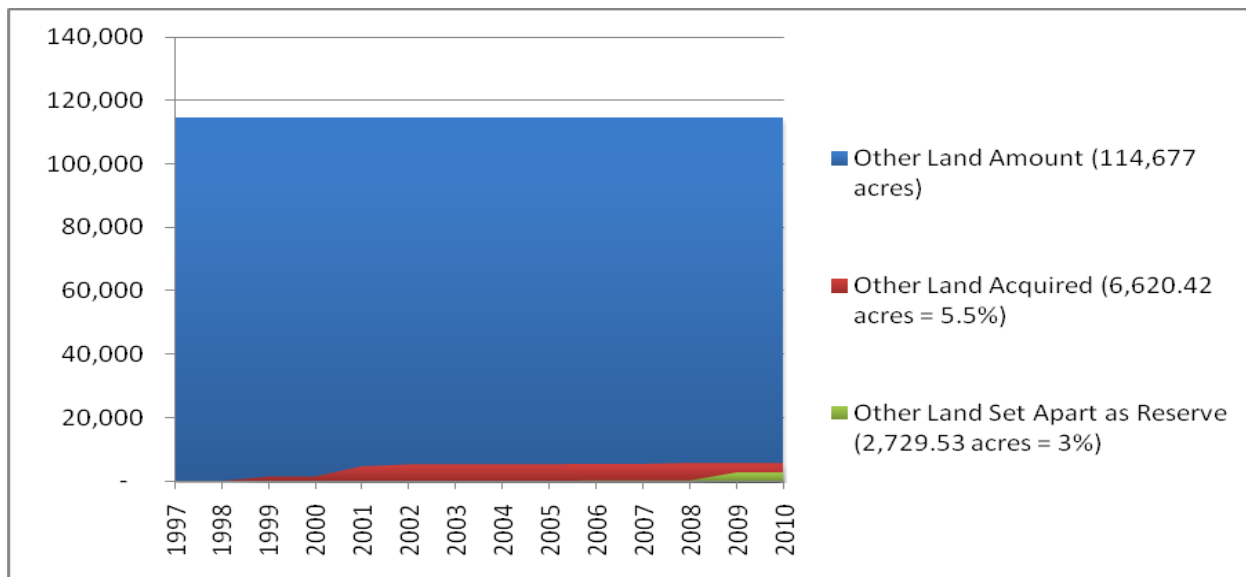


Chart 5: Rate and Amount of Other Land Acquisition - 1997 to 2010 by the Six Entitlement First Nations Entitled to Purchase or Acquire Other Land that have signed TEAs



As can be seen, on an overall basis, the 15 EFNs had Selected 90.55% of the total Crown Land Amount (768,251.88 acres) committed to the 15 EFNs, but the six EFNs entitled to purchase or acquire Other Land had acquired only 5.5% of the total private purchase/Other Land Amount (6,260.42 acres) committed to the six EFNs at year end.

- (a) **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. However, only 5 of the 15 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 for certain EFNs were confirmed by the IMC in the earlier years of implementation, but as reported last year, there were 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. The matter of extension of the Periods of Selection was reviewed by the IMC Representatives of the Parties last fiscal year at an IMC Meeting on January 22, 2009, and the Representatives agreed that extensions were not an issue requiring attention at this time. However, the matter of completion of Crown land selections by EFNs remains a matter for ongoing discussion on a case by case basis as part of the implementation process.
- (b) **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 after the date of each EFN's respective TEA. Accordingly, approximately 4/5 of that period has now passed for most of the EFNs. None of the EFNs entitled to purchase land have acquired all of the purchase land to date, nor are any of the EFNs near acquiring 4/5 of the purchase land entitlement as of this date. Over the past year there has been minimal increase in the number of acquisitions confirmed by the six Schedule B EFNs.

As pointed out in the last Annual Report, it is readily apparent that the six EFNs with Other Land entitlement are unlikely to complete the acquisition of private or Other Land within the target time period. Also expressly anticipated by Article 4, there were no steps taken to request from EFNs that detailed plans be put in place for attending to the target level of land purchases by the six EFNs. A specific process of review with each of the six EFNs was not undertaken in 2009/2010, as anticipated last year.

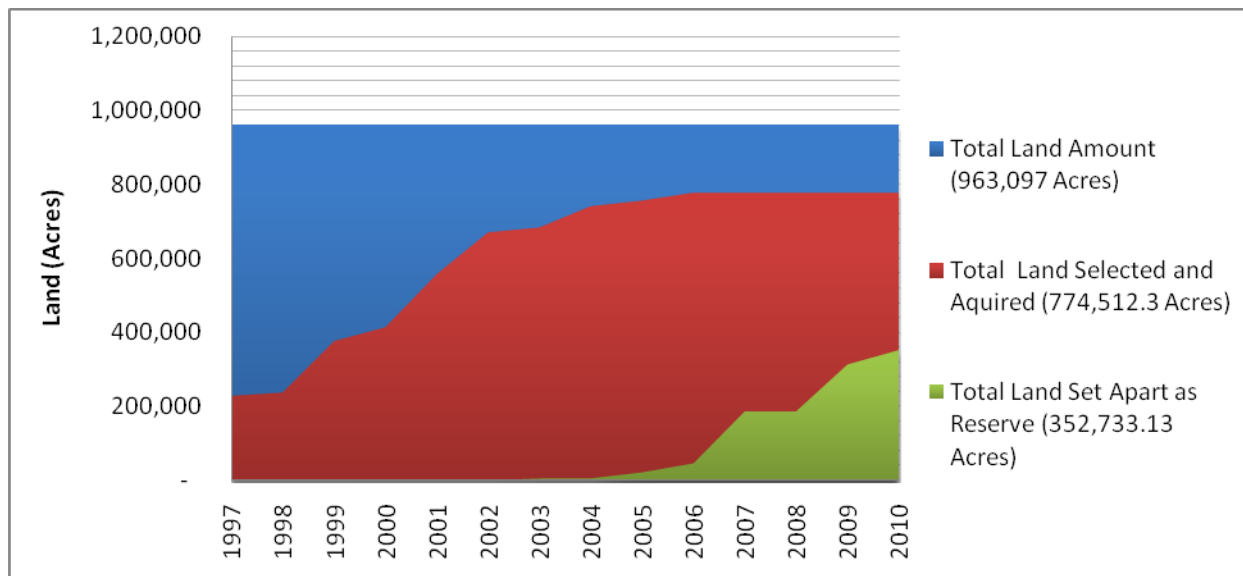
2.3 RESERVE CREATION AS A PERFORMANCE MEASUREMENT

(a) **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. Referring to **Charts 4 and 5** again, it can be seen that; 41% or 350,004.15 acres of the total Crown Land Amount for the 15 EFNs with signed TEAs has actually been set apart as reserve, and 3%, or 2,729.53 acres of the total purchase/Other Land Amount has been set apart for the six EFNs found on Schedule "B" of the MFA.

Acceleration in the rate of Reserve creation has been recent as illustrated in **Charts 4 - 6**. As can be seen, the rate of acceleration of Reserve creation on an overall basis initially increased after the commitment of the respective Ministers responsible in August of 2006, but this fiscal year has slowed again. About 11% (38,757.65 acres) of the total amount of land now set apart as Reserve under the MFA was set apart by Canada during this past 2009/10 fiscal year. In comparison 140,465.95 acres of land were set apart as Reserve in fiscal year 2007/08, and 126,444.20 acres were set apart in fiscal year 2008/2009. Last year (08/09) the Parties recognized that the degree of effort and administrative overhead required to transfer small parcels of land is comparable to that required to transfer large parcels of land, and with the largest parcels now transferred, it would be difficult to maintain the rate of implementation moving forward. This observation has come to pass. For a complete listing of selections and acquisitions which have been set apart to the end of the fiscal year pursuant to the MFA, the date set apart, the official reserve name, and acreage; please refer to **Appendix B**.

Chart 6: Rate of Reserve Creation - Total Land Amount - 1997 to 2010 by the Fifteen Entitlement First Nations that have signed TEAs



(b) 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 13 years tells another, more graphic story. For example, as set out in **Chart 7** below, at one end of the spectrum, two First Nations have still not had any land set apart as Reserve to date, while at the other end of the spectrum, the Sapotawayak Cree Nation has had some 99,700.93 acres or 69% of its Total Land Amount set apart as reserve and the Bunibonibee Cree Nation has had some 31,342 acres or 88.45% of its Total Land Amount set apart as Reserve. As suggested in the last Annual Report of the IMC, progress under the MFA measured by way of acres set apart as Reserve may be one measure of performance on an overall basis against the Total Amount of Land set out in **Chart 6** above, but the IMC recognizes that 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 15 through 31.

During 2009/2010, 17 parcels of land were set apart as reserve for 5 of the EFNs. Ten of the 15 EFNs with TEAs did not have any land set apart as Reserve for the use and benefit of the EFN during this fiscal year.

Even so, the Parties are committed to the achievement of the overall target of 150,000 acres for each of the next 2 years (**Note:** the target is inclusive of the four other TLE settlement Agreements in Manitoba²) apart from the general obligations of the Parties under the MFA. To a degree, internal planning and coordination efforts by the Parties continue to be focused on Reserve creation proposals that have the greatest likelihood of resolution each year and are able to be set apart by the August anniversary date of the Ministerial commitments.

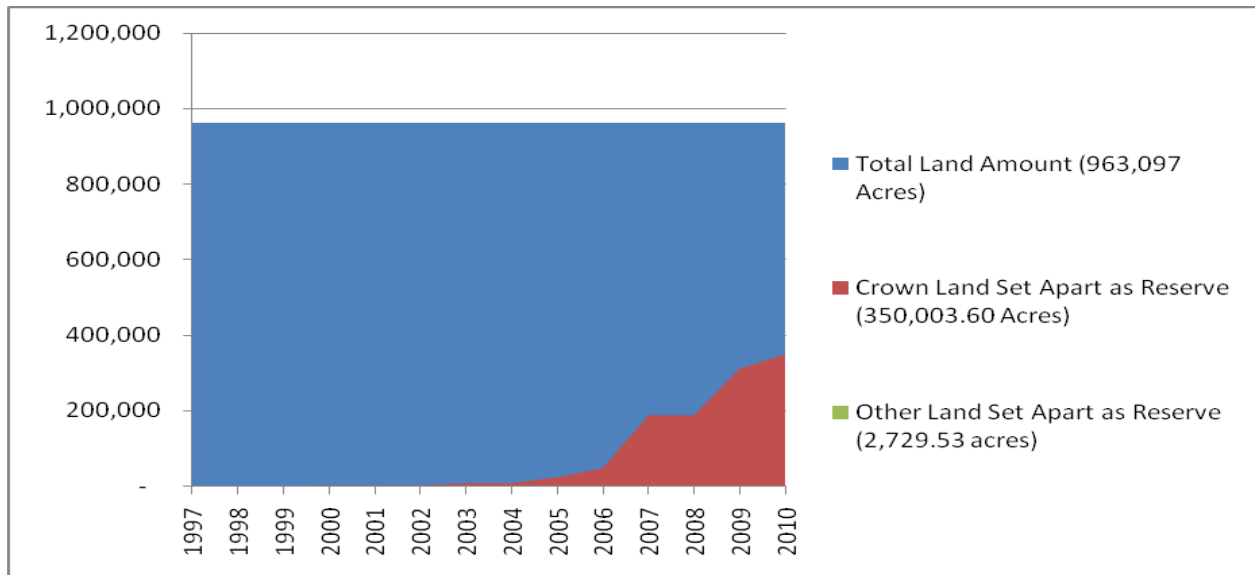
² Other TLE settlements in Manitoba were reached with the four Island Lake First Nations (Garden Hill, Red Sucker Lake, St. Theresa Point and Wasagamack) – 100,000 acres in 1994; Long Plain First Nation – 4,169 acres minimum - 26,437 acres maximum in 1994; Roseau River Anishinabe First Nation – 5,861 acres minimum - 16,218 acres maximum in 1996; as well as the Swan Lake First Nation – 4,484 acres minimum - 13,035 acres maximum in 1995: involving a combination of Crown land selection (100,000 acres) and private purchase of land (14,514 minimum - 55,690 maximum acres) totaling 114,514 - 155,690 acres. The Island Lake First Nation's Treaty Land Entitlement Settlement Agreement is close to being fully implemented, with 101,260.91 acres of Crown land selections having been set apart as reserve. With respect to the 14,514 - 55,690 acres of acquisition land for Swan Lake, Long Plain, and Roseau River First Nations, a total of 10,756.12 acres, (or 74.11% of the minimum / 19.31% of the maximum), have been set apart as reserve. Individually, the rate of implementation varies considerably among these three First Nations: Swan Lake having 8,773.35 acres, (or 100% of the minimum / 67.3% of the maximum) set apart as reserve; Long Plain having 1,907.97 acres, (or 45.7% of the minimum / 7.2% of the maximum) set apart as reserve; and Roseau River having only 74.8 acres, (or 1.3% of the minimum / 0.5% of the maximum) set apart as reserve.

These parcels/proposals are those included on the Indian Affairs “Dashboard” plans. While the Parties agree that a focus on priority parcels of land identified by each EFN should be an important element of the Reserve creation efforts, the “Dashboard” plans developed by Indian Affairs and the priorities identified by the EFNs, are often quite distinct and separate. The Parties recognize (and confirmed during Strategic Planning sessions) that their annual (fiscal year) plan needs to include work/tasks to advance:

- the parcels on the “Dashboard” plan which are targeted for transfer by August,
- the parcels on the subsequent “Dashboard” plan which are targeted for transfer by the following August, and
- the EFN priority parcels (which are often more complex parcels which are anticipated to take more than one year to transfer), at a minimum.

Although the Parties did not achieve the Year 3 goal of 150,000 acres this past year, improvements in coordination and communications were again 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 are required to be similarly productive in ensuring that the EFNs ultimately secure the additional land resources assured to them by Treaty, the MFA and individual TEAs.

Chart 7: Rate of Reserve Creation - Crown Land versus Other Land - 1997 to 2010 by the Fifteen Entitlement First Nations that have signed TEAs



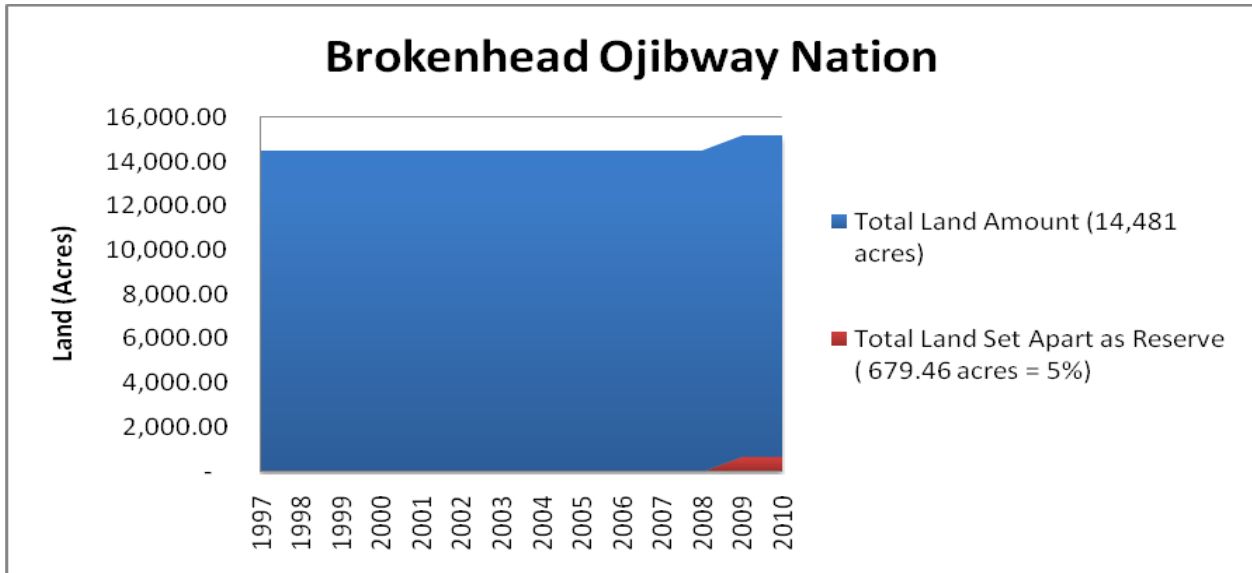
IMC NOTE: In the above Chart 7, the amount of Other Land Set Apart as reserve is such a small percentage of the Total Land Amount, that it does not appear evident in this illustration.

(c) 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 8**, 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 was to be given greater attention in the work plans associated with the six Entitlement First Nations purchasing private land, beginning fiscal year 2008/2009. However, other priorities intervened and this planning did not occur during the 2008/2009 and/or 2009/2010 fiscal years. There were only two additional acquisitions confirmed by the EFNs during the 2009/2010 fiscal year.

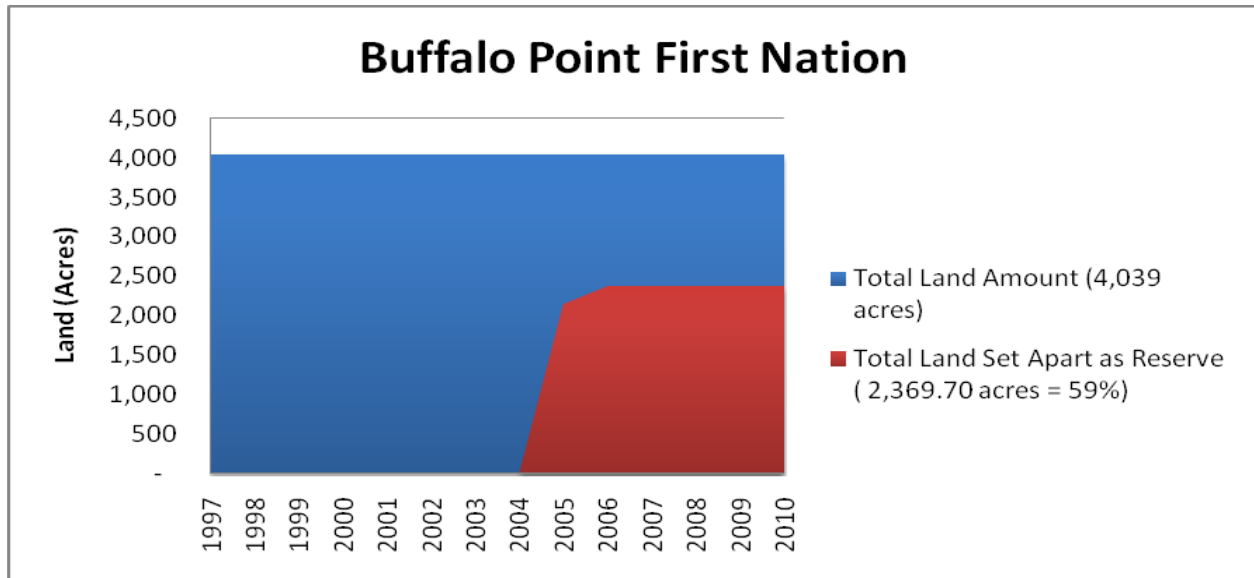
While the acquisition of Other Land is to be initiated by the six EFNs which have a purchase/Other Land entitlement, this is clearly not occurring. It is important for all Parties to understand why the acquisition of Other Land is not taking place. The TLEC is well positioned to communicate with these six EFNs and determine if the other Parties might be able to assist in this regard. Dialogue, leading to a better understanding may identify possible ways and means for the Parties to assist the EFNs and improve implementation of the MFA.

Chart 8: Total Acres set apart as Reserve for each of the Fifteen Entitlement First Nations that have signed TEAs



Brokenhead Ojibway Nation has selected 4,275.80 acres. (Source: March 31/10 TRELES)

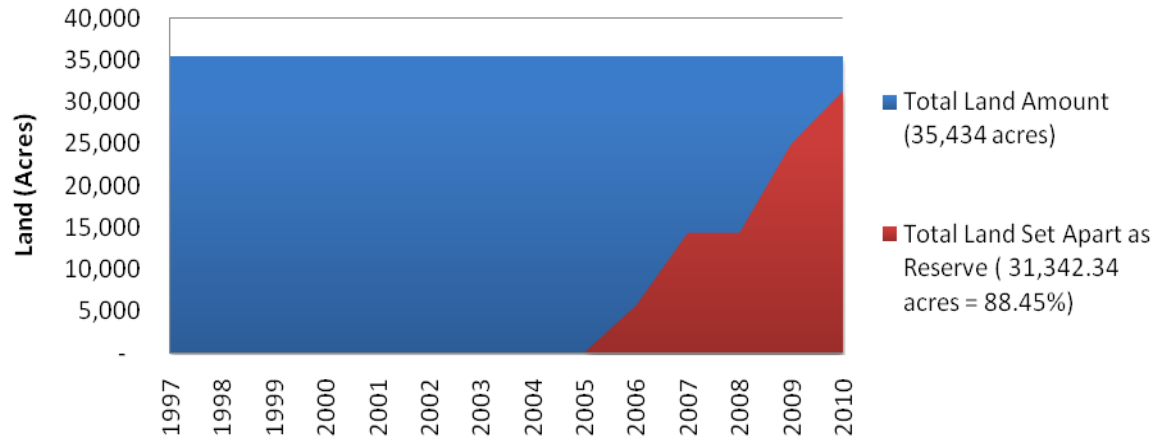
YEAR	DATE	OCPC/MO NO.	RESERVE NAME - ADDITION	SELECTION ACREAGE	ACQUISITION ACREAGE	FORMER SELECTION /ACQUISITION NAME
2008	AUG. 27	MO-2008-032	Birch Landing Indian Reserve	510.58		Ironwood Point Phase 1
				161.42		Ironwood Point Phase 2
2008	OCT.1	MO-2008-040	Nashakepenais Indian Reserve	-	7.46	East St. Paul acquisition
TOTAL				672.00	7.46	



Buffalo Point First Nation has selected 2,642.93 acres. (Source: March 31/10 TRELES)

YEAR	DATE	OCPC/MO NO.	RESERVE NAME - ADDITION	SELECTION ACREAGE	ACQUISITION ACREAGE	FORMER SELECTION /ACQUISITION NAME
2005	FEB.17	MO - 2005-001	Buffalo Point First Nation I.R. No. 1	92.40		PTH12 / International Boundary
2005	MAR.14	MO-2005-003	Buffalo Point First Nation I.R. No. 2	859.70		Poplar Point
2005	MAR. 14	MO-2005-003	Addition to Reed River I.R. No. 36A	39.93		Goulds Point 4A
				283.17		Goulds Point 4B
				868.20		Goulds Point 4C
2006	APR. 3	MO-2006-004	Buffalo Point First Nation Indian Reserve No. 3	226.30		Buffalo Point Access Road
			TOTAL	2,369.70	0	

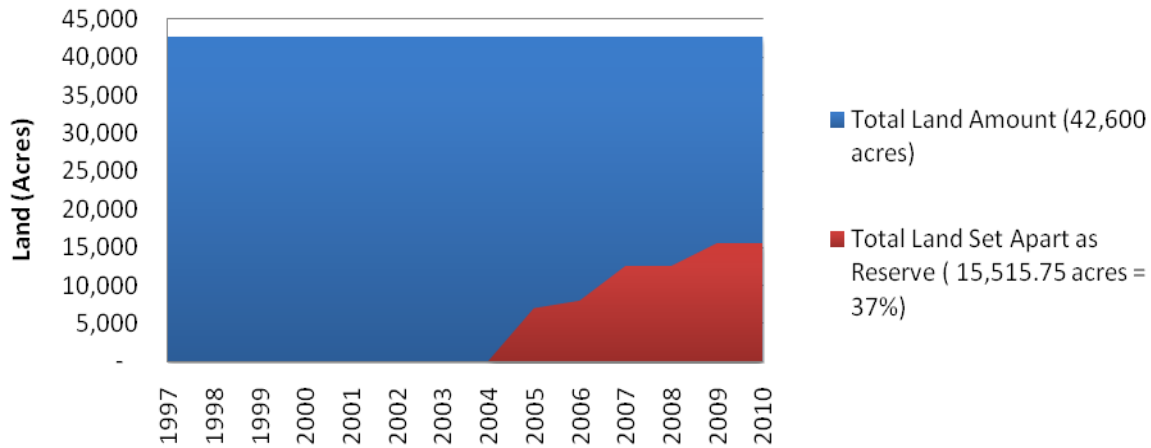
Bunibonibee Cree Nation (Oxford House)



Bunibonibee Cree Nation has selected 35,209.70 acres. (Source: March 31/10 TRELES)

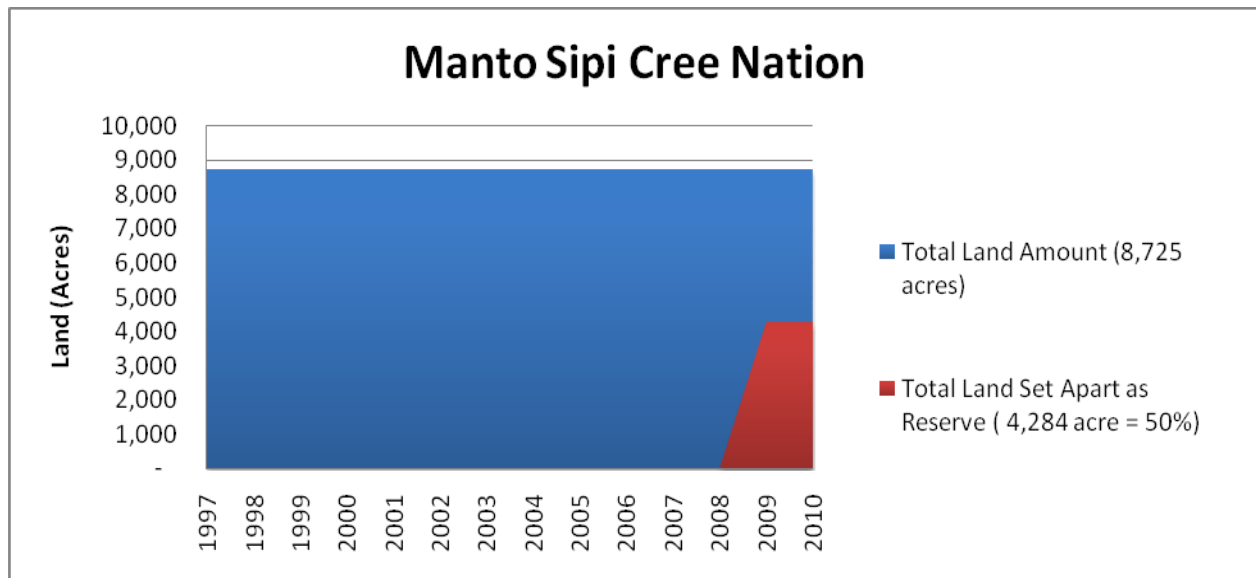
YEAR	DATE	OCPC/MO NO.	RESERVE NAME - ADDITION	SELECTION ACREAGE	FORMER SELECTION /ACQUISITION NAME
2006	NOV.23	OCPC-2006-1407	Oxford House Indian Reserve No. 24A	361.00	No. 24A - Carrot Bay
			Oxford House Indian Reserve No. 24B	4,294.70	No. 24B - Colen Lakes
			Oxford House Indian Reserve No. 24C	993.00	No. 24C - Bear Lake
			Oxford House Indian Reserve No. 24D	11.34	No. 24D - Atikosis Lake
2007	JUL. 31	OCPC-2007-1170	Oxford Lake North Shore Indian Reserve	3,422.00	Oxford Lake North Shore
			Wapisew Lake Indian Reserve,	176.00	Wapisew Lake
			Whitemud Lake Indian Reserve	5,110.00	Whitemud Lake
2008	MAY. 29	OCPC-2008-991	Munro Lake Indian Reserve	3,684.00	Munro Lake Ridge
2008	AUG. 21	MO-2008-029	Notin Sakahekun Indian Reserve	6,974.30	Windy Lake
2009	AUGUST 7	MO-009-025	High Hill Lake Indian Reserve	1,043.00	High Hill Lake /Silsby Lake
2009	AUGUST 7	MO-009-025	Opischikunayak Nation Indian Reserve	630.00	Opischikunayak Narrows
2009	AUGUST 7	MO-009-026	Kisipikamak Indian Reserve	4,643.00	Lynx Bay
			TOTAL	31,342.34	

God's Lake First Nation



God's Lake First Nation has selected 41,063.44 acres. (Source: March 31/10 TRELES)

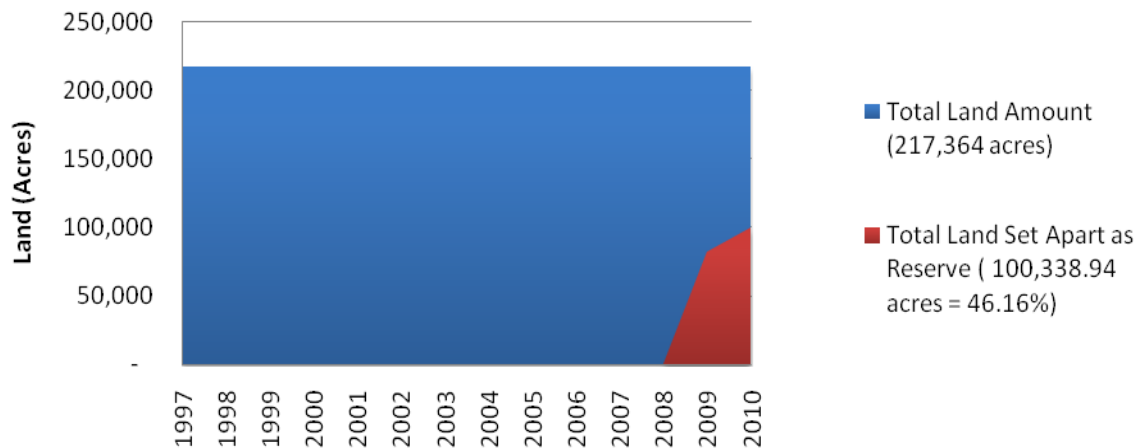
YEAR	DATE	OCPC/MO NO.	RESERVE NAME - ADDITION	SELECTION ACREAGE	FORMER SELECTION /ACQUISITION NAME
2005	MAY 10	OCPC-2005-819	Andrew Bay Indian Reserve	168.50	Andrew Bay
2005	MAY 10	OCPC-2005-819	Chataway Lake/Knife Lake Indian Reserve	277.00	Chataway Lake/Knife Lake
2005	MAY 10	OCPC-2005-819	Vermilyea Lake Indian Reserve	8.35	Vermilyea Lake
2005	NOV.28	OCPC-2005-2237	North Prominent Ridge Indian Reserve	6,529.00	North Prominent Ridge
2006	JUN. 22	OCPC-2006-552	Red Cross Lake North Indian Reserve	313.30	Red Cross Lake North
			Red Cross Lake East Indian Reserve	671.60	Red Cross Lake East
2007	JUL. 31	OCPC-2007-1172	Esker Ridge B Indian Reserve	264.00	Esker Ridge
			Peter Burtons/Shorty Rapids Indian Reserve,	1,948.00	Peter Burtons/Shorty Rapids
			Wapaminakoskak Narrows Indian Reserve	2,347.00	Wapaminakoskak Narrows
2008	MAY 1	OCPC-2008-825	Esker Ridge A Indian Reserve	1,189.00	Esker Ridge A
2008	AUG.21	MO-2008-028	God's Lake Southeast of Community Indian Reserve	1,051.00	God's Lake Southeast of Community
2008	AUG. 21	MO-2008-030	Kenyan Lake Indian Reserve	749.00	Kenyon Lake
			TOTAL	15,515.75	



Manto Sipi Cree Nation has selected 9,964.68 acres. (Source: March 31/10 TRELES)

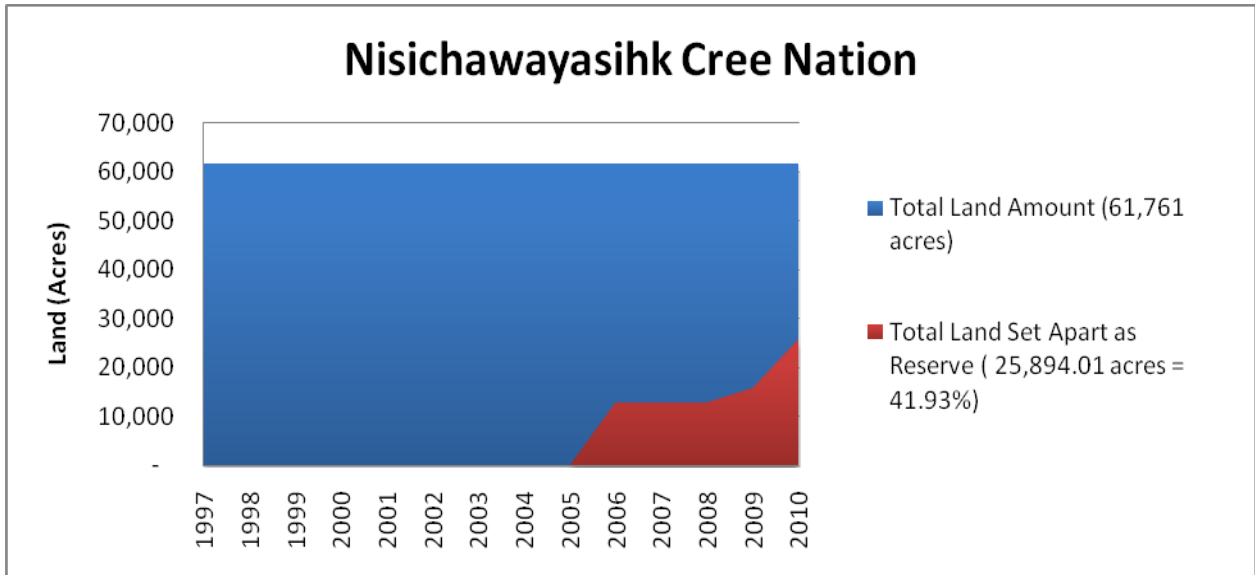
YEAR	DATE	OCPC/MO NO.	RESERVE NAME - ADDITION	SELECTION ACREAGE	FORMER SELECTION /ACQUISITION NAME
2008	MAY 1	OCPC-2008-826	Chepi Lake Indian Reserve	264.00	Chepi Lake
			Prominent Ridge Indian Reserve	2,780.00	Prominent Ridge
			Hurley Island Indian Reserve	1,240.00	Hurley Island
			TOTAL	4,284.00	

Mathias Colomb First Nation



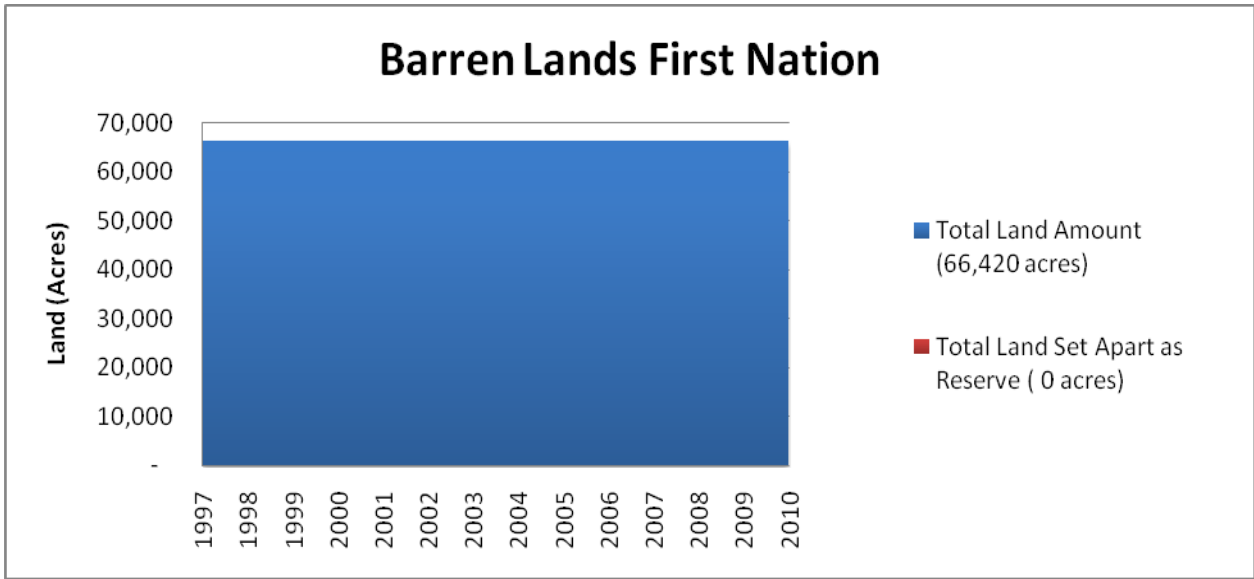
Mathias Colomb First Nation has selected 184,034.09 acres. (Source: March 31/10 TRELES)

YEAR	DATE	OCPC/M O NO.	RESERVE NAME - ADDITION	SELECTION ACREAGE	FORMER SELECTION /ACQUISITION NAME
2009	JAN.12	MO-2009-003	Wepuskow Ohnikahp Indian Reserve	76,687.45	Churchill River Area 30A
2009	JAN. 12	MO-2009-003	Napahkapihskow Sakhahigan Indian Reserve	4,520.00	Churchill River Area 30B
2009	JAN. 12	MO-2009-003	Kimosominahk Indian Reserve	1,366.00	Churchill River Area 30D
2009	AUGUST 7	MO-009-027	Sisipuk Sakahegan (A) Indian Reserve	5164.00	Sisipuk Lake
			Sisipuk Sakahegan (B) Indian Reserve	7.23	Sisipuk Lake Addition West
			Sisipuk Sakahegan (C) Indian Reserve	10.26	Sisipuk Lake Addition East
			Mistiategameek Sipi Indian Reserve	1809.00	Nelson Bay
			Ohpahahpiskow Sakahegan Indian Reserve	3613.00	Highrock Lake
			Moosowhapihsk Sakagegan Indian Reserve	1992.00	Bonald Lake
			Kamihkowapihskak Pawistik Indian Reserve	4263.00	Bloodstone Falls
			Nihkik Ohnikapihs	907.00	McKnight Lake
			TOTAL	100,338.94	

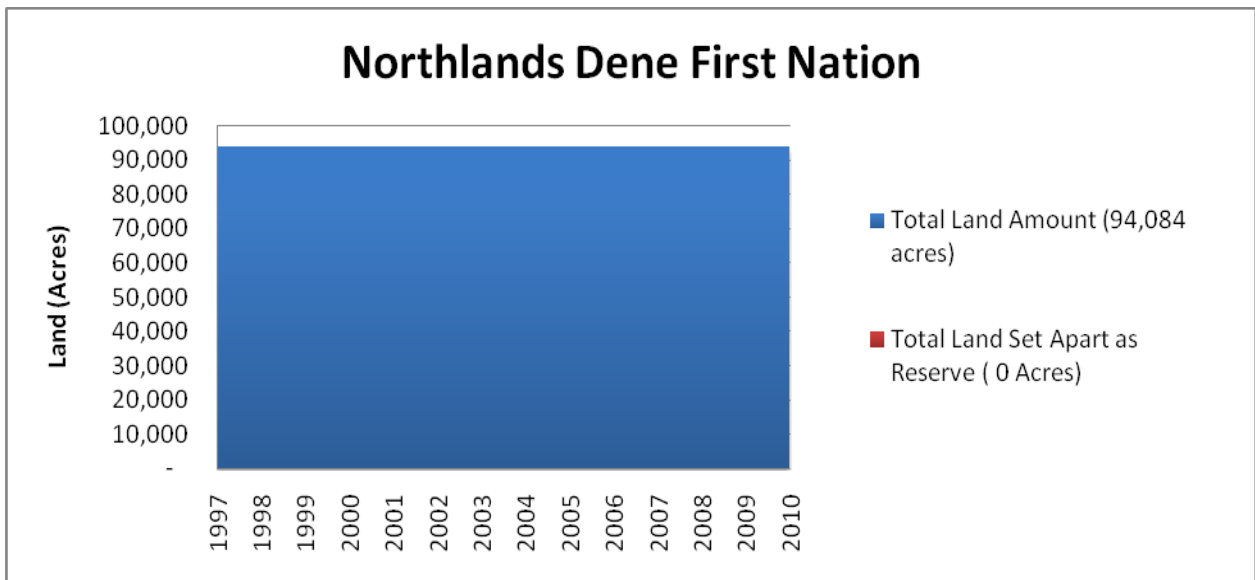


Nisichawayasihk Cree Nation has selected 72,735.93 acres. (Source: March 31/10 TRELES)

YEAR	DATE	OCPC/MO NO.	RESERVE NAME - ADDITION	SELECTION ACREAGE	FORMER SELECTION /ACQUISITION NAME
2006	JUN. 8	OCPC-2006-504	Kapawasihk Indian Reserve	4,621.00	Pakwaw Lake
2006	JUN. 8	OCPC-2006-505	Monahawuhkan Indian Reserve	986.00	Birch Tree Brook West
2006	JUN. 8	OCPC-2006-506	Opekunusakakanihk Indian Reserve	1,747.62	Harding Lake
2006	JUN. 8	OCPC-2006-507	Wapasihk Indian Reserve	3,586.50	Leftrook Lake
2006	JUN. 8	OCPC-2006-508	Wuskwi Sipi Indian Reserve	1,984.12	Gauer River
2008	SEPT. 5	MO-2008-036	Opekanowi Sakaheykun Indian Reserve	26.91	Apeganau Lake Addition
			Numaykoos Sakaheykun Indian Reserve	2,955.00	Baldock Lake Addition
2009	JUNE 17	MO-2009-017	Wuskwi Sakaheykun Indian Reserve Addition to Opekanowi Sakaheykun Indian Reserve	2,270.22	Gauer Lake
			Addition to Numaykoos Sakaheykun Indian Reserve	1958.64	Apeganau Lake
				5758.00	Baldock Lake
TOTAL				25,894.01	

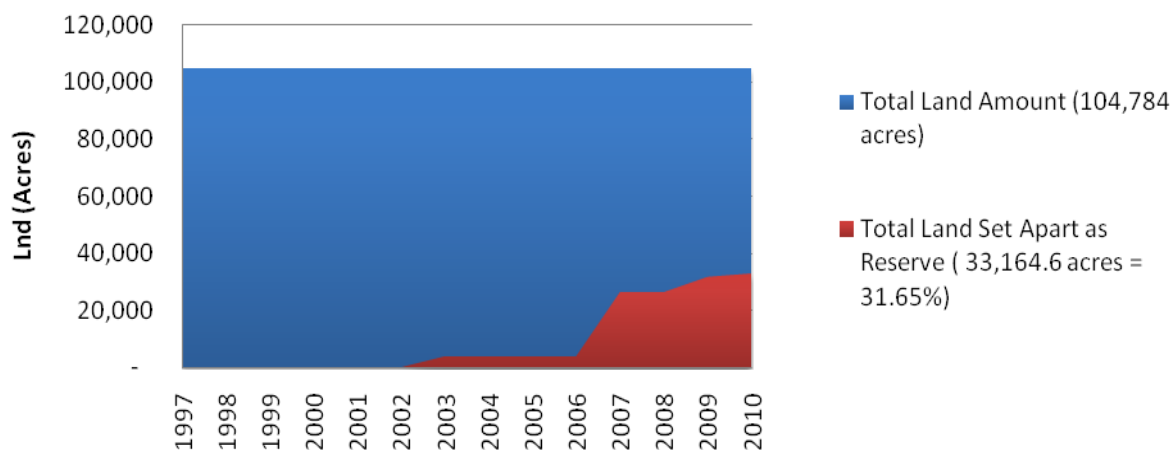


Barren Lands First Nation has selected 28,252.74 acres. (Source: March 31/10 TRELES)



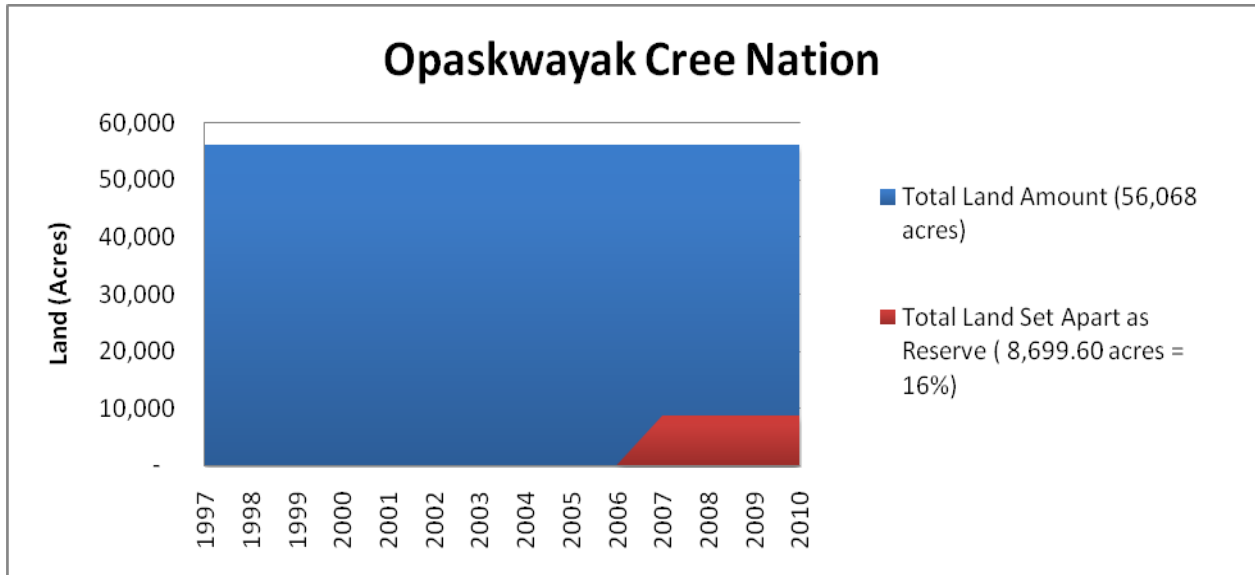
Northlands Dene First Nation has selected 56,905.76 acres. (Source: March 31/10 TRELES)

Norway House Cree Nation



Norway House Cree Nation has selected 106,035.80 acres. (Source: March 31/10 TRELES)

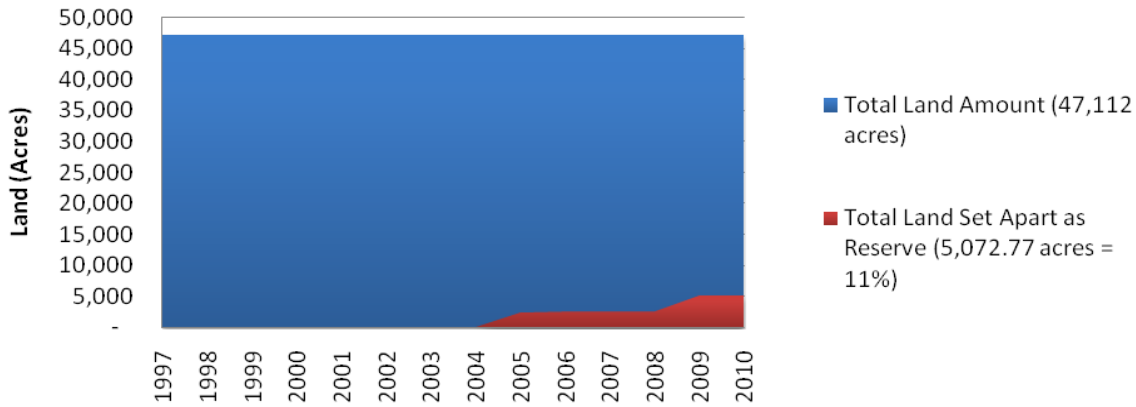
YEAR	DATE	OCPC/MO NO.	RESERVE NAME - ADDITION	SELECTION ACREAGE	FORMER SELECTION /ACQUISITION NAME
2003	DEC.3	OCPC 2003-1936	Ponask Lake Indian Reserve	3,898.95	Ponask Lake
2007	AUG. 10	MO-2007-018	Norway House Indian Reserve Nos. 17C1 to 17C-46	2,021.25	(i.e., numbered 1 to 46 inclusive) - Molson Lake Islands
2007	AUG.10	MO-2007-019	Norway House Indian Reserve Nos. 17D-2	2,916.00	Island River A & B
			17D-3 (Costes Lake B),	219.00	17D-3 (Costes Lake B),
			17D-4 (Beach Lake)	84.00	17D-4 (Beach Lake)
			17D-5 (Little Bolton Lake A & C)	792.00	17D-5 (Little Bolton Lake A & C)
			17D-6 (Echimamish River A and The High Rock)	1,357.00	17D-6 (Echimamish River A and The High Rock)
			17D-7 (Echimamish River B)	35.00	17D-7 (Echimamish River B)
			17D-8 (Nelson River East Channel B)	1,011.60	17D-8 (Nelson River East Channel B)
17D-9 (Lawford Lake)	724.30	17D-9 (Lawford Lake)			
					N.B. There are 3,596 more acres to be transferred as per Prov. OIC No. 324/2006 dated Aug. 2/06.
2007	AUG. 10	MO-2007-020	Norway House Indian Reserve No. 17D-1	3,598.00	North Molson Lake Phase 3
				9,915.00	North Molson Lake Phase 1**N.B. This reserve creation was taken from Prov. OIC Nos. 450/2004 dated Nov. 3/04 and 324/2006 dated Aug. 2/06. There are 8,881 more acres to be transferred as per Prov. OIC No. 450/2004 dated Nov. 3/04.*G53*
2008	DEC.19	MO-2008-043	Anderson Indian Reserve	3,105.40	Painted Stone Portage A
2008	DEC.19	MO-2008-043	Hart Indian Reserve	2,299.10	Painted Stone Portage C
2009	AUG. 7	MO-2009-024	Winnepikosihk Indian Reserve	1,188.00	Molson Lake Access Road
TOTAL				33,164.60	



Opaskwayak Cree Nation has selected 47,234.02 acres. (Source: March 31/10 TRELES)

YEAR	DATE	OCPC/MO NO.	RESERVE NAME - ADDITION	SELECTION ACREAGE	ACQUISITION ACREAGE	FORMER SELECTION /ACQUISITION NAME
2007	AUG.10	MO-2007-022	Root Lake Beach Ridge Site Indian Reserve	8,699.60		Root Lake Beach Ridge Site
			TOTAL	8,699.60	0	

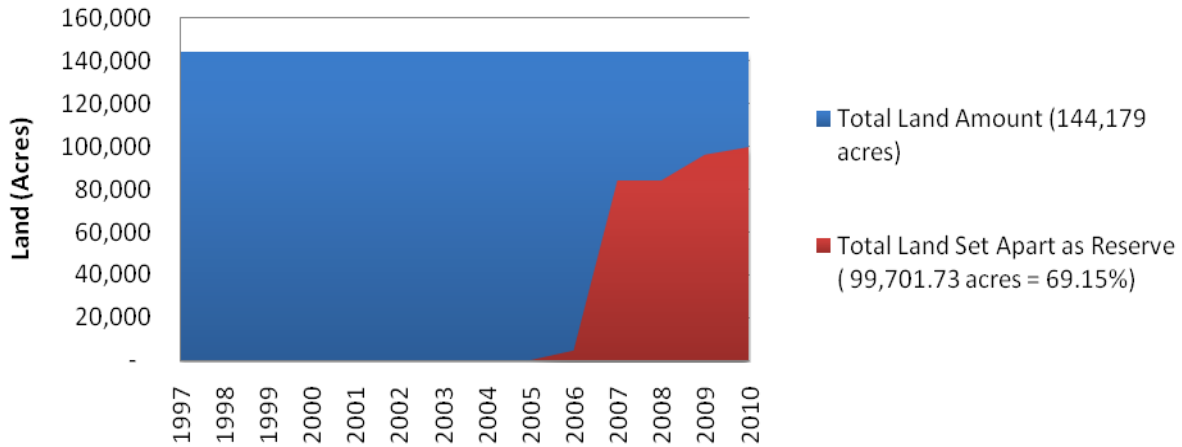
Rolling River First Nation



Rolling River First Nation has selected 2,350.70 acres. (Source: March 31/10 TRELES)

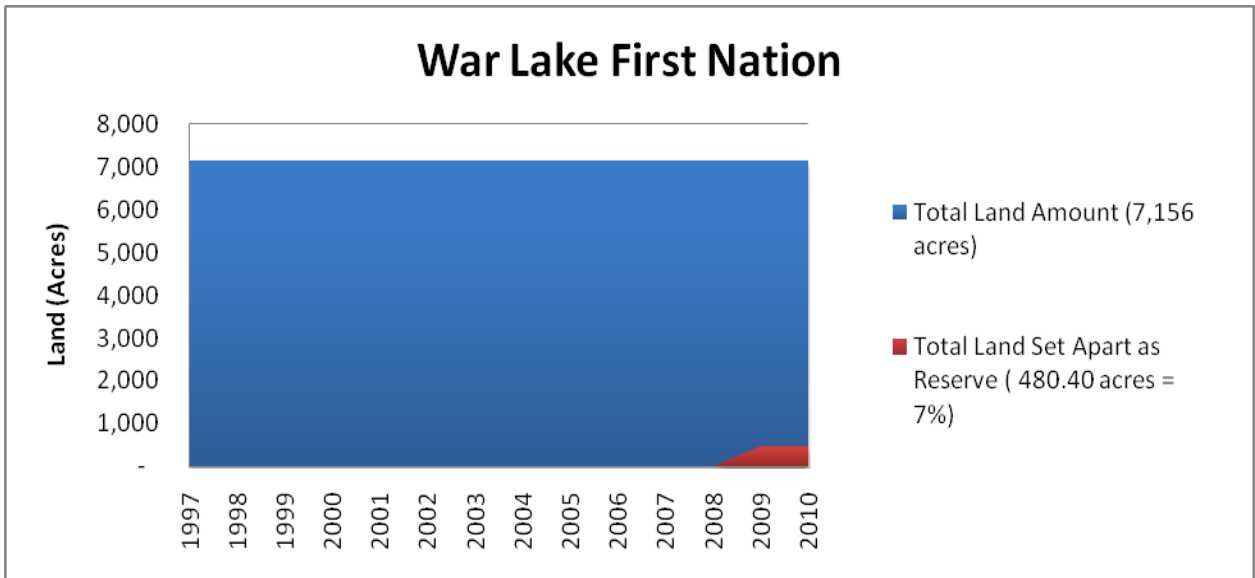
YEAR	DATE	OCPC/MO NO.	RESERVE NAME - ADDITION	SELECTION ACREAGE	ACQUISITION ACREAGE	FORMER SELECTION /ACQUISITION NAME
2005	MAY 9	MO-2005-006	Rolling River Indian Reserve No. 67A	163.44		3b - Onanole WMA
				163.62		3c Onanole WMA
				817.54		3d Onanole WMA
				971.52		4 Bald Hills
				163.35		5 NE 12-19-18 WPM
				20.13		RA1 - Interior Road Allowances
			51.10		RA2 - Exterior Road Allowances	
2006	MAY 29	MO-2006-009	Rolling River Indian Reserve No. 67 B	-	158.14	Ronald Hill acquisition property
2009	FEB. 26	MO-2009-006	Addition to Rolling River Indian Reserve No. 67		1,823.90	E1/2 of SE 1/4 24-16-19 WPM (Site No. 3-01) - 80.00 NE 1/4 24-16-19 WPM (Site No. 2-01) - 157.92 NE 1/4 30-17-18 WPM (Site 2) - 155.00 NE 1/4 34-16-19 WPM (Site No. 11-01) - 160.00 NW 1/4 18-17-18 WPM (Site No. 3-02) - 156.00 NW 1/4 25-16-19 WPM (Site No. 8-01) - 160.00 S 1/2 36-16-19 WPM (Site No. 14-01) - 320.00 SE 1/4 34-16-19 WPM (Site No. 10-01) - 160.00 SW 1/4 25-16-19 WPM (Site No. 9-01) - 160.00 SW 1/4 26-16-19 WPM (Site No. 7.01) - 160.00 SW 1/4 31-17-18 WPM (Site 1) - 155.00
2009	FEB. 26	MO-2009-006	Addition to Rolling River Indian Reserve No. 67A		164.00	E1/2 of SW 1/4 13-19-18 WPM (SiteNo. 1-02) - 82.00 W 1/2 of SW 1/4 13-19-18 WPM (Site No. 2-02) - 82.00
2009	FEB. 26	MO-2009-006	Addition to Rolling River Indian Reserve No. 67B		576.03	NE 1/4 27-17-18 WPM (Site 8) - 144.00 NW 1/4 26-17-18 WPM (Site 7) - 157.00 NW 1/4 27-17-18 (Site 10) - 101.00 SE 1/4 34-17-18 WPM (Site 9) - 19.00 SW 1/4 26-17-18 WPM (Site 6) - 155.03
TOTAL				2,350.70	2,722.07	

Sapotaweyak Cree Nation



Sapotaweyak Cree Nation has selected 112,782.10 acres. (Source: March 31/10 TRELES)

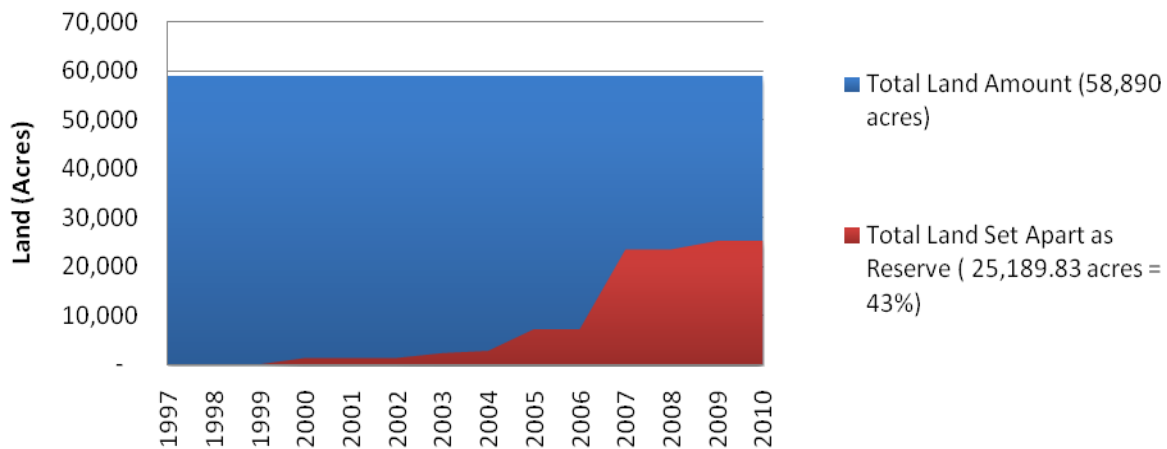
YEAR	DATE	OCPC/MO NO.	RESERVE NAME - ADDITION	SELECTION ACREAGE	ACQUISITION ACREAGE	FORMER SELECTION /ACQUISITION NAME
2006	APR. 3	MO-2006-004	Sapotaweyak Cree Nation - Spruce Island Indian Reserve	4,566.00		Spruce Island
2007	JUL. 23	MO-2007-014	Sapotaweyak Cree Nation Indian Reserve	58,745.20		Dawson Bay **N.B. There are 6,719.6 more acres to be transferred as per Prov. OIC No.516/2006 dated Nov. 29/06.**
2007	AUG. 10	MO-2007-021	Pelican Rapids Access Road Phase 1 Indian Reserve	20,780.00		Pelican Rapids Access Road Phase 1
2008	JUN. 16	MO-208-017	Addition to Sapotaweyak Cree Nation Indian Reserve	6,719.60		Dawson Bay - Phase Two
2008	AUG. 27	MO-2008-031	Addition to Sapotaweyak Cree Nation Indian Reserve	4,230.73		Dawson Bay - Phase Three
2008	SEPT.4	MO-2008-034	Overflowing River Sapotaweyak Cree Indian Reserve	1,158.90		Overflowing River
2009	AUG.7	MO-2009-022	Channel Island Sapotaweyak Cree Nation Indian Reserve	3,358.00		Channel Island
2009	AUG. 7	MO-2009-023	PTH 10 Sapotaweyak Cree Nation Indian Reserve	143.30		PTH 10
TOTAL				99,701.73	0	



War Lake First Nation has selected 6,702.40 acres. (Source: March 31/10 TRELES)

YEAR	DATE	OCPC/MO NO.	RESERVE NAME - ADDITION	SELECTION ACREAGE	FORMER SELECTION /ACQUISITION NAME
2008	SEPT.4	MO-2008-035	Mooseocoot Indian Reserve No. 2	351.90	No. 2 - Rock Quarry
			Mooseocoot Indian Reserve No. 3	128.50	No. 3 – Landing River
			TOTAL	480.40	

Wuskwi Sipihk Cree Nation



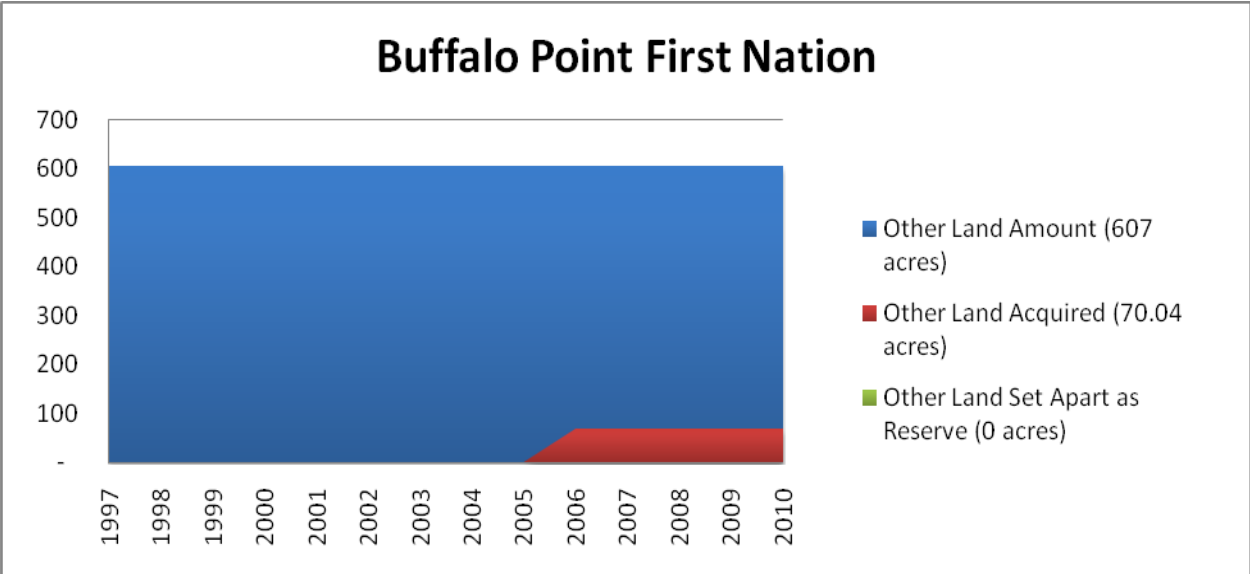
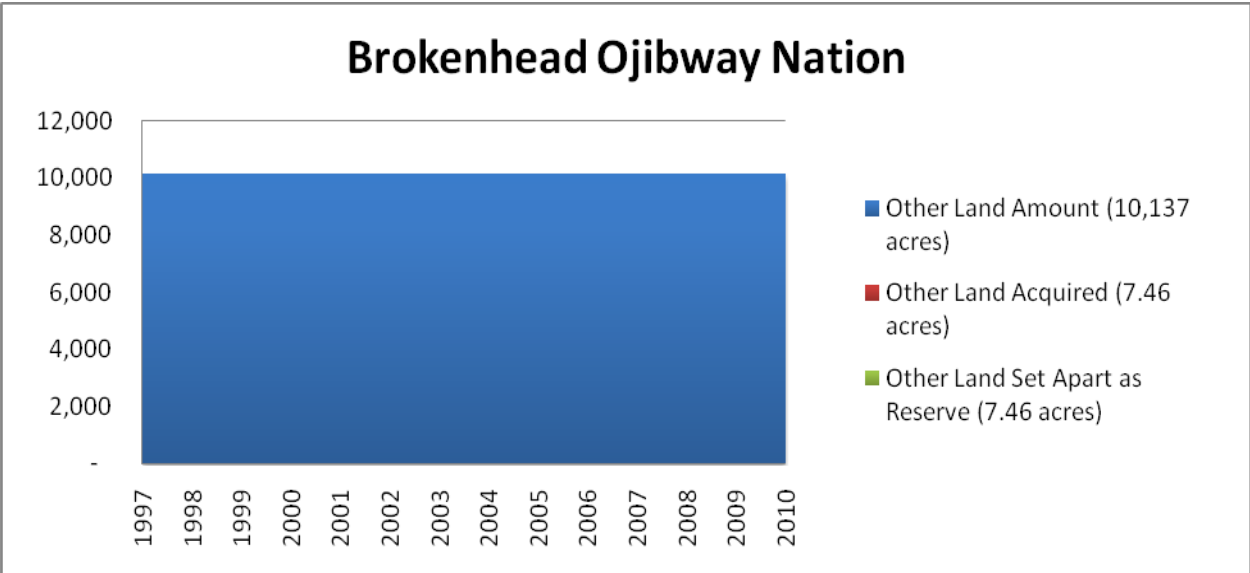
Wuskwi Sipihk Cree Nation has selected 44,347.45 acres. (Source: March 31/10 TRELES)

YEAR	DATE	OCPC/MO NO.	RESERVE NAME - ADDITION	SELECTION ACREAGE	ACQUISITION ACREAGE	FORMER SELECTION /ACQUISITION NAME
2000	MAR. 23	OCPC 2000-378	Wuskwi Sipihk I.R. FN No. 1	1,049.00		Old Building Bay Phase 1
			Wuskwi Sipihk I.R. No. 2	226.18		PTH No. 10
2003	DEC. 3	OCPC 2003-1938	Addition to Wuskwi Sipihk First Nation I.R. No. 1	995.80		Old Building Bay Phase Two
2004	APR. 22	OCPC-2004-442	Wuskwi Sipihk First Nation I.R. No. 4	472.00		Stone Ridge Point
2005	FEB. 1	OCPC-2005-66	Wuskwi Sipihk Indian Reserve No. 5	3,644.20		Bell River / PTH 10
2005	FEB.1	OCPC-2005-66	Wuskwi Sipihk Indian Reserve No. 6	270.30		Mafeking North
2005	MAR.22	OCPC-2005-416	Wuskwi Sipihk Indian Reserve Nos. 3A, 3B, 3C, 3D, 3E and 3F	510.40		Swan Lake Islands (510.39)
	DEC. 6	OCPC-2005-2297				regarding Amendment to P.C. 2005-416 due to correction in wording in OCPC
2007	MAY 10	OCPC-2007-726	Wuskwi Sipihk Indian Reserve No. 8	1,845.00		North Steeprock Lake
2007	JUL, 23	MO-2007-013	Wuskwi Sipihk Indian Reserve No. 7	14,456.00		Kettle Hills
2008	OCT. 1	MO-2008-039	Addition to Wuskwi Sipihk First Nation Indian Reserve No. 1	1,720.95		Various Crown/Leased agricultural lands
TOTAL				25,189.83	0	

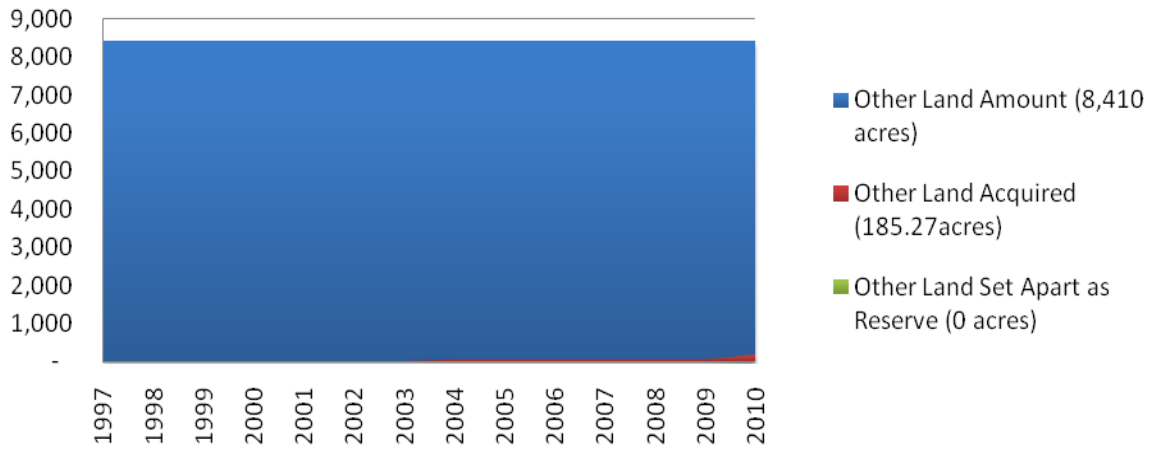
(d) Other Land Acres Set Apart as Reserve – Six Entitlement First Nations:

Separating the Crown Land acres from the Total Land amount, to focus solely on implementation of the private land (Other Land) provisions of the MFA for the six EFNs with purchase rights; can assist in measuring implementation of this aspect of the MFA. The six EFNs are entitled to purchase up to 114,677 acres of land for reserve. Land acquisition, which is to be initiated by the six Schedule “B” EFNs, has been minimal to date. See **Chart 9** below. Only 6,260.42 acres of land representing 5.5% of the total has been acquired for Reserve by the six EFNs having this right to date, some 49% of that amount representing sixteen parcels of land consisting of 2,729.53 acres has been set apart as Reserve. These sixteen acquisitions were set apart as the Nashakepenais Indian Reserve for Brokenhead Ojibway Nation and as additions to Rolling River Indian Reserves #67, #67A, and #67B. Purchase land represents a distinct and unique challenge that requires specific attention by the Parties and the six involved EFNs in the next fiscal year and beyond.

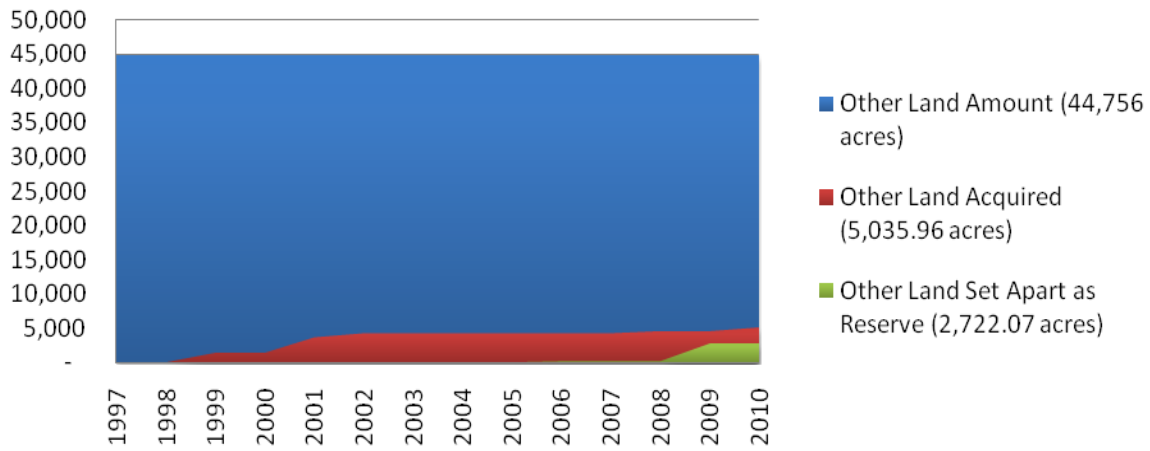
Chart 9: Other Land Amount, Other Land Acquired, and Other Land Set Apart as Reserve



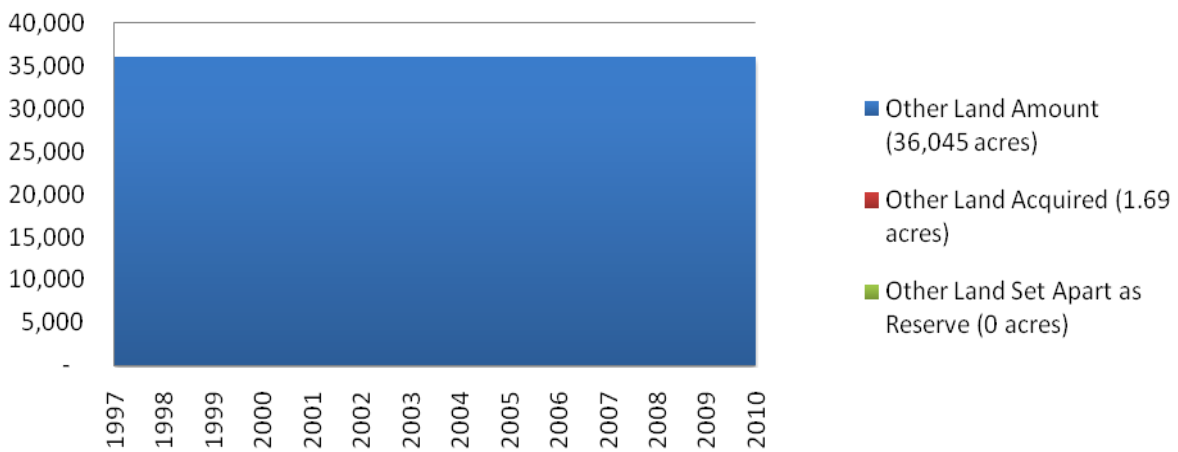
Opaskwayak Cree Nation

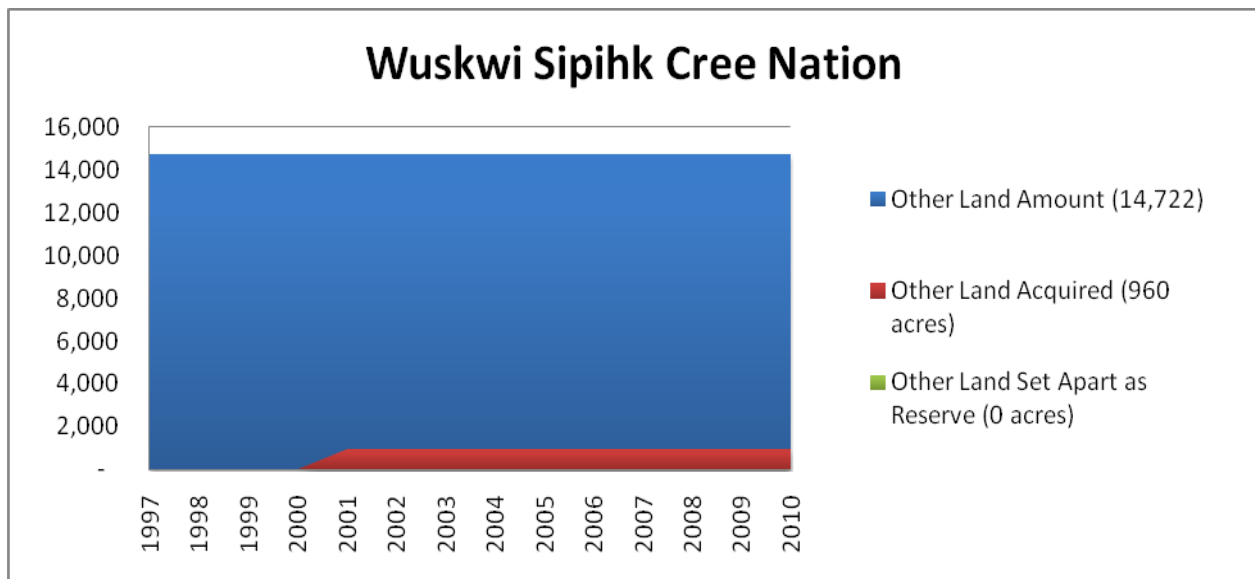


Rolling River First Nation



Sapotaweyak Cree Nation





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 13 years. Purchase or other acquisition of land is initiated by the involved EFNs. The Parties did not determine the reasons for this situation during fiscal year 2009/2010, although a special initiative had been discussed.

2.4 COORDINATION AND STRATEGIC PLANNING

Overall coordination and communications improved this past year, partially assisted by the target of 150,000 acres of Reserve creation in Manitoba per year for 4 years set by the then Minister of Indian Affairs and supported by the then Minister of Manitoba Aboriginal and Northern Affairs on August 22, 2006, and partially assisted by the three party Strategic Planning initiative.

(a) Coordination and Communication:

Indian Affairs conducted an exercise in annual and future planning to identify priority parcels of land for reserve creation and to produce 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.). If the results of this analysis resulted in a determination that a parcel could be set apart by August, it was included in the INAC “Dashboard plan”, which is an important component of INAC’s annual work plan. INAC’s focus is on this component of the annual work plan - setting apart 150,000 acres of land as Reserve by August 22nd of each year, based on the joint Ministerial commitments. Progress with the other two primary components of the annual work plan; work required to advance the subsequent year’s “Dashboard” plan parcels, and work required to steadily advance parcels identified as priorities by the EFNs, is currently more difficult to measure. One reason these aspects of INAC’s annual plan are more difficult to measure may be due to the fact that the process is not yet fully supported by an information monitoring system accessible or available to all Parties, or by fully date populated, refined, Land Transfer and Reserve Creation Process Manual processes adopted by the Senior Advisory Committee. As information monitoring becomes more parcel specific, it is anticipated that specific impediments to improved implementation will be more readily identifiable, and if so, can then be specifically addressed. The limited staff resources at TLEC affect the level of assistance provided to EFNs at the community level, and perhaps the limited administrative capacity of the EFNs to respond to the Parties’ demands and timelines is

a factor affecting the pace of implementation? Achievement of the target of 150,000 acres per year will be an increasingly difficult challenge in 2010/2011, and years thereafter, without all Parties having sufficient resources, trained, experienced staff, and a more detailed monitoring system to identify parcel specific implementation impediments. Improved coordination and communications among the Parties, and the resolution of priority referrals by a functioning IMC (i.e. appointment of an independent Chairperson to reestablish the IMC quorum) are essential. The Strategic Planning initiative, and other process related improvements will also assist the Parties in meeting the upcoming challenge.

(b) Strategic Planning:

At an IMC Strategic Planning Focus Meeting convened on March 3, 2009, the representatives of the Parties began a three party Strategic Planning initiative. The Parties asked the IMC Assistant Chairperson to assist the Parties with their initiative by facilitating the Strategic Planning sessions which were to be held with the staff from the three Parties.

On June 17 and 18, 2009, the first of the three Party Strategic Planning sessions was held and at that meeting the participants began to build a foundation for the sessions to follow. The 2009/2010 fiscal year end comments and status report concerning the accomplishment and implementation of the goals and principles set in June, 2009 follows below:

Commonly Held Comments and Goals:

At the June 17, 2009 meeting, the meeting participants expressed many common comments and goals which were subsequently adopted by the Tri Party group. These included the following:

- To reach consensus on next steps with respect to the lands to be transferred, To develop a common plan,
- To show respect for the perspectives and views of each other, To respect the First Nation objectives while developing the plan,
- To learn from the past, and not repeat the mistakes or the learning curve,
- To work together towards common goals,
- To satisfy Treaty obligations,
- To stick to schedules and timelines,
- To develop joint work plans for each parcel, and ensure that each party understands what they need to do and when that needs to be done relative to the other steps,
- To quickly come to ways and means to resolve third party interests, To conduct parcel review meetings with EFNs with a united front, and not use it as a forum to present different views on how to proceed, which only serves to have EFNs hesitate and pull back,
- To share information,
- To have a Strategic Plan up and running quickly, not a year from now,
- To define common goals,
- To ensure the plan is practical and concrete and translates into what needs to be done to transfer each specific parcel.

2009/2010 Fiscal Year End Status Re: Adopted Commonly Held Comments and Goals:

- The refined selection process was confirmed by year end, but the acquisition process was still in draft form,
- The common three Party Strategic Plan was a work in progress, and the Annual Plan was in draft,
- Undertakings were being carried forward and delays were subsequently occurring,
- Joint parcel specific work plans were not complete,
- Options for TPI resolution per parcel had not been completed and reviewed with the EFNs,
- The target for a fully date populated Land Transfer and Reserve Creation Process Manual processes was June, 2010.

Elements to Characterize the Tri Party Strategic Plan:

At the June 17, 2009 meeting five elements that should characterize a Strategic Plan were identified as:

- 1) Common information base,
- 2) Common process,
- 3) Common plan of action,
- 4) A communicated annual Work plan that offers all EFN partners a schedule as to when the EFN can anticipate their land selections/acquisitions being set apart as reserve,
- 5) A clear and concise, not ambiguous, strategy to comprehensively implement the MFA and set apart the land.

2009/2010 Fiscal Year End Status re: Five Elements to Characterize a Strategic Plan:

By fiscal year end, all elements were a work in progress, and none of these elements had been finalized.

Strategic Planning Principles:

At the June, 2009 meeting, the representatives of the parties also discussed and adopted principles to guide the development of the Strategic Plan. The rolling draft of adopted principles are as follows:

- 1) Develop and maintain a **common information base** respecting workload and status of files.
- 2) Develop and maintain a **common land transfer process**, in order to identify and clarify; next steps, responsibility, linkage and the relative order between steps. (The common process will become a reference for existing as well as new staff, and ultimately serve to shorten the time required to set apart land selections/acquisitions as reserve.)
- 3) Develop an **annual work plan** that incorporates;
 - a) work required to transfer parcels targeted for reserve status during the current fiscal year,
 - b) work required to transfer parcels targeted for reserve status during the subsequent fiscal year, and
 - c) work required to advance parcels identified as priorities by each EFN.

- 4) Ensure that every opportunity is utilized to **improve communication between the MFA parties and the EFNs**, and with respect to each parcel, ensure that each MFA party and EFN is apprised of; status, next steps, and primary responsibility for completion of next steps.
- 5) **Review and reconfirm issues that currently have no resolution** (e.g. Hydro Easement) and **ensure sufficient efforts are dedicated and a strategy developed** to resolve them in due course; thereby facilitating future year land transfers. When the Parties confirm that forward momentum has stopped, utilize the MFA processes and mechanisms to facilitate resolution.
- 6) **Utilize all available techniques and tools** to facilitate issue resolution and timely implementation.
- 7) **Involve EFN partners in planning**, so that EFNs; are aware of activities they need to be working on, understand which Party is primarily responsible for next steps, and can understand when their community can anticipate land transfers.
- 8) Strategy should be **clear and concise, yet detailed enough so as not to be ambiguous**.

2009/2010 Fiscal Year End Status re: Strategic Planning Principles:

At the June 17, 2009 meeting, many participants had identified the need for a commonly understood process in their opening remarks. Discussion confirmed many representatives of the Parties believe that this would assist them with their work as it would; set out a road map, identify next steps, identify areas that need to be initiated early in the process so as to be ready to action later in the process, and serve to orient new staff given the likelihood of staff turnover, and the need to plan for this.

It was agreed that all Parties need to be aware of all of the steps, not simply the steps they are responsible for, in order to understand how all steps interconnect, and thereby facilitate land transfers.

By March, 2010, the common information base and land transfer process was close to being finalized, and work required to advance all three types of parcels comprising the Annual Plan was soon to be identified and communicated to the EFNs. As the revised Land Transfer and Reserve Creation Process Manual remains a work in progress, all of these potential benefits remain outstanding at the 2009/2010 fiscal year end.

Annual Fiscal Year Planning Principles:

- 1) Develop an Annual Work Plan and review this plan with EFNs periodically. The Annual Work Plan is comprised of work necessary to; transfer certain selections/acquisitions within the fiscal year, advance certain selections/acquisitions in order to transfer them in a subsequent fiscal year, and steadily advance those selections/acquisitions identified by EFNs as their priorities towards transfer.
- 2) Ensure the annual work plan has short term targets and includes requisite work to set up/facilitate transfers in upcoming years.
- 3) Complete the transfer of a minimum of 150,000 acres to reserve status within the planning period, while being mindful of Ministerial commitment dates.

- 4) Identify a minimum of 150,000 acres to be transferred to reserve status during the following year, and complete the resolution of TPIs and other encumbrances, Environmental Site Assessments, ATR submissions, and Surveys for these parcels to ensure that they are positioned to transfer during the subsequent year.
- 5) Ensure that the “next steps” for parcels identified as EFN priorities are included within the annual work plan, and advise the EFNs of the land transfer and reserve creation process steps which the parties anticipate/plan to complete for the EFN priority parcels each year.
- 6) Be cognizant of the importance of smaller parcels, as identified by the EFNs, and track the number of parcels transferred, as well as the acreage transferred for each EFN.
- 7) Ensure the annual plan incorporates progress for each EFN, and aim towards transfer to reserve status of one parcel for each EFN each year.
- 8) Send a formal year end update to each EFN each year advising of progress made during the fiscal year, and including comments on challenges that need to be addressed during the upcoming year.

2009/2010 Fiscal Year End Status re: Annual Fiscal Year Planning Principles:

By 2009/10 fiscal year end, the Annual Plan was not finalized and had not been shared with the EFNs. As a result the next steps for EFN priority parcels had not been communicated to the EFNs or included in their Annual Work Plans. This is still required to ensure progress is measurable - a three party goal.

The most recent undertakings from the last Strategic Planning (December 18, 2009) meeting were:

UND 1 – Canada is to submit their comments respecting the Acquisition tracking steps before Christmas, 2009 so that the tracking steps can be refined and clarified where necessary – Outstanding at fiscal year end.

UND 2 – The IMC office is to update the Land Transfer and Reserve Creation Process Manual steps for selections in accordance with the December 16, 2009 Strategic Planning session discussions, modify the draft Status Tracking Charts for selections of the 15 EFNs that have executed TEAs, and forward the 15 Selection Status Tracking charts to the parties in Excel within 2 weeks. (i.e. by December 30, 2009) - Completed.

UND 3 - Upon completion of UND 2, the parties will insert dates for the Dashboard #4, Dashboard #5, and Top 15 EFN priorities, which correspond to line items that they are primarily responsible for, as follows; MANA to complete their date entry by January 22, 2009, after which the charts will be forwarded to Canada to insert the dates for those steps that Canada is primarily responsible for within 2 weeks (by February 5, 2010), after which TLEC will receive the charts to insert dates for those steps that TLEC is primarily responsible for, within 3 additional weeks. (i.e. by February 26, 2009) This was anticipated to result in completed Status Tracking Charts for the D#4, D#5, and the Top 15 EFN priorities, by February 26, 2009, but was still outstanding at fiscal year end.

UND 4 - The parties are to complete the Land Transfer and Reserve Creation Process Manual date populating for all selections by June 30, 2010 - Work in Progress.

2009/2010 Fiscal Year End Status re: Strategic Planning Meeting Undertakings:

By fiscal year end, the Parties had each reiterated support for three Party Strategic Planning. Attention will need to be paid to completing Party undertakings in accordance with commitments provided at meetings. Completion of UND #1 is an essential pre requisite to UND #4, and was outstanding at fiscal year end.

2.5 OTHER IMPLEMENTATION ISSUES

(a) Third Party Interests:

The task of resolving the long list of Third Party Interests (TPIs) with a variety of means and methods has been identified as the key issue affecting Reserve creation for some time. Indeed, 273 TPIs affect some 63 parcels of land encompassing a total of 91,640.48 acres of land (Source: February 19/09 TRELES report). Manitoba has developed a TPI impact report from TRELES which can be a useful tool in developing a specific strategic plan for the resolution of Third Party Interests in 2009/2010.

During the Strategic Planning initiative, options for third party interest resolution were to be identified on a parcel by parcel basis, and discussed with each EFN.

(b) Agreements with Six Unsigned First Nations:

As of fiscal year end, the following six First Nations have not entered into TEAs under the MFA.

- 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. No additional TEAs were entered into during 2009/2010.

(c) Periods of Selection and Acquisition:

Crown Land Selection: 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. 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 2002 and 2003, some EFNs requested time extensions to confirm 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.

Other Land Acquisition: 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 the EFN's TEA comes into force. The six EFNs with land purchase rights signed TEAs in or about 1999,

and therefore the six EFNs have approximately four to five years to complete the necessary private land 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.

At an IMC meeting dated January 22, 2009, the Representatives noting the lack of extensions for the target time periods set for EFNs to complete their Crown Land Selections, reached a consensus that the matter was not an issue for the Parties and with the extent of technical issues to be dealt with to improve TLE implementation/turn around times, etc. would not address the matter until or if it was raised as an issue by a Party or affected EFN. In the meantime, the Parties will continue to act as if the periods had been extended and the Principles and other provisions continue to apply to each EFN. Plans for the completion of Selections and Acquisitions are expected to be further defined next fiscal year as multi-year strategic planning begins to be implemented by the Parties.

(d) IMC independent Chairperson Vacancy:

As described in Section 1.0: Introduction, Mr. McLeod's two year term as independent Chairperson ended on February 28, 2009, and by June 30, 2009 he had decided to not accept another two year term as Chairperson given the level of implementation commitment by the Parties, which he viewed as inadequate. (See Section 7.10 for details) In follow up to the independent Chairperson vacancy on July 1, 2009, the representatives of the parties to the MFA took the following actions in an effort to fill the vacancy, and respond to the Assistant Chairperson's July 21, 2009 request for clarification and confirmation respecting the IMC office's authority to conduct IMC business on an interim basis while the Parties undertook a process leading to appointment of a replacement Chairperson:

- On July 21, 2009 the Assistant Chairperson prepared a discussion paper for the parties entitled, "IMC Office Analysis and Recommendations". It summarized the issues that had arisen upon the Chairperson vacancy and as the IMC office structure is not referenced in the MFA, the IMC office sought clarification and confirmation respecting the authority of the IMC office pending replacement of the independent Chairperson.
- On August 5th, 2009 the representatives of the Parties met with the Assistant Chairperson to discuss; a) next steps leading to recruitment of the next independent Chairperson, and b) interim measures to ensure the IMC could stay functional while the Parties recruited a new Chairperson. The Parties decided at that time that if the Assistant Chairperson was appointed Interim or Acting Chairperson, the IMC could remain functional while they went about retaining a full time Chairperson, and asked the Assistant Chairperson to prepare the first draft of the Service Agreement.
- On August 6, 2009, the Assistant Chairperson provided the representatives of the Parties with the first draft of the service agreement.
- On October 1, 2009 the Assistant Chairperson convened a meeting of the representatives of the Parties to the MFA in order to receive an update from the Parties, and to confirm actions required to; a) receive clarification and confirm the authority of the IMC office, b) ensure IMC is functioning and effective as soon as possible, and c) identify and retain an independent Chairperson.
- On October 6, 2009 the Assistant Chairperson circulated a revised draft of the Interim Chairperson Service Agreement, to reflect the comments made by Canada and Manitoba at the October 1st meeting.

- On October 16, 2009 the Assistant Chairperson wrote the representatives of the Parties and advised that the concept and goal of creating the Interim Chairperson position was to ensure that there would be a minimal gap in IMC functions. Since the goal was not being realized and the functioning of the IMC had been adversely affected, the Assistant Chairperson withdrew his name from further consideration and recommended that the representatives of the Parties dedicate their efforts towards filling the Chairperson position on a full time basis as soon as possible.
- On October 21, 2009 the Director's of the Parties met with the Assistant Chairperson to focus entirely on steps required by the Parties to fill the Chairperson vacancy as soon as possible. After discussion on many interrelated topics, TLEC tabled a proposal that the parties recommend the incumbent Assistant Chairperson to the Senior Advisory Committee to be appointed as independent Chairperson.
- On December 30, 2009 the Senior Advisory Committee wrote to the Assistant Chairperson and the Executive Assistant, and advised that SAC has agreed to seek the services of an independent Chairperson through a Request for Proposals (RFP), which would include overhead costs for administration. As a result, the Assistant Chairperson and Executive Assistant positions would no longer be required, and this letter served notice to terminate those employment contracts on March 31, 2010. The IMC Office would be closed.
- On February 27, 2010 the RFP was advertized on the IMC web site and in various newspapers, with a closing date of March 9, 2010.
- On March 22, 2010 the Senior Advisory Committee (SAC) wrote the Assistant Chairperson and advised that SAC had met with the IMC representatives on March 17, 2010 and directed the IMC representatives to meet with the Assistant Chairperson and discuss; a) the terms and conditions concerning the Assistant Chairperson serving as Chairperson for 2010/2011, and b) confirmation of a 2010/2011 budget that would not exceed \$300,000.00.

3.0 IMPROVEMENTS IN IMC ADMINISTRATION AND PRACTICES

In 2008/2009 in an effort to continue moving forward as part of the renewal initiative, the Parties continued to review existing practices and processes involving the IMC and, an internal examination was undertaken 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, the IMC lacked a quorum upon the departure of Rod McLeod on June 30, 2009.

While in 2008/2009 the representatives of the Parties agreed to improve the functioning of the IMC by undertaking a number of specific initiatives described below, this initiative was inhibited by the inability to retain a replacement Chairperson between July 1, 2009 and March 31, 2010, and the subsequent lack of an IMC quorum for the majority of the fiscal year.

3.1 STRUCTURED APPROACH TO PROBLEM SOLVING

With respect to unresolved issues or matters in dispute referred to the IMC as identified on the draft Current List, 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 is 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 during the 2007/2008 fiscal year for use in relation to dispute resolution. A copy was attached as Appendix C to last year's Annual Report.

After the IMC Representatives confirmed a standardized approach to review issues or matters in dispute in the form of the "protocol" in 2007, 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:

- (a) The "hydro easement issue" as referred by the TLEC;
- (b) The "portage issue" as referred by the Bunibonabee Cree Nation and TLEC; and
- (c) The "land in severalty issue" as referred by the Barren Lands First Nation and TLEC.

Without a quorum, the IMC did not meet from June 18, 2009 till fiscal year end, and these referrals did not advance during that time.

3.2 AGREEMENT ON HISTORIC AND CURRENT LISTS 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 C** for the draft list of Historic Issues or Matters in Dispute and also see **Appendix D** for the draft List of Current Issues or Matters in Dispute as identified by the IMC Representatives. Upon submission of "An Agreement Respecting Pre Transfer Uses of Crown Lands" signed by Canada and Sapotaweyak Cree Nation (SCN) on December 15, 2006, the Referral by SCN (#2003-SCN-004) was deemed resolved and removed from the current List of Matters in Dispute. Unfortunately, the Parties could not provide the IMC with any additional documents confirming the resolution of certain referrals or a status summary that all Representatives could accept, and therefore the draft lists of Historic and Current Issues or Matters in Dispute remained otherwise unchanged at the end of fiscal year 2009/2010.

3.3 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. 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.

(a) Concept of Eligibility of Selections or Acquisitions

The first bulletin was issued in the 2008/2009 fiscal year and dealt with the clarification of the concept of "eligibility" of a Selection or Acquisition to be set apart as Reserve under the MFA and practices associated with the review of Selections and Acquisitions of land in light of that concept found in the MFA. A copy can be found on the IMC web site (tleimc.ca).

(b) Selections Under 1,000 Acres in Area

The second topic identified for clarification by the IMC pertained to the size of land Selections, in particular parcels estimated to be less than 1,000 acres in area. Disagreement among Manitoba, TLEC and certain EFNs about the eligibility of and treatment of these smaller land Selections was identified as an impediment to the processing of the Selections. During the course of discussions on this topic, Manitoba completed at least two overall internal reviews to categorize and assess individual parcels resulting in the clearing of many smaller parcels through the system. After several

versions of a discussion paper developed by the IMC Office were considered, the IMC Representatives approved the issuance of a formal bulletin on this matter prior to fiscal year end. The second informational bulletin was issued during June 2009.

No further bulletins have been developed by the parties.

4.0 SUMMARY OF ISSUES OR MATTERS IN DISPUTE RESOLVED

REFERRAL No. 2003-SCN-004: UNREGISTERED THIRD PARTY INTERESTS:

The IMC resolved one referral during the past fiscal year, Referral No. 2003-SCN-004 in which Canada requested a release of any claims and indemnity from Sapotaweyak Cree Nation (SCN) for land Canada considered occupied by unregistered interests (structures such as cabins) prior to accepting the land transfers from Manitoba. SCN asserted that SCN acceptance of the land on an “as is where is” basis should suffice and further that where cabins were used by SCN members, there were no TPIs to be addressed. Canada asserted this requirement for two reasons; the Selection had been affected by occupation in advance of reserve creation and the occupation by a Band member gave rise to statutory obligations under Section 22 and 23 of the Indian Act.

This referral was resolved by way of SCN and Canada entering into “An Agreement Respecting Pre Transfer Uses of Crown Lands” on December 15, 2006. Upon the IMC Chairperson receiving a copy of this Agreement from Canada on June 23, 2009, this referral was closed.

After June 30, 2009, the IMC did not have a Chairperson, and no further action was taken on files/issues/matters in dispute for the balance of the fiscal year. While the Assistant Chairperson made a formal request by way of a July 21, 2009 discussion paper submitted to the representatives of the Parties; the Parties did not respond with clarification, confirmation, or provision of authorization for the Assistant Chairperson to perform the Chairperson’s role between July 1, 2009 and March 31, 2010. As such, the IMC lacked a quorum and all referrals and issues or matters in dispute listed in Section 5.0 below were not dealt with by IMC for the balance of the 2009/2010 fiscal year. The former Chairperson (July, 2009) and Assistant Chairperson both clarified to the Parties, that in the alternative these matters could always be addressed through normal non IMC channels, and encouraged the parties to do so, while awaiting a quorum to be reestablished by way of SAC appointing a replacement independent Chairperson.

5.0 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, 2010, is attached as **Appendix D**. The Representatives agreed that this list remained in draft form at 2009/2010 fiscal year end, and is a work in progress carried forward for completion in 2010/11. In summary, the draft Current List consists of the following 9 issues:

(a) **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. This matter was not active during 2008/2009.

(b) 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. This matter was not active during 2008/2009. The IMC via the TLEC is following up with the Nisichawayasihk Cree Nation to ascertain whether this is still an active issue.

(c) 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 1 First Nations, including Brokenhead Ojibway Nation (an EFN) filed a lawsuit against Canada in relation to the designation of this surplus land. Therefore, this matter was not active during 2008/2009. The TLEC has undertaken to communicate with the EFN and keep the IMC updated with respect to the status of this issue.

(d) 2004-BLFN/TLEC-002 – LAND IN SEVERALTY (SECTION 9.01)

In correspondence dated May 5, 2004 the Barren Lands First Nation alleged that Canada had committed a material failure to comply with a fundamental term or condition of the MFA by not engaging in the discussions with members of the Barren Lands First Nation that were to occur in accordance with sections 9.01 and 9.02. The TLEC made the allegation that Canada materially failed to comply with its obligations set out in the land in severalty provisions of the MFA in correspondence dated June 14, 2004. Terms of reference for a binding arbitration under section 36.01 of the MFA to address the issue were agreed upon in February, 2005.

The terms of reference for that binding arbitration were narrowly focused upon the procedural matter concerning the discussions contemplated under section 9.01 between Canada and the members of the Barren Lands First Nation who had asserted a right to land in severalty. The Barren Lands First Nation and the TLEC did, however, agree to hold the arbitration proceedings in abeyance upon the commitment by Canada to undertake the contemplated discussions on the nature and extent of land in severalty with members of the Barren Lands First Nation between the dates of April 1, 2005 and June 30, 2005. Those discussions with members occurred on May 14 and May 16 through May 19, 2005 in Winnipeg, Brochet, and Thompson.

Efforts to resolve the severalty matter were re-initiated in April, 2006 when legal counsel for the First Nation and the TLEC requested that the arbitrator resume proceedings to address the question of the continued availability of the option to elect land in severalty in law. After further discussion among the Parties, including discussions with the arbitrator on the question related to the continued existence of the Treaty right to elect land in severalty, the Parties opted to undertake a "representative case study of the issue focusing on an individual member", but this step was postponed by the Barren Lands First Nation and the TLEC on July 19, 2006 pending their appointment of new legal counsel to address the proceeding. Since that time, no further advice has been received from the Barren Lands First Nation and the TLEC as to the further conduct of the arbitration proceeding. As a result, the arbitration action remains active but again on hold pending further directions to the arbitrator by the Parties. In light of the lengthy period of abeyance, the IMC office wrote to the Barren Lands First Nation and requested an update from Barren Lands First Nation, just prior to year end.

(e) 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 contained in MFA Subsection 6.02(6) by not registering the BCN selection known as the Knee Lake Lodge in the Crown Lands Registry, which then enabled several registrations to be made against the lease (Third Party Interest) that currently encumber the property, including an Assignment for collateral purposes that created the authority for a creditor to make a disposition to an interested purchaser pursuant to a receivership of the assignee. This matter was not active during 2008/2009. The TLEC has undertaken to review the matter with the EFN in the 2009/2010 fiscal year to ascertain the status of this issue.

(f) 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 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 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). 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).

On July 18, 2007, the TLEC submitted "Crown Reservations – Portages" to the IMC as a matter in dispute. TLEC asserted that a portage is defined as a Crown Reservation under Subsection 1.01(21) transferable to Canada in accordance with Subsection 7.01(2), and accordingly that Manitoba is not entitled to characterize a portage as a "reasonable competing consideration" as the basis upon which to refuse to confirm the eligibility of the Trout Falls and Wipanipanis Portage selections. After review Manitoba has confirmed that it no longer characterizes the portages as a competing consideration, but has asserted the need for continuation of public access to the portage areas, a matter of public policy that Manitoba asserted was not considered under the Principles in accordance with Sections 3.01(4) and (5) of the MFA, referable to the IMC under Section 3.11.

The IMC agreed that the Referrals that were received by IMC and alleged to constitute material failures by Manitoba, be separated from the TLEC Referral concerning the matter of Manitoba retaining Crown Reservations, to enable a focus of efforts on that matter which was at the heart of the Referral. By year end the Parties agreed with the IMC office separating and reorganizing the Referrals in order to review these issues/matters in dispute in accordance with the protocol, and TLEC was asked to communicate with BCN on this matter to better understand BCN's position.

(g) 2007-BPFN-001: ROAD RIGHT OF WAY (SECTION 13.01)

Section 13.01 provides that Manitoba is ordinarily entitled to a right of way along provincial trunk highways. 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. In September 2008, the IMC office was informally advised by the BPFN that it preferred to defer any further discussions on the Referral pending internal discussions. The IMC office contacted BPFN for an update on this matter prior to the end of the fiscal year. It was determined that Manitoba and BPFN had exchanged letters, offers, and counter offers respecting the sale of the control zone to Manitoba. A final sales agreement had not been reached by year end. Discussions were continuing between the BPFN and Manitoba Infrastructure and Transportation.

(h) 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 administration and control sufficient 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 any EFNs existing aboriginal and Treaty rights as well as any potential claim to compensation in respect to the easement area. The IMC prepared an issue analysis and draft recommendations to the IMC Representatives for consideration in September 2008. Several specific focus meetings were held on December 15, 2008, January 21, 2009, and March 24, 2009 to break out and discuss specific problematic aspects of this Referral upon which consensus has yet to be reached. The Hydro Easement is a mechanism to implement the provisions of the MFA respecting the setting apart of EFN selections on Developed Waterways. All Parties share a common interest in the setting apart of these land selections as reserve for EFNs, albeit that some of the Reserve land must be subject to the Hydro Easement under the MFA. Under the Treaties referred to in the MFA (except Treaties 1 and 2), land taken up for settlement purposes, such as hydro development, is expressly not available for Selection as Reserve. Section 12.05 confirms that an EFN may select land for Reserve on a Developed Waterway, but the selection will be subject to a Hydro Easement. Although there may remain outstanding issues related to the hydro development arising from the impact on aboriginal or Treaty rights even after the application of the various hydro/diversion arrangements, the Parties do agree that the Hydro Easement agreement should be legally neutral on those issues.

The Hydro Easement agreement is only a mechanism to facilitate the implementation of the MFA, not a mechanism for resolution of alleged impacts on aboriginal or Treaty rights that may exist. The latest IMC analysis has determined that there are some 71 selections of land comprising 62,305.70 acres, which have been confirmed by 5 EFNs on Developed Waterways affected by this issue. Although some EFN specific provisions may be required, the Parties need to reach consensus on an agreed form of Hydro Easement agreement for implementation to proceed, and transfer of these Selections of land to Canada in order for them to be set apart as reserve under the MFA.

The discussion is now focused on a number of fundamental concerns about key provisions of a Hydro Easement, including:

- the process of grant of the Hydro Easement, and specifically the provision of administration and control to Manitoba sufficient to enable Manitoba to exercise authority over the Manitoba Hydro operations as required by the Water Power Act (Manitoba);
- any implications or impact of the agreement on Treaty and aboriginal rights;
- certain specific language in the Hydro Easement document; and
- a mechanism or process to deal with consultation requirements and outstanding concerns.

Further discussions have been deferred since January 2009 pending TLEC input after an opportunity to review the matter in detail with the affected EFNs. TLEC anticipated receipt of directions from the EFNs in order to advance discussions respecting the provisions of a possible agreed form of Hydro Easement Agreement.

The Representatives also recognized that the resolution of the Referral and reaching agreement on the Hydro Easement terms and conditions would not necessarily result in the transfer of land affected to Canada for Reserve due to the existence of other related issues, and have agreed that these other related issues should be addressed concurrently. These related issues include the associated process for determination of the Easement Lines, the physical and financial planning/setting of priorities for identifying Easement Lines, the process for selecting Additional Land, the costs of that process, and considerations respecting the lands physically required by Manitoba Hydro in relation to Selections on Developed Waterways. In relation to related Article 12 issues, Manitoba has undertaken a detailed review with Manitoba Hydro over the winter months of 2008/2009 and provided a technical presentation of hydro related processes to the IMC at the June 17 & 18 Strategic Planning meeting. Canada confirmed agreement with the provincial proposal on November 17, 2009. TLEC responded on December 11, 2009, and deferred further process related commentary until the next IMC meeting.

6.0 RECOMMENDATIONS FOR IMPROVEMENTS IN IMPLEMENTATION

Although the Parties are each fully responsible and liable for the due performance of each Party's 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).

6.1 IMC ROLE AND RESPONSIBILITY

The IMC's task is to:

- (a) 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; and

(b) Under the general direction of the independent Chairperson:

- 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.

6.2 STATUS OF IMC CHAIRPERSON'S PREVIOUS RECOMMENDATIONS

Recognizing the independent status of the Chairperson of the IMC, the IMC Representatives previously requested that the Chairperson provide the IMC with advice and recommendations for improvements with respect to the IMC's obligations, certain of which it acted upon during the 2008/2009 fiscal year, as reported in last year's Annual Report. At that time, the Chairperson remarked that implementation of his recommendations for improvement was ongoing, and would carry forward into fiscal year 2009/2010. In light of the events of the 2009/2010 fiscal year respecting the independent Chairperson vacancy; it is appropriate to provide a final status report respecting implementation of Chairperson McLeod's previous recommendations (which recommendations were provided in response to a request by the representatives of the Parties.)

(a) 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.

Recommendation: 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.

Action To Date: With the support of the Parties, in 2007/08 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 employed.

Funding for this initiative was renewed for a second fiscal year ending March 31, 2009 and the annual budget for this to continue has been confirmed for 2009/10. 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 recommended an administrative amendment to the MFA to resolve this matter during fiscal year 2008/2009, but that did not occur. The Chairperson has again recommended this administrative amendment and is hopeful that this can be accomplished during the 2009/2010 fiscal year.

2009/2010 Status Report: By fiscal year end, after considerable discussion and analysis it was decided to maintain the IMC Office pending the appointment of a new Chairperson.

Recommendation: Complete the Set up of a File/Information Management System.

Action To Date: 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 IMC does not have a comprehensive monitoring system in place, although the IMC office has made independent efforts to produce a statistical status report. The third group consists of the IMC general office files covering all other subjects necessary to manage IMC matters.

2009/2010 Status Report: The File/Information Management System developed by the IMC Office remained in place at fiscal year end.

Recommendation: Prepare Lists of Historic and Current Issues or Matters in Dispute.

Action to Date: 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. Completion of the lists is expected to have a number of positive results. The lists will result in a historical summary of issues that are addressed under the MFA for the reference of all Parties, and will be able to be applied during implementation today, as well as into the future. A current list 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 lists were draft at year end.

2009/2010 Status Report: The parties need to confirm that the draft lists are accurate or make amendments and finalize them. Ongoing maintenance and updating will be the responsibility of the next appointed Chairperson, who should provide an updated version to the parties at the end of his/her term.

(b) Issue

That the IMC had not developed nor maintained an accepted standardized procedure to deal with issues or matters in dispute referred to the IMC and the means of resolution or current status despite the extensive directions in that regard set out in the MFA.

Recommendation: Development of a guideline or protocol for the definition of IMC efforts at resolution of issues or matters in dispute.

Action to Date: 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.

2009/2010 Status Report: The “I/M Referral Protocol”, is in place and will assist the parties with future referrals to the IMC seeking assistance in resolving matters in dispute.

(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. 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.

Recommendation: 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. This practice should be revisited.

Recommendation: 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.

Action To Date: 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 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.

There were no referrals made to the IMC during the 2008/2009 fiscal year. The most recent referrals on Hydro Easements were in August, 2007. The IMC directed the IMC Chairperson to consolidate the two referrals and deal with them as one matter. Please refer to Section 5.0 (i) for more detail on this specific referral 2007-TLEC-002.

2009/2010 Status Report: There have not been any new referrals to the IMC for over two full fiscal years and it appears that this identified situation has been addressed. This will have to be monitored. It appears however, that while the IMC was without a quorum during the past fiscal year, efforts to resolve issues/matters in dispute directly between the parties were minimal.

(d) **Issue**

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

Recommendation: Schedule regular focus meetings

Action To Date: The Parties continued the practice of instituting more regular tri-partite 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.

2009/2010 Status Report: It is anticipated that these focus meetings will continue once the IMC quorum is re-established upon appointment of the next IMC Chairperson. There have not been any focus meetings during the Chairperson vacancy.

Recommendation: Revisit operational concepts that have impeded relationship building

Action To Date: Concept discussions are meant for the IMC Representatives to review and discuss concepts reflected in the MFA to ensure the concepts are being reflected in the handling of issues at the IMC and by the Parties during 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.

2009/2010 Status Report: It is anticipated that these conceptual discussions will continue once the IMC quorum is re-established upon appointment of the next IMC Chairperson. There have not been any during the Chairperson vacancy.

Recommendation: Encourage open discussion of issues around discussion papers

Action To Date: By way of example, Manitoba was asked to review its approach to the concept of “land eligible to be set apart as Reserve” under the MFA. After a series of discussion papers were prepared by the IMC office, 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 and the IMC issued the first of its informational bulletins to clarify MFA concepts - the “concept of eligibility” - in February, 2009.

A second informational Bulletin was developed to clarify questions pertaining to the Selection of parcels of land less than 1,000 acres in area in and beyond reasonable proximity to existing Reserves. Again after open discussion and exchange, consensus on clarifications required were set out in a bulletin format. It was in process of final editing at 2008/09 fiscal year end.

2009/2010 Status Report: The second IMC Bulletin entitled “Selections under 1,000 acres in Area” was finalized and released in June, 2009. The practice of analyzing issues through discussion papers and the subsequent development of bulletins - was placed on hold by the Parties throughout the period of the Chairperson vacancy.

(e) **Issue**

Insufficient communication amongst Parties and with the EFNs.

Recommendation: Increase communications among the Parties and with the EFNs

Action To Date: While the Parties meet with EFNs at Selection/parcel review meetings, it is felt that more can be done in this regard. In order to increase EFN engagement in MFA implementation it is believed that the annual work plan which includes work/tasks required to advance;

- the parcels on the “Dashboard” plan which are targeted for transfer by August,
- the parcels on next year’s “Dashboard” plan, which are targeted for transfer by the subsequent August, and
- parcels identified as priorities by the EFNs,

should be communicated more directly to the EFNs, and that at least one selection be targeted for reserve status for each EFN each year.

2009/2010 Status Report: The parties asked the Assistant Chairperson to facilitate Strategic Planning sessions to accomplish this recommendation and these sessions were ongoing at 2009/2010 fiscal year end. The Parties had not advanced this exercise to the point of being able to advise the EFNs by fiscal year end, but it is anticipated that a complete detailed status report will be accomplished by June, 2010, after which the EFNs can be advised by July 2010.

6.3 SUMMARY COMMENT

The combined effect of these new initiatives was expected to 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. In simple terms, each Party would act in accordance with and assume its responsibilities assigned to it under the MFA. Although one informational Bulletin issued in 2008/2009 and a second issued in June, 2009/10, there continues to be insufficient guidelines prepared by any of the Parties to assist the EFNs and the Parties in appreciating the concepts and guidelines of the MFA. To the extent that the Parties continue the efforts begun in the 2007/2008 fiscal year, communications had improved until the time of the Chairperson vacancy in the form of:

- (a) the frequency of tri-partite communications in relation to the monitoring of the Reserve creation process among the Parties and definition of suitable performance measurements;
- (b) the development of discussion papers to clarify MFA procedure and, upon affirmation, provide guidance to all Parties in implementation;
- (c) the issuance of informational bulletins on issue resolution and clarification of MFA procedure and practice; and
- (d) the practice of 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.

7.0 RECOMMENDATIONS OF THE IMC CHAIRPERSON

In 2008/2009 the IMC Chairperson made a number of recommendations (See IMC Annual Report – 2008/2009) and these are summarized below, along with a 2009/10 update.

7.1 MONITORING OF THE PROGRESS OF IMPLEMENTATION

The statistical monitoring of implementation must be improved. 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.

(a) Canada

For several years now, 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. The details of a national ATR monitoring system (known by the acronym of “NATS”) were not shared with the IMC by Indian Affairs; although it was scheduled to be operational in 2008/2009. However, INAC officials recently disclosed that after a pilot project with NATS in Saskatchewan in December, 2008, ideas for improvements came forward to make NATS more applicable to the day to day operations. The recommended improvements to NATS were being made at 2008/09 year end. INAC anticipated that it would be able to implement the NATS monitoring system within the following couple of months, although more time will then be required to load the data, and to train staff in its operations before NATS will be operational.

2009/2010 Status Report: At fiscal year end, NATS was still not operational, and there have not been any status updates provided to the IMC office.

Until an electronic data management tracking system is operational, the ability of INAC to provide precise information, on a parcel by parcel basis, in a timely manner, will be severely handicapped. This precise information includes; transfer steps completed, those steps/tasks currently being addressed, and those steps/tasks which are outstanding – all linked to the Party/EFN with primary responsibility for task completion. The need to track and communicate the progress of parcels through a clearly understood land transfer process is fundamental to successfully implementing a tri-partite Reserve creation process, be it MFA based or not.

2009/2010 Status Report: Through the Strategic Planning initiative, the parties have revised the Land Transfer and Reserve Creation Process Manual steps (Again developing and confirming the common land transfer process for land selections, and refining the acquisition process to a draft form) and were in the midst of date populating the steps completed for each parcel by year end. In order that all Parties commonly understand this key information; this Strategic Planning initiative must be completed, the revised Land Transfer and Reserve Creation Process Manual formally adopted by SAC, and completion dates updated regularly by the Parties.

(b) TLEC

The lack of these information management systems are hindering the sharing of information, communication between the Parties and EFNs respecting the status of the files and the identification of critical matters delaying transferring selections to Reserve status.

2009/10 Status Report: The updated and fully populated Land Transfer and Reserve Creation Process Manual developed through the Strategic Planning initiative can be an effective tool for information sharing and communication between the Parties and the EFNs. The information therein contained includes; common process, steps completed, next steps, relative order, responsible party, and time required to complete each step.

7.2 MONITORING OF THE PROGRESS OF IMPLEMENTATION - PERFORMANCE MEASUREMENT

The first obligation of the IMC as stated in the MFA is to facilitate and monitor the implementation of the MFA. Monitoring of progress, much less truly productive facilitation is simply not possible without a variety of statistical monitoring reports.

The information required to produce sufficient overall monitoring reports is available in parts among the Parties, yet the Parties have been unable to cooperate and dedicate sufficient effort to producing a comprehensive monitoring report at the IMC.

As well, the IMC office prepared a chart summarizing the selections and acquisitions set apart to date by fiscal year for each EFN. This chart is attached as **Appendix B**. The chart tracks parcels and acreage, and links selection names to final Reserve names as confirmed by the EFNs.

2009/2010 Status Report: From the Land Transfer and Reserve Creation Process Manual, revised and updated through the Strategic Planning process, the Parties can determine time between steps by parcel (or on average) and monitor and identify steps that appear to be taking longer than reasonably required, and need the Parties' attention.

7.3 PACE AND IMPACT OF IMPLEMENTATION - REVISIT PLANNING

In light of this year's events and the recognition by the Parties that it may be difficult to meet the 150,000 acre per year targets (perhaps due to the fact that the remaining parcels are smaller, yet require the same program/administrative overhead to advance), much less maintain an acceptable level of Reserve creation under the MFA without fundamental changes in roles, responsibilities and the level of commitment required, revisiting the associated community planning process is again strongly recommended. In order for the Parties to complete their three Party strategic planning initiative early in this fiscal year, and ensure that the EFNs fully understand that the annual workplan will be comprised of not only transferring the "Dashboard" plan parcels to reserve status by the mid-year target of August; but will also include the requisite work necessary to position parcels for transfer by the following August (the subsequent "Dashboard" plan parcels), as well as the work required to steadily advance the EFN priority parcels, complex or not, towards reserve status. The Parties have agreed that an essential component of the Strategic Planning initiative is to utilize every opportunity to communicate the plan to the EFNs.

2009/2010 Status Report: Strategic Planning was not completed early in the fiscal year as anticipated and recommended, and a parcel by parcel fully date populated common process is outstanding and required before it can be shared with the EFNs. The target date for completion is June, 2010, as set at the December 18, 2009 Strategic Planning meeting.

7.4 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 again strongly recommended and appears to have support from all Parties.

Where EFN identified priority land selections involve resolution of more complex issues prior to transfer to Canada and setting apart, it is recommended that the Parties communicate the complexities associated with the selection and define a "roadmap" with tasks assigned to each Party to steadily advance these EFN priorities towards Reserve status over time. This strategic planning and communication should be an important

component of the annual work plan, and undertaken concurrent with the actions taken in relation to transferring the “Dashboard” plan parcels by August of the fiscal year. If not, the EFNs will experience an increasing disconnection from MFA/TEA implementation as the Parties focus on the “Dashboard” component of the annual work plan, rather than the “advancement of EFN priorities” component of the annual work plan. Both are essential components of the annual work plan, or the EFN priorities are unlikely to move closer to Reserve status year by year.

2009/2010 Status Report: During the course of Strategic Planning focus meetings the parties have agreed that the annual work plan must include;

- a) transferring the “Dashboard” plan parcels to Canada to be set apart as reserve by August,
- b) steadily advancing the EFN priority parcels of land towards reserve status over time,
- c) and addressing prerequisite work required to ensure subsequent year Dashboard parcels meet their reserve establishment target date.

7.5 DEVELOPMENT OF DELIVERY CAPACITY AND FRAMEWORK

Although INAC has expanded its Additions to Reserve sector nationally and regionally, it is likely that the staff and resources committed to the sector has lagged behind the increasing demand, as appears to be underscored by the March 2009 Report on TLE by the Office of the Auditor General for Canada. This in itself is a matter for specific examination by Canada.

The question may well be one of delivery capacity across the system. The most glaring insufficiency in my view is the lack of personnel trained in the formal process of Reserve creation outside of the Department of Indian Affairs. It is not simply a matter of numbers, but training, education and experience as well. ATR is a unique and complex task, but the only ATR specific capacity is within the responding Party – INAC. Neither the EFNs, nor the TLEC support organization, have any staff with specific ATR training, it is a matter of in-practice, on the job training. Steps in capacity building using existing resources could include elements such as:

- (a) general and specific topical workshops;
- (b) inter-office staff exchanges;
- (c) secondments;
- (d) TLEC/EFN participation in INAC ATR workshops;
- (e) regular joint ATR parcel review meetings with INAC, TLEC and affected EFNs; and
- (f) open exchange of policy information and guidelines.

2009/2010 Status Report: The IMC office is not aware of any action taken in response to this recommendation.

7.6 INCREASED EFN COMMUNICATION AND INFORMATION SHARING

In its most basic sense, the setting apart of all of the TLE due each EFN is the measure of successful achievement of the MFA. However, the EFNs have expressed the view that EFN involvement seems to be of a limited nature and EFNs have minimal understanding of the general Reserve creation process. Again this past year, the IMC focused on MFA policy identified as important to the EFNs, beginning with the concept of eligibility of Selections under the MFA. The IMC Representatives approved of a discussion paper the prior year and directed the preparation and issuance of the first IMC informational bulletin on this topic. The second informational bulletin on Selections less than 1,000 acres in size will issue during June 2009. With the financial support of INAC, the TLEC organized and hosted a third annual third Party Interest Workshop on March 17 and 18, 2009. The EFNs were presented with tools for and information of roles and responsibilities in the resolution of third Party Interests. In addition, the IMC Office itself developed a website accessible by the EFNs and this was launched during the 2008/2009. These initiatives and other means of communication will be expanded in 2009/2010.

2009/2010 Status Report: The sharing with the EFNs of the common process – revised Land Transfer and Reserve Creation Process Manual – complete with the dates the steps are completed, identifying next steps, the relative order of the steps, and the responsible party - will increase EFN understanding immeasurably. While agreed to at Strategic Planning meetings, this goal of the parties was outstanding at fiscal year end.

Previously recommended communications meetings to develop “positive news” stories in relation to fulfillment of the MFA had not been initiated by year end.

7.7 ESTABLISHMENT AND MAINTENANCE OF TRI-PARTITE STRATEGIC PLANNING

Good management is founded upon a comprehensive information base, an agreed set of strategic plans recognizing the shared responsibilities of the Parties under the MFA (and TEAs, of course) and regular, open communications among the key Parties. INAC’s “Dashboard” plan is but one component, albeit an important component, of the overall annual workplan required by the Parties to implement the MFA. The “Dashboard” plan parcels are those deemed to be able to be transferred by August. It is clear that the land transfer process is a multi year process, and the annual work plan must also include work on parcels targeted for transfer in subsequent years if that target is to be realized.

All administrative protests about pressure on time and resources must be assessed in light of the commitment of time and resources to efforts that are not coordinated, organized among the Parties, nor the subject of effective monitoring. Until there is a coordinated tripartite plan in place year to year, there is in fact no means of effective management or measurement of the performance of any of the Parties.

2009/2010 Status Report: The Strategic Planning initiative of the parties was the most positive initiative undertaken by the parties this fiscal year towards meeting this objective, and addressing this 2008/2009 recommendation. While incomplete at fiscal year end, and as yet not shared with the EFNs, the parties adopted the tri-partite Strategic Planning recommendations as a goal, and significant progress was made by the Parties towards this target. The Parties have most recently targeted June, 2010 for full date populating of the common land transfer process, on a parcel by parcel basis, and release to the EFNs.

7.8 LONG TERM FINANCIAL SUPPORT FOR THE TLEC

TLEC must be financially supported on a long term, (meaning more than on an annual basis) by INAC, to allow it the security to hire qualified staff and engage in formal, training programs with INAC, Manitoba and other advisors in the interests of developing an internal delivery capacity. Year to year funding does not allow TLEC the opportunity to enhance its skill level to the degree necessary -skills which it should then pass on to the EFN level of administration.

Financial support for TLEC should then include a separate budget for ongoing training and orientation of EFN Councils and administration in MFA based Reserve creation as well as the technical resources and specialist advisors to deliver this training at the community level. Even being somewhat optimistic in estimating the time frame involved, TLE implementation will likely be a process of several more decades in delivery, but only if the skill set is expanded to include EFN administrations in my view.

2009/2010 Status Report: Any efforts undertaken to address this matter were not communicated to the IMC office by the Parties during this 2009/2010 fiscal year.

7.9 INVOLVEMENT OF SENIOR REPRESENTATIVES OF THE PARTIES

Considering the significance of the implementation issues evident in 13 years of effort to achieve the objectives of the MFA and the 15 TEAs signed by EFNs, it is more than evident that a greater involvement of the senior most officials of the Parties from time to time could be beneficial. The Parties recognize that the degree of effort required to transfer small parcels of land is comparable to that required to transfer large parcels of land; and with the largest parcels now transferred, it may be difficult to maintain this rate of implementation moving forward. The challenge remains ahead. The pace of implementation faltered this fiscal year, and perhaps with a substantive change in senior level direction and supervision, in particular by the senior officials responsible for MFA implementation, this momentum can be reversed. It is recommended that a detailed and substantive review of MFA implementation by the Parties be undertaken at least twice annually with the involvement of the

Regional Director General of INAC, the Deputy Minister of Aboriginal and Northern Affairs, the President of TLEC, and the IMC Chairperson.

2009/2010 Status Report: The pace of land transfer in 2009/2010 (38,757.65 acres) was approximately 30% of the 2008/2009 (126,444.20 acres) pace of land transfer. The recommended bi-annual, detailed, and substantive review of MFA implementation by the Parties with the involvement of the Regional Director General of INAC, the Deputy Minister of Aboriginal and Northern Affairs, the President of TLEC, and the IMC Chairperson did not commence during the fiscal year.

7.10 2009/2010 RECOMMENDATIONS OF THE CHAIRPERSON

As the two year term of the Chairperson expired, (February 28, 2009) the Chairperson initiated dialogue with the parties with the intention of confirming a renewal of their commitment towards MFA implementation prior to considering a further two year term as independent Chairperson. Four letters were submitted to the IMC representatives of the Parties and/or the Senior Advisory Committee. Included in three of these letters submitted by Mr. McLeod are recommendations for the parties (underlined), and from these three letters, the following 2009/2010 recommendations and commentary has been extracted and summarized:

a) June 30, 2009 letter from Chairperson Rod McLeod to the Senior Advisory Committee members re: replacement of the IMC Chairperson:

A little over two years ago, I agreed to accept an appointment as Chairperson of the Implementation Monitoring Committee (IMC) established to oversee the implementation of the MFA by the Parties. I accepted your appointment with certain reservations and expectations, all of which I thoroughly discussed with the Parties prior to my appointment and then set out in a letter of understanding which was attached to my Service Agreement. Also, Canada's Auditor General had issued a Report in November 2005 which severely criticized the performance of Indian Affairs in meeting its MFA and governmental responsibilities related to implementation. Indeed, on the effective date of my appointment, the Parties had only managed to secure the setting apart of 47,064 acres of land as Reserve under the MFA after 10 years of effort. At that time, I clearly indicated to the SAC and IMC Representatives that my commitment was for 2 years, one term of appointment, but that I would make every effort to ensure the IMC worked more effectively and that other steps were taken to improve the overall implementation, a process requiring the fullest of cooperation among the Parties.

Although some of its work remained incomplete, the IMC has made evident improvements in IMC administration which should assist it in moving forward in the near future to improvement in its role in facilitation of the implementation of the MFA.

With respect to the IMC, I offer a few recommendations, neither exhaustive, nor in any order of priority, for your consideration:

- the INAC should support and direct the administrative amendment of the MFA, specifically Paragraph 34.09(1)(f), to enable it to provide accountable advance funding for IMC operations;
- the Parties should support the completion of an internal manipulative information management system to enable TLEC to monitor the Reserve creation process;
- considering the potential implications of the November 2005 and March 2009 Reports of the federal Office of the Auditor General if tested under the Best Efforts and other obligations under the MFA, INAC should provide long term financial support to the TLEC to continue, if not to expand, its capacity to support EFNs and the Parties in their mutual efforts for at least a period equivalent to that assessed by the federal OAG;
- at a minimum, considering the IMC agreement to establish a separate IMC office, removing the ability of TLEC to claim in-kind contributions to IMC costs at a time

when TLEC was without financial resources to independently contribute its 1/3 share of IMC costs, TLEC should receive separate line item funding for its share of IMC costs;

- as part of the strategic planning process, the Parties should assess the staff/financial capacity of TLEC to support the EFNs in achieving reasonable goals determined for Reserve creation in the tri-partite strategic planning process underway at present;
- pending the completion of the strategic planning process, the IMC office should, with the cooperation of the Parties, continue to produce the overall Reserve creation monitoring chart, as the bare minimum tool for the IMC Representatives to assess, discuss and consider progress in achieving MFA goals;
- INAC should complete its internal Reserve creation information management system during 2009;
- the Parties, specifically including the Regional Director of INAC, Deputy Minister of MANA, and President of TLEC, should meet at least twice a year in substantial sessions of at least a day duration to discuss overall progress, determine priority outstanding matters for resolution to support Reserve creation and address inter-party issues; and
- the IMC office would likely be better served by the appointment of a full time Chairperson resident in Manitoba who could work with IMC office staff, the IMC Representatives and the Parties generally to continue the renewal and improvement of MFA implementation.

When my appointment expired at the end of February, I agreed to extend my services until the end of June, providing the IMC Representatives and the SAC with a letter on March 5, 2009, recommending that the Parties and IMC take certain steps as soon as possible and requesting confirmation of your intentions. Certain of those steps were those I identified for attention in January 2007. Certain of those steps remain incomplete today. Surprisingly, I received minimal communication and no substantive response to my letter. To me, this lack of responsiveness indicated a lack of appreciation of the seriousness of the need for improvements in IMC and related administration by the Parties. Further, it suggested to me that neither the Parties, nor the IMC were prepared to act consistent with their many oral assurances of their commitment over the last 2 years to improve the overall implementation process or their underlying MFA and Treaty based obligations.

You may feel these comments overstate the situation, but I would disagree. From my perspective, it appears that Canada, Manitoba, TLEC and the EFNs are grappling with the challenges of change, a legal and political challenge to implement Treaty rights and obligations in the midst of a status quo of governance in Manitoba.

The Parties have made major progress in Reserve creation. Over a 2 year period, assisted by the supplementary political mandate of the Ministers responsible in August 2006, there are now 313,975 acres (March 31, 2010 = 352,733.68 acres) of Reserve set apart under Treaty Entitlement Agreements (TEAs) signed under the MFA. This is good progress. The real challenge is now before the Parties now that the backlog has been dealt with by the Parties.

b) July 10, 2009 letter from Chairperson Rod McLeod to IMC representatives re: operation of the IMC:

On June 30, 2009, I sent a letter to the Senior Advisory Committee regarding my services as Chairperson. It appears my letter has inadvertently led to some confusion about the functioning of the IMC on the part of the representatives which I would like to clarify.

Position of Chairperson:

My appointment by the SAC expired effective February 28, 2009. At that time, I indicated to the IMC that I would only consider accepting a further appointment based on certain conditions and

understandings, essentially entailing a clear commitment to the completion of defined tasks and initiation of certain initiatives on a priority basis.

In my letter of March 5, 2009, I set out for the consideration of the Parties a list of commitments I felt were necessary from the Parties to attend to essential IMC organizational matters and implementation tasks, many of which were also found in the reports of the Office of the Auditor General of 2005 and 2009. Other than a single meeting with the Parties on the afternoon of June 22 and morning of June 23, 2007, both somewhat abbreviated, I heard virtually nothing from any of the Parties in response to my letter. This lack of response underscored my growing concern that the Parties were not prepared to act in the manner demanded by the state of MFA implementation and IMC administration.

My appointment then expired in February with no action taken on the issue of re-appointment or replacement and despite my March letter agreeing to extend my services on a conditional basis to June 30 only.

Despite my personal and professional interest in the overall improvement of the MFA implementation, the general lack of priority assigned to the re-appointment process or appointment of replacement, as well as the lack of response to my March 5th letter, has led me to the conclusion that improvements in MFA implementation will require more fundamental direction for change, likely from the Ministers responsible for directing the IMC representatives and key staff involved in implementation. That type of direction for change is largely political in response to the Entitlement First Nations securing the intervention and support of their regional, provincial and national political organizations to demand accountability under the MFA and perhaps an affirmation or extension of the August 2006 Ministerial mandates. I found it shocking that the legal obligations in themselves were not sufficient to motivate Canada, Manitoba and TLEC in certain respects to fulfill their respective lawful obligations related to MFA/TEA implementation.

Accordingly, I did not agree to accept a further appointment as IMC Chairperson as confirmed in my letter of June 30, 2009.

Operation of the IMC:

The Parties to the MFA are legally obliged to implement the MFA in accordance with its provisions. The IMC was established by the MFA as a support mechanism; it does not replace the MFA obligations of the Parties in any manner. Whether there is a quorum of the IMC in place, or a Chairperson, the MFA obligations of the Parties continue, including any requirements for key planning, monitoring and reporting, such as the Strategic Planning being undertaken, monitoring of Reserve creation, and otherwise. Indeed, problem solving remains the responsibility of the Parties; the IMC role in dealing with specific referrals of issues and matters in dispute only supplements that obligation. That is; even if there is a "referral" made, that matter referred is not "frozen" once the referral is made. The Parties have a continuing obligation to resolve the matter/issue in dispute. Although the referral will follow a set process or protocol for resolution as affirmed by the IMC, this does not, nor need it necessarily supplant or replace the ongoing efforts among the Parties to resolve an implementation matter or dispute; unless the IMC or its Chairperson specifically directs the Parties to discontinue communications, which would be unlikely and quite unusual.

The IMC office is essentially the secretariat for the Parties, acting for it in organizing the meetings, offering ideas and recommendations for consideration, recording meetings, etc. The IMC office assists all of the Parties, avoids the need for consultants, and saves all kinds of internal administration (meeting scheduling, room confirmations, contracting, payment arrangements, etc.) if third party facilitation was used.

c) September 3, 2009 letter from Chairperson Rod McLeod to INAC RDG Anna Fontaine re: IMC Chairperson position (with copies to SAC and IMC representatives):

On August 25th I received your reply to my letter of June 30, 2009 in which I set out various incidental matters to be attended to in relation to the IMC year end, and my replacement as independent Chairperson of the IMC established under the 1997 TLE Framework Agreement.

In terms of interim administration, it is worth noting that the IMC is only one of the tools or mechanisms available to assist in implementation of the MFA. The Framework Agreement and the various TEAs executed by the Entitlement First Nations are free-standing agreements among Canada, Manitoba, the TLEC, and EFNs setting out ongoing obligations in relation to TLE implementation which are unaffected by the current vacancy in the position of Chairperson. That is, the primary obligation of each Party in relation to overall implementation, in monitoring of progress, in problem solving, and Reserve creation efforts continue unaffected by the vacancy in the position of the independent Chairperson.

With respect to IMC matters and administration:

- (a) *Strategic Planning:* It appears the Parties have made some progress in establishing a tripartite Strategic Plan (both short and longer term) over the past several months. Establishment of this Plan, which can be used in performance measurement and other requirements related to implementation, is critical to the future efforts of all three Parties. The IMC has been assisting in this effort as the "secretariat" for the Parties, and can be an effective vehicle in that role with the cooperation of all Parties.
- (b) *Hydro Easement Requirement:* Since at least January 2009, further consideration of the means of resolution of this I/M has been on hold pending meetings among the TLEC and the EFNs affected by the Article 12 requirements. The Parties can continue to work on this referral despite the vacancy in the position of the Chairperson.
- (c) *Annual Report:* It is difficult to complete a consensus Report, the Parties being disinclined at any time to accept critical comment, often to the extent of potential misrepresentation of the reality. The fact is all three Parties to the MFA can be recognized for progress in implementation, but in addition, to varying degrees, each Party must accept responsibility (often shared) for difficulties experienced.

The key principles we kept in mind in preparing the present draft Annual Report were presentation of a reasonably balanced but forthright view of the relative roles of the Parties implementation, and whether or not the Report was sufficient to illustrate the overall state of implementation for the purposes of the Parties.

The Framework Agreement anticipated the complications which could arise in the completion of a consensus based Annual Report. Any one Party might object to the content or tone of the Annual Report. Word smithing is a difficult task when the interests, motivations, sensitivities, and perspectives of multiple parties are involved. For that reason, you can see that Paragraph 34.09(10)(c) refers to the authority of the Chairperson to issue independent reports as he/she deems appropriate from time to time.

8.0 SUMMARY COMMENTS

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, 2010.

Lloyd Grahame
Assistant Chairperson

9.0 SUMMARY OF APPENDICES

Appendix A Location of Entitlement First Nations Map

Appendix B MFA Implementation: Reserve Land Creation by Fiscal Year

Appendix C Draft List of Historic Issues or Matters in Dispute

Appendix D Draft List of Current Issues or Matters in Dispute

Appendix E Summary of IMC Meeting Undertakings: April 28 and June 22 & 23

Appendix F Definitions used in the 2008/2009 IMC Annual Report