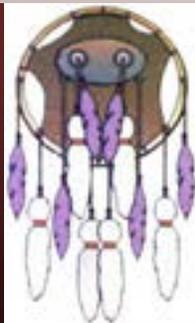


2011 - 2012



**Implementation Monitoring Committee
Annual Report**

EXECUTIVE SUMMARY

On behalf of the Implementation Monitoring Committee (IMC), the Chairperson of the IMC is to provide an Annual Report to the President of the Treaty Land Entitlement Committee, the Minister of Aboriginal Affairs and Northern Development Canada and the Minister of Aboriginal and Northern Affairs for Manitoba for each year of implementation of the Manitoba Framework Agreement on Treaty Land Entitlement, 1997 (MFA).

This Annual Report pertains to the fiscal year 2011/2012 which ended March 31, 2012, and is intended to inform the Parties of the progress made with 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. The IMC is generally responsible for facilitating the implementation of the MFA and is tasked with providing the Senior Advisory Committee with recommendations for the improvement of the implementation of the MFA and any Treaty Entitlement Agreements. The IMC is assigned an Annual Work Plan by the Parties, and the findings of the IMC in relation to its work plan lead to recommendations.

While the MFA assigns individual roles to each Party to the MFA, they are interdependent and this implies that MFA implementation depends on the working relationships established amongst the Parties, and requires the on-going commitment and cooperation of all Parties to be successful.

In total 462,615.16 acres of land have been set apart as reserve pursuant to the provisions of the MFA, which represents 48% of the total land amount committed to the 15 Entitlement First Nations with Treaty Entitlement Agreements. During the 2011-2012 fiscal year four parcels totalling 9,276.78 acres were set apart as reserve. (2% of the total amount of land set apart as reserve under the MFA)

Fifteen years have passed since the MFA was signed in May, 1997, and there is little doubt that pressure to do more, and accelerate the recent pace of reserve creation will continue. The parcels remaining to be transferred are generally smaller and often the most complex selections and acquisitions confirmed by the Entitlement First Nations, and therefore this will not be achieved easily. Certainly all Parties and Entitlement First Nations have their own plans on how each will continue to implement the MFA. The Parties however, have also recognized the beneficial results of working together to overcome the challenges to reserve creation that continue, and during 2011-2012 adopted the first three Party Annual Plan, which was circulated to the EFNs on October 6, 2011. By March, 2012 the Parties had analysed their success in attaining their Annual Plan targets, and prepared a draft of their second three Party Annual Plan for 2012-2013.

In 2011-2012, the Parties initiated the survey of 17 parcels totalling 9,923.80 acres with the available survey budget. These parcels were anticipated to be set apart by March 31, 2014, but 6 are now anticipated to be set apart by March 31, 2015. Monitoring the parcels and acreage being surveyed, provides a projection of the land to be set apart two to three years thereafter. Once the surveyed parcels on Schedules A and B of the three Party Annual Plan have been set apart, (In the 2012-2013 Annual Plan 18 parcels totalling approximately 24,280 acres are targeted to be set apart by March 31, 2013, and 50 parcels totalling approximately 43,900 acres are targeted to be set apart by March 31, 2014) the available survey budget and the capacity of the qualified survey contractors is projected to limit the land set apart as reserve to approximately 10,000 acres per year thereafter. This one limiting factor assists in projecting the number of years that will be required to implement the MFA for the 15 EFNs with TEAs, and this is thereby projected to be between 17 and 30 additional years.

The IMC also addresses issues and matters in dispute referred by the Parties or First Nations. Each of the eight referrals currently before IMC is of great importance to the referring Party. The majority are specific to one selection and affect the transfer of that selection. Two issues referred in 2007 however, (pertaining to Hydro Easements (66,000 acres) and Crown Reservations – Portages (31,000 acres)) have consequences affecting the transfer of 97,000 acres of selections, and all Parties as well as the IMC have prioritized their resolution to facilitate MFA implementation. During this year the IMC determined that a consensus on the Crown Reservations – Portages referral was not forthcoming, and in accordance with its 2010-2011 recommendation, advanced the matter to the SAC for resolution on February 8, 2012.

The key principles that were kept in mind while preparing this Annual Report were to present a balanced but forthright view of MFA implementation, and to ensure the Report is sufficient to illustrate the current state of implementation and to project the future rate of implementation.

The IMC is pleased to offer the following recommendations to improve and facilitate the implementation of the MFA:

1.0 Issue/Matter in Dispute Referral Management by IMC: During 2011-2012 one referral file was resolved by consensus, and upon determining that consensus for a second referral was not forthcoming, it was advanced to SAC, and if necessary through the progressive dispute resolution processes described in the MFA. This action was consistent with an IMC consensus on how to proceed in such circumstances, and the IMC continues to agree and recommend that when consensus is not forthcoming at IMC the referral must be advanced to SAC.

2.0 Hydro Easement: The Hydro Easement I/M is affecting the progress of the greatest number of parcels and acreage. It is recommended that the Parties reconvene at their earliest opportunity to discuss the concerns of the EFNs and TLEC, along with their proposed resolution of these concerns as contained in TLEC's January 13, 2012 submission.

3.0 Strategic Planning: The three Party Strategic Planning initiative produced the first Annual Plan this year and has been a very positive development for MFA implementation. It is recommended that this Strategic Planning initiative continue, and that the Parties target April for the release of each fiscal year's Annual Plan.

4.0 Third Party Interests: It is recommended that the Parties develop and adopt a strategy to address the low rate of resolution of third party interests and encumbrances. It is recommended that this strategy include an examination of the methods available to resolve particular TPis, and attaining consensus amongst all stakeholders on the most appropriate course of action. As well, it is recommended that this strategy include a minimum of two parcel review meetings with each EFN to discuss the consensual options directly with the EFN. Given the highly encumbered state of many EFN Priority Parcels, the adopted strategy is anticipated to significantly improve the process rate of the priority parcels as well.

5.0 Acquisition Rates and Time Periods: In light of the very low acquisition rate, and the unlikelihood of the Schedule "B" EFNs confirming the balance of their "Other Land" within their 15 year land acquisition period(s) set out in the MFA, it is recommended that the MFA Parties consider extensions to the time periods, which would extend the time when the MFA principles apply to the acquisitions. Whether or not the principles continue to apply until the six Schedule B EFNs have acquired their total Other Land amount, the legal entitlement for the EFNs to acquire this land will continue in accordance with MFA Section 4.03. As the Parties have informally extended the application of the principles beyond the expiry of the Selection time periods (and extensions), the Parties should upon submission of the EFN plan, consider application of the principles to acquisitions indefinitely, similar to the manner the Parties have treated outstanding Crown Land selections.

6.0 Reindeer Lake Regulation: Reindeer Lake regulation is a major impediment to implementing the Barren Lands First Nation (BLFN) TEA. It is recommended that the Parties maintain their initiative and dialogue with Sask Power until a means to move forward with BLFN selections on Reindeer Lake is confirmed.

7.0 Survey Capacity Limitations: The remaining selections are an average size of approximately 1,070 acres. With a similar size survey budget, it is projected that an average of approximately 17 parcels or an average of 10,000 acres can be surveyed annually moving forward. At this pace, implementation of the MFA for the 15 EFNs with TEAs is projected to take between 17 and 30 years, and will require a survey budget of \$30 to \$50 million. Additional time and resources will be required to survey the land selections of the six currently unsigned EFNs as well as the acquired parcels. In addition, the Parties will require staff to complete their MFA responsibilities for this same projected period of time. It was not anticipated that implementing the MFA would take a generation, and it is recommended that the three Parties review the survey capacity situation and its affect on the pace of MFA implementation, and determine how this can be remedied.

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1.0 INTRODUCTION

1.1 MANITOBA FRAMEWORK AGREEMENT ON TREATY LAND ENTITLEMENT (MFA)

Fifteen 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 land under Treaties 1, 3, 4, 5, 6 and 10, entered into an agreement with Canada and Manitoba to secure outstanding 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”).

All of the 19 First Nations initially 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 was signed, a portion of the membership of two of the original 19 First Nations were independently recognized as two additional First Nations, with the result that there are now 21 First Nations entitled to sign TEAs under the Framework Agreement located throughout Manitoba¹. Please refer to the map illustrating the location of the First Nations entitled to enter into TEAs under the MFA. (**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 (approximately 1,720 square miles) of Reserve 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 located in southern, northern, and western Manitoba were also provided funds to purchase a portion of the TLE for these six First Nations on the open market due to the lack of sufficient Crown Land of suitable quality being available in the vicinity of their existing Reserves. 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 Nation, Buffalo Point First Nation, Opaskwayak Cree Nation, Rolling River First Nation, Sapotawayak Cree Nation, and Wuskwi Sipiik First Nation - are entitled to purchase or otherwise acquire the balance of 114,677 acres of land for Reserve.

As of March 31, 2012, 15 of the 21 First Nations entitled to enter into TEAs (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. For further information on the status of the six First Nations that have chosen not to enter into TEAs to date, please refer to Section 2.2.10. The First Nations that have not signed TEAs continue to have outstanding TLE rights. Canada, TLEC, and Manitoba remain prepared to enter into Treaty Entitlement Agreements with these six First Nations. Two (Marcel Colomb First Nation and O-Pipon-Na-Piwin Cree Nation) have completed the Community Approval Process (CAP) required by the MFA.

¹ Canada declared divisions of the Mathias Colomb Cree Nation and Nisichawayasihk Cree Nation after the MFA settlement, accordingly, adding the Marcel Colomb First 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, 2012, these two “new” First Nations had not executed TEAs under the MFA.

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

| Entitlement First Nations | Treaty Number | Date Treaty Entitlement Agreement (TEA) Signed | Crown Land (Acres) | Crown Land Set Apart | Other Land (Acres) | Other Land Set Apart | Total (Acres) |
|---|---------------|--|--------------------|----------------------|--------------------|----------------------|------------------|
| BARREN LANDS FIRST NATION | 10 | June 23, 1999 | 66,420 | 0 | - | - | 66,420 |
| BROKENHEAD OJIBWAY NATION | 1 | September 9, 1998 | 4,344 | 672.00 | 10,137 | 7.46 | 14,481 |
| BUFFALO POINT FIRST NATION | 3 | March 24, 1998 | 3,432 | 2,369.70 | 607 | 0 | 4,039 |
| BUNIBONIBEE CREE NATION (formerly known as Oxford House Cree Nation) | 5 | February 17, 1999 | 35,434 | 31,342.34 | - | - | 35,434 |
| FOX LAKE CREE NATION | 5 | Unsigned | 26,391 | - | - | - | 26,391 |
| GOD'S LAKE FIRST NATION | 5 | May 28, 1999 | 42,600 | 16,189.75 | - | - | 42,600 |
| MANTO SIPI CREE NATION (formerly known as God's River Cree Nation) | 5 | May 19, 1999 | 8,725 | 4,284.00 | - | - | 8,725 |
| MARCEL COLOMB FIRST NATION | 6 | Unsigned | 17,007 | - | - | - | 17,007 |
| MATHIAS COLOMB CREE NATION | 6 | October 1, 2003 | 217,364 | 172,538.49 | - | - | 217,364 |
| NISICHAWAYASIIK CREE NATION (formerly known as Nelson House Cree Nation) | 5 | September 1, 1998** | 61,761 | 33,816.01 | - | - | 61,761 |
| NORTHLANDS FIRST NATION | 10 | November 9, 1999 | 94,084 | 4,134.00 | - | - | 94,084 |
| NORWAY HOUSE CREE NATION | 5 | November 12, 1998 | 104,784 | 42,045.60 | - | - | 104,784 |
| OPASKWAYAK CREE NATION | 5 | January 22, 1999 | 47,658 | 24,375.30 | 8,410 | 0 | 56,068 |
| O-PIPON-NA-PIWIN CREE NATION | 5 | Unsigned | 17,674 | - | - | - | 17,674 |
| ROLLING RIVER FIRST NATION | 4 | March 6, 1998 | 2,356 | 2,350.70 | 44,756 | 3,117.85 | 47,112 |
| SAPOTAWAYAK CREE NATION | 4 | September 1, 1998 | 108,134 | 99,701.73 | 36,045 | 0 | 144,179 |
| SAYISI DENE FIRST NATION | 5 | Unsigned | 22,372 | - | - | - | 22,372 |
| SHAMATTAWA FIRST NATION | 5 | Unsigned | 24,912 | - | - | - | 24,912 |
| WAR LAKE FIRST NATION | 5 | May 28, 1999 | 7,156 | 480.40 | - | - | 7,156 |
| WUSKWI SIPIHK CREE NATION | 4 | June 9, 1998 | 44,168 | 25,189.83 | 14,722 | 0 | 58,890 |
| YORK FACTORY FIRST NATION | 5 | Unsigned | 29,173 | - | - | - | 29,173 |
| TOTAL | | | 985,949 | 459,489.85 | 114,677 | 3,125.31 | 1,100,626 |

** The effective date of the NCN TEA is an issue that has been referred to IMC by NCN. File: 1999-NCN-003

After 15 years of implementation, the Parties to the MFA have succeeded in setting apart 462,615.16 acres of land as Reserve. This total is comprised of 122 separate selections and 23 separate acquisitions of land, and this represents approximately 48% of the overall Treaty Land Entitlement (TLE) of the 15 Entitlement First Nations that have signed their respective TEAs. Of the total amount of land set apart as Reserve to date, 9,276.78 acres (comprised of 1 selection and 3 acquisitions) were set apart as Reserve during the 2011/2012 fiscal year (about 2% of the total acreage set apart to date). The following **Chart 2** illustrates the acreage and number of parcels of land set apart as reserve annually since the signing of the MFA on May 29, 1997.

Chart 2: Acreage and Parcels Set Apart as Reserve Pursuant to the MFA Between 1997 and March 31, 2012

| DATES | SELECTIONS | | ACQUISITIONS | | TOTAL | |
|--------------------------------|-------------------|------------|-----------------|-----------|-------------------|------------|
| | ACRES | PARCELS | ACRES | PARCELS | ACRES | PARCELS |
| May 29, 1997 – March 31, 1998 | 0 | 0 | 0 | 0 | 0 | 0 |
| April 1, 1998 – March 31, 1999 | 0 | 0 | 0 | 0 | 0 | 0 |
| April 1, 1999 – March 31, 2000 | 1,275.18 | 2 | 0 | 0 | 1,275.18 | 2 |
| April 1, 2000 – March 31, 2001 | 0 | 0 | 0 | 0 | 0 | 0 |
| April 1, 2001 – March 31, 2002 | 0 | 0 | 0 | 0 | 0 | 0 |
| April 1, 2002 – March 31, 2003 | 0 | 0 | 0 | 0 | 0 | 0 |
| April 1, 2003 – March 31, 2004 | 4,894.75 | 2 | 0 | 0 | 4,894.75 | 2 |
| April 1, 2004 – March 31, 2005 | 7,040.30 | 9 | 0 | 0 | 7,040.30 | 9 |
| April 1, 2005 – March 31, 2006 | 9,333.55 | 11 | 0 | 0 | 9,333.55 | 11 |
| April 1, 2006 – March 31, 2007 | 24,362.48 | 13 | 158.14 | 1 | 24,520.62 | 14 |
| April 1, 2007 – March 31, 2008 | 140,465.95 | 25 | 0 | 0 | 140,465.95 | 25 |
| April 1, 2008 – March 31, 2009 | 123,874.29 | 29 | 2,571.39 | 19 | 126,445.68 | 48 |
| April 1, 2009 - March 31, 2010 | 38,757.65 | 17 | 0 | 0 | 38,757.65 | 17 |
| April 1, 2010 - March 31, 2011 | 100,604.70 | 13 | 0 | 0 | 100,604.70 | 13 |
| April 1, 2011 – March 31, 2012 | 8,881.0 | 1 | 395.78 | 3 | 9,276.78 | 4 |
| TOTAL | 459,489.85 | 122 | 3,125.31 | 23 | 462,615.16 | 145 |

Additional detail on the parcels set apart as reserve is found in **Appendix B**.

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 was on average, 2.97 years. 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. Volume affects the rate of processing because staff complements do not proportionately increase as settlement agreements increase. (e.g. There were no additions to Manitoba and Canada staff levels when the Peguis First Nation TLE Settlement Agreement was signed in 2006.) In 2011-2012 the IMC Chairperson completed a general review and analysis of the approximate time required to process a parcel from the date confirmation is received to the date it is set apart as reserve. This general analysis found that acquisitions have taken approximately 9 years on average, and selections have taken approximately 7.4 years on average. All Parties have acknowledged that as the majority of land selections were confirmed shortly after a TEA was executed by an EFN with Manitoba, Canada, and the TLEC, the average time period required to set the selections apart as reserve is growing longer, rather than shorter.

The MFA provides 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 acquisition of private land. The Parties to the MFA agreed that land selected or 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 provides; 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”). The IMC is generally responsible for facilitating the implementation of the MFA, including; making recommendations to the Parties for the resolution of any issue or matter in dispute, and monitoring and reporting on the progress of implementation.

On behalf of the IMC, the Chairperson of the IMC is to provide an Annual Report to the President of the TLEC, the Minister of Aboriginal Affairs and Northern Development Canada and the Minister of Aboriginal and Northern Affairs for Manitoba by June 30th of each year during MFA implementation.

This Annual Report pertains to the fiscal year 2011/2012 which ended March 31, 2012, and is intended to inform the Parties and EFNs of the progress achieved with 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.

1.2 IMC STRUCTURE AND WORK PLAN FOR 2011/2012

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 the Regional Director General of the Manitoba Regional Office of AANDC or the Assistant Deputy Minister of Treaties and Aboriginal Government, AANDC (Canada).

As of March 31, 2012, the IMC Representatives, alternate Representatives and Chairperson were as follows:

| | |
|--------------------|-----------------------------------|
| Lloyd Grahame | Independent Chairperson |
| Merrell-Ann Phare | TLEC representative |
| Paul Chief | TLEC representative |
| Chris Henderson | TLEC alternate representative |
| Cynthia Beadle | Manitoba representative |
| Dave Hicks | Manitoba alternate representative |
| Winona Embuldeniya | Canada representative |
| Mark Saranchuk | Canada alternate representative |

As per Section 31 of the MFA, the Parties shall use their best efforts, and that includes their assignment of appropriate personnel to discharge the IMC obligations under the MFA and all undertakings and work supplemental to the IMC.

Within the 2011-2012 IMC Work Plan (Please refer to the annotated IMC Work Plan found as **Appendix E**) the Parties assigned the lead role for the various IMC Work Plan Tasks to either a representative of a Party serving on IMC, or the Chairperson. Each Work Plan task sets out a statement of the issue, the actions required of IMC, and the targeted results that the Parties set out to attain by agreed upon dates.

Part 1.0 of the IMC Work Plan addresses the resolution of the issues/matters in dispute (I/M) that have been referred to IMC, and were determined to be the top priority activity of IMC.

Part 2.0 of the IMC Work Plan addresses topics that are to be monitored by the IMC but remain the responsibility of the Parties. The IMC is to monitor; Strategic Planning, Third Party Interest resolution, EFN Priority Parcels, the Land Transfer Process, Hydro Easement Process, Information Management, Crown Land Selections, Acquisition Rates, Outstanding TEAs, and Other Specific Issues as they arise.

Part 3.0 of the IMC Work Plan addresses IMC reporting requirements.

2.0 PROGRESS WITH THE 2011-2012 IMC WORK PLAN

The IMC is generally responsible for facilitating implementation of the MFA and any TEA that includes monitoring the progress of the Parties and the EFNs with implementation, and making recommendations to facilitate implementation, and assisting the Parties with the resolution of any matters or issues in dispute under the MFA.

While the Work Plan represents the IMC's agreed scope of activities in the 2011-2012 fiscal year, it does not replace nor is it intended to alter the terms of the MFA nor any of the obligations of the Parties or the IMC set out in the MFA. This Annual Report is formatted to follow the IMC's 2011-2012 Work Plan.

2.1 2011-2012 IMC WORK PLAN: RESOLVING OR REFERRING DISPUTES

2.1.1 REFERRAL MANAGEMENT

The IMC prioritized referral resolution in its 2011-2012 Work Plan. With respect to the unresolved issues/matters in dispute referred to the IMC, the IMC has confirmed the process that IMC follows upon submission of a referral and follows a structured approach.

In accordance with the I/M Referral Protocol, once the representatives feel that the I/M and each Party/EFN's views and opinions are reflected accurately and comprehensively, the IMC goal is to resolve the I/M by consensus.

Depending on if the I/M is broad based in nature or specific to an individual parcel of land, and the nature of the views and opinions submitted by the Parties, the Chairperson may recommend that: (i) a discussion paper be developed to analyze the situation and clarify linkages to the MFA provisions, or (ii) a Focus Group meeting(s) be convened to discuss the matter in detail, clarify misunderstandings if any, and arrive at a consensus.

In these focus meetings, the Party representatives 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. This has proven difficult in practice and positional perspectives continue to be defended at IMC and Focus Group meetings.

If the exchange of discussion paper drafts, or Focus Group meetings, lead to a common understanding on matters upon which the Parties previously held divergent perspectives and opinions, the Parties will have reached consensus on the referral and will advise the referring Party. It may also be deemed appropriate and beneficial to issue an IMC Informational Bulletin on the topic to serve as procedural and operational guidelines.

If the IMC discussions of the Chairperson's summary document, and/or discussion paper and/or Focus Group discussions do not result in a consensus; the Chairperson may update his/her summary document, as per the IMC and Focus Group discussions, and add two additional sections, (i) The Proposed Interpretation of the MFA by the Chairperson, and (ii) Chairperson's Proposed Resolution as per MFA Paragraph 34.09(5)(e), and circulate this updated summary document to the IMC with a time frame for comments.

If the updated Chairperson's summary document does not result in a consensus, the Chairperson's summary document serves as the information required pursuant to MFA 34.09(7)&(9) for a referral of the I/M to the Senior Advisory Committee (SAC). (i.e. the I/M summary, any means recommended by the Chairperson for resolving the I/M, any direction to the members to consider the recommendation within a specified time period, any response of the IMC members provided to a recommendation of the Chairperson, and the Chairperson's recommendation on the proposed time period within which the SAC should attempt to resolve the I/M.)

The current status of the nine referrals listed in the 2011-2012 IMC Work Plan are summarized on the following **Chart 3**.

Chart 3: March 31, 2012 Status Of IMC Referrals

| REFERRAL FILE | SHORT TITLE | ACRES AFFECTED | STATUS | RESPONSIBILITY FOR NEXT STEP |
|-------------------|-------------------------------------|--|--|--------------------------------|
| 2007-TLEC-002 | Hydro Easement (H/E) | 65,800 | TLEC confirmed EFN issues with the draft H/E and proposed options to resolve these issues on January 13, 2012. TLEC also confirmed that an alternate form of H/E is pending. Manitoba and Canada are to confirm if they will meet to discuss submitted comments. | TLEC Manitoba and Canada |
| 2004-BLFN-002 | Land in Severalty (LIS) | 230 members x 160 acres = 36,800 acres | Binding Arbitration on hold. BLFN is obtaining a legal opinion and holding an election; meeting with the Chairperson is pending. | BLFN |
| 2006-Manitoba-005 | Material Failure re Portages | Trout Falls = 620 acres Wapanipanis Portage = 327 acres | Binding Arbitration pending. BCN awaiting outcome of referral 2007-TLEC-005 which may address the issue at the heart of their material failure allegation. IMC cannot proceed with binding arbitration without information requested from BCN on September 1, 2010. | BCN |
| 2007-TLEC-005 | Crown Reservations Portages | TF=620 WP=327 Total = 947 acres | Referral Protocol referred to SAC on February 8, 2012. SAC met on March 22, 2012 but did not reach consensus, and are to meet with the Chairperson on April 17, 2012. | Senor Advisory Committee |
| 2007-BPFN-001 | PTH#12 – controlled areas | 70.6 | Referral Protocol complete. IMC consensus reached. | - |
| 1999-BPFN-001 | Selections in Provincial Parks | 116.4 | Chairperson to add proposed MFA interpretation and proposed resolution to Referral Protocol by June 30/12. | Chairperson |
| 1999-NCN-003 | TEA Effective Date | 0 | Most recently IMC wrote to NCN and offered to meet on March 29/12. | Chairperson/NCN |
| 2003-BON-001 | Surplus Federal Land - Kapyong | 160 | BON reactivated this referral on September 8, 2011, and the Chairperson requested facts and documents from representatives on September 9, 2011. Manitoba and Canada representatives have not submitted any information to the IMC on this matter to date. Canada feels BON abandoned the IMC process and this is not an IMC file. | Manitoba, and Canada |
| 2006-Manitoba-001 | Material Failure re Knee Lake Lodge | 1,511 | Binding arbitration pending. BCN has an affordability issue with the anticipated cost of the arbitration. BCN is also investigating TPI purchase in lieu of arbitration. IMC cannot proceed with binding arbitration without information requested from BCN on August 8, 2011. | BCN |

In summary, at the beginning of 2011-2012, IMC had nine current issues/matters in dispute, and by year end this list had been reduced to eight. These current referrals are described in detail in Sections 2.1.2 – 2.1.10.

2.1.2 REFERRAL 2007-TLEC-002: HYDRO EASEMENT

- a) **ISSUE:** On August 27, 2007, the TLEC referred this matter to the IMC. TLEC actually referred two issues within this referral: firstly TLEC is asserting that Manitoba is not entitled to retain partial constitutional jurisdiction that the Crown asserts is required to support an easement required by Manitoba Hydro; and secondly that the hydro easement should set out a resolution process whereby the EFNs can address alleged impacts on the EFN's existing aboriginal and Treaty rights, as well as any potential claim to compensation in respect of the easement area. The Parties need to reach consensus on the Hydro Easement agreement(s) for implementation to proceed and the transfer of the affected Selections of land to Canada in order for them to be set apart as reserve under the MFA.
- b) **LAND AFFECTED:** This referral is broad based in nature. Five EFNs have confirmed 72 selections totalling approximately 65,800 acres of land on developed waterways that are affected by this issue.
- c) **BACKGROUND:** 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. MFA 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. In accordance with MFA Article 38, the Parties committed themselves to the approval of three "Agreed to Forms" as soon as reasonably practicable, and MFA Paragraph 38.01(4)(c) confirms "the Hydro Easement referred to in subsection 12.05(1)" as one of these three Agreed to Forms. For 10 years between the MFA signing on May 29, 1997 and the August 27, 2007 referral by TLEC, the Parties worked towards this goal but did not reach consensus on an agreed form of Hydro Easement document.

The Chairperson 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 discuss specific problematic aspects of this Referral upon which consensus has yet to be reached. In addition this topic was discussed at each IMC meeting. (January 21 & 22, 2009, February 18, 2009, March 24 & 25, 2009, April 28, 2009, and June 22 & 23, 2009) Between June 30, 2009 and May 1, 2010 IMC was without a Chairperson (and quorum) and this matter did not advance towards resolution. 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.

Initially confirmed as Undertaking #1 from the March 25, 2009 IMC meeting, during 2010-2011 TLEC continued to; a) work with the EFNs to determine and explain the main areas of concern, and b) present options to resolve the general areas of concern, and c) reach agreement on the Hydro Easement document by March 31, 2011. TLEC requested that this be carried forward at each IMC meeting and this extended into 2011-2012.

- d) **2011-2012 WORK PLAN AND TARGETED RESULTS:** The 2011-2012 IMC Work Plan describes the required actions and targeted results necessary to advance this referral towards resolution. The EFNs and TLEC are to finalize their review of the H/E document and present their specific issues of concern on the easement issue. TLEC is to also present its preferred options for resolving these issues of concern to IMC for consideration. Discussions are to then reconvene between the Parties with respect to the identified/confirmed issues and proposed means of resolution. Based upon the progress of the discussions, a decision is to be made on if a consensus can be reached on a means to move forward. Ideally a consensus will be reached on a Hydro Easement Agreement, however if no consensus is reached, the IMC will proceed in accordance with the IMC Policies and Procedures Manual, and finalize the Referral in the Form of the Protocol Document, and advance it to the SAC.
- e) **PROGRESS DURING 2011-2012:** On May 30, 2011 the Chairperson wrote to TLEC and requested an update. He provided a background summary on the Hydro Easement referral, and his concern that unless the Parties are regularly communicating and advising each other along the way on options being considered that are intended to lead to consensus, this process could lead to the Parties being further apart, rather than closer together, when they next convene. On July 15, 2011 TLEC provided an update on behalf of the "Joint Working Group on Hydro Easements" (JWGHE). TLEC advised that this Working Group has been working towards the development of a H/E that is satisfactory to Brokenhead Ojibway Nation and Norway House Cree Nation, and may be useful as a template for other EFNs with selections along developed waterways.

In 2008-2009 the IMC 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 the affected land to Canada for Reserve due to the existence of other related issues, and agreed that these other related issues should be addressed concurrently. These related issues include the 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 land physically required by Manitoba Hydro in relation to Selections on Developed Waterways. In response Manitoba prepared a draft document entitled "Reserve Creation Process subject to a Hydro Easement, Pursuant to the Treaty Land Entitlement Framework Agreement", and the Parties reached tentative agreement on this process.

On January 13, 2012 TLEC wrote to the Parties and explained its concerns and the concerns of the EFNs with both the H/E document and the easement line determination process. By year end, Manitoba and Canada had not yet agreed to reconvene with TLEC and discuss these matters as recommended by the Chairperson.

2.1.3 REFERRAL 2004-BLFN-002: LAND IN SEVERALTY (LIS)

- a) **ISSUE:** Barren Lands First Nation (BLFN) alleges that Canada had materially failed to comply with a fundamental term of the MFA and asserted that although its members had given Canada notice of their election to take Land in Severalty in accordance with MFA Subsection 9.01(1), Canada had failed to enter into discussion with those members pursuant to MFA Subsection 9.01(4).
- b) **LAND AFFECTED:** 230 members of the BLFN asserted a right to LIS, and MFA Paragraph 9.02 (a) stipulates that 160 acres of Land In Severalty shall be provided to the member who elects to take LIS (subject to Canada agreeing that LIS is still an available option for the members of the BLFN).
- c) **BACKGROUND:** On May 5, 2004, the BLFN wrote to Canada (ADM Michel Roy and RDG Roy Bird) and in accordance with MFA Section 36.01 alleged that Canada materially failed to comply with a fundamental term or condition of the MFA. BLFN advised that Canada had 30 days to remedy the material failure or refer the matter to IMC. On June 14, 2004, TLEC alleged that Canada had materially failed to meet the Land In Severalty provisions of the MFA as set out in the May 5, 2004 letter from BLFN.

At a June 23, 2004 IMC meeting a letter from INAC RDG Roy Bird to Chief Halkett and Council was discussed. Canada's suggestion was that rather than bring the issue to arbitration, it would rather provide a timeframe for completion of its policy. IMC discussed the pros and cons of arbitration as the EFN was frustrated with no progress on this matter. A decision was made to ask Chief Halkett to place the matter in abeyance for 90 days to facilitate the fact-finding process and also to prepare for arbitration, with a deadline of September 30, 2004. On August 27, 2004 the Chairperson wrote to Chief and Council and copied Canada and Manitoba and advised on the results of the June 23, 2004 IMC meeting, and suggested a collaborative approach with tight time frames rather than binding arbitration. On November 19, 2004 Canada wrote to Chief Halkett and Council providing notice that the option to elect land in severalty "crystallized at date of first survey and was no longer available".

At a January 6, 2005 IMC meeting the IMC agreed to appoint Lawrie Cherniak as adjudicator for the binding arbitration regarding the procedural issue of the conduct of consultations concerning the nature and extent of the right to Land in Severalty, subject to the agreement of BLFN. Once confirmed by BLFN, a meeting would be held to finalize the terms of reference (TOR) and set dates for the binding arbitration.

Terms of reference for a binding arbitration under MFA 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 MFA Section 9.01 between Canada and the members of the BLFN who had asserted a right to land in severalty. The BLFN and the TLEC agreed 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 BLFN 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. On June 29, 2005, Canada provided to the Arbitrator a listing of dates when it conducted consultation with BLFN members.

On September 19, 2005 BLFN requested Canada's position on Land in Severalty. In addition, Chief Halkett commented that Canada should at a minimum have provided a report (information) on the May 2005 discussions, in order for BLFN to make an informed decision on how to proceed with arbitration. BLFN asserts that this information is required to determine if the meetings fulfilled meaningful consultation.

Efforts to resolve the severalty matter were re-initiated in April 2006 when legal counsel for the BLFN and the TLEC requested that the arbitrator resume proceedings to address the question of the continued availability of the option to elect LIS 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 of a member to elect to take LIS, the Parties opted to undertake a “representative case study of the issue focusing on an individual member”, but this step was postponed by the BLFN 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 BLFN or the TLEC as to the further conduct of the arbitration proceeding. As a result, the arbitration action remains active but in abeyance pending further directions to the arbitrator by the Parties and the Chairperson.

The Parties and the Chairperson met with the BLFN Council on July 20, 2010 to discuss the status of the arbitration, and the Chairperson wrote to the Chief and Council on July 21, 2010 to provide a status report/summary of the LIS matter. The Chairperson met again with the Chief and Council and their legal Counsel on September 16, 2010.

- d) 2011-2012 WORK PLAN AND TARGETED RESULTS:** The 2011-2012 IMC Work Plan describes the required actions and targeted results necessary to advance this referral towards resolution. The Chairperson is to ensure the BLFN Chief and Council are aware of the current status of this referral, and encourage BLFN to make a decision respecting if and how to proceed with binding arbitration. With a fully informed Chief and Council, it is hoped that a decision can be made by BLFN on how it wishes to proceed with this referral. If the BLFN choice is to proceed with the binding arbitration (currently in abeyance), the IMC could facilitate this process in accordance with the MFA provisions, and the IMC Policies and Procedures Manual.
- e) PROGRESS DURING 2011-2012:** BLFN has not yet determined how it would like to proceed. During the year, BLFN legal counsel worked on a legal opinion on this matter for consideration by Chief and Council to enable BLFN to make an informed decision on how to proceed with their binding arbitration process. Simultaneously the Chairperson followed up with BLFN on a past discussion respecting the characteristics of Certificates of Possession (CPs) issued under the Indian Act, and how these CP characteristics may be similar to how BLFN views the characteristics of Land in Severalty. The Chairperson prepared a draft discussion paper on the characteristics of CPs and circulated it to IMC representatives for their comments. While not a tool to resolve the matter of LIS, it may be that if LIS is viewed by BLFN as a reserve set apart for the exclusive use of a member, then perhaps there are enough similarities with a CP for BLFN to see their way clear to choose this alternative rather than a lengthy engagement with Canada on if the right to elect LIS still exists, and the many outstanding questions relating to the characteristics of LIS land. It is important that BLFN determine if BLFN would like to move in this direction on its own. On December 8, 2011 the Chairperson forwarded a draft discussion paper on CPs to BLFN lawyer for discussion with his client. The Chairperson has been in contact with the BLFN legal counsel on this matter monthly. In addition, during 2011-2012 the Chairperson solicited and received a great deal of background material on this matter from BLFN, and prepared a lengthy annotated chronology of the material in the IMC’s 2004-BLFN-002 LIS referral file, which was circulated to the IMC representatives on December 29, 2011, along with a request for comments and copies of any other documents that are not listed but that the Party representatives feel is important to complete a full assessment of this I/M. No comments were submitted. By January, 2012 BLFN legal counsel advised that he has discussed his legal opinion with BLFN counsel, and now requires additional information on what was being contemplated by the revised TOR for the Arbitration. The Chairperson facilitated a meeting between BLFN representatives and Canada on this in February, 2012. Throughout the year BLFN prioritized resolution of the effect that the regulation of Reindeer Lake is having on its selections.

2.1.4 REFERRAL 2006-MANITOBA-005: MATERIAL FAILURE RESPECTING CROWN RESERVATIONS-PORTAGES

- a) ISSUE:** The Bunibonibee Cree Nation (BCN) and TLEC each assert 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 two BCN Selections (Trout Falls and Wipanipanis Portage), to Canada contrary to the requirement of MFA Subsections 3.02(6) and 7.01(2) and the definition of Crown Reservations set out in MFA Subsection 1.01(21). On March 22, 2006, Manitoba referred the allegations of material failure by BCN and TLEC to the IMC for review in accordance with MFA Subsection 36.01(2).
- b) LAND AFFECTED:** Two BCN Selections (Trout Falls and Wipanipanis Portage) totalling 946.39 acres.

c) BACKGROUND: On December 23, 2002, Manitoba gave notice to the BCN of the existence of a portage across its Trout Falls and Wipanipanis Portage Selections and asserted that a portage was a “competing consideration” and therefore that the Selections were not eligible under the Principles. On February 27, 2006, BCN and TLEC in accordance with MFA Subsection 36.01 asserted that Manitoba had materially failed to comply with a fundamental term or condition of the MFA. On March 22, 2006, Manitoba referred the matter to the IMC in accordance with MFA Paragraph 36.01(2) (b).

On April 7, 2006, the BCN and TLEC jointly requested the IMC to direct the matter to binding arbitration under MFA Subsection 36.01(5). On February 27, 2007, Manitoba sent a letter to the BCN to discuss the retention of the right of public access to the Selections’ portages either by way of an access agreement or possible exclusion under MFA Subsection 3.02(12).

At an IMC meeting dated April 18, 2007, the Portage issue was discussed and Manitoba undertook to provide a report setting out the results of its review of all Selections with portages, and at an IMC Meeting dated June 14, 2007, Manitoba presented its report dated June 6, 2007 to the IMC regarding “Selections containing a portage”.

The IMC undertook in its 2010-2011 Work Plan to determine the updated status of this referral and make a decision on the action required. Between May and August, 2010 the IMC reviewed the Portage Referral (IMC File #2006-BCN/TLEC-003), and the Chairperson presented an analysis dated June 30, 2010 which was subsequently agreed to by consensus of the IMC representatives. It was agreed at an IMC Meeting dated July 27, 2010 to separate the IMC file into two new files. (2006-Manitoba-005 and 2007-TLEC-005)

On September 1, 2010 the Chairperson wrote to BCN and provided an update. The circumstances of the file and the MFA provisions (MFA Article 36) direct the Chairperson to refer this matter directly to binding arbitration. The Chairperson also identified the steps required to move forward with the upcoming arbitration, and described the specific information that is required from BCN to do so. The Chairperson also requested this detailed information from TLEC at IMC meetings. On February 4, 2011 TLEC wrote to IMC and asked that their allegation be placed in abeyance on a “without prejudice” basis. The IMC is awaiting BCN’s response to its September 1, 2010 letter.

d) 2011-2012 WORK PLAN AND TARGETED RESULTS: The 2011-2012 IMC Work Plan describes the required actions and targeted results necessary to advance this referral towards resolution. The Chairperson is to discuss this matter and the options to proceeding with binding arbitration with BCN, and facilitate a decision being confirmed by BCN Chief and Council. Upon BCN confirmation, the IMC intends to either initiate and conclude the Binding Arbitration process (as more particularly described in the IMC letter to BCN dated September 1/10), or act in accordance with BCN’s decision.

e) PROGRESS DURING 2011-2012: The Chairperson met with BCN Councillors and representatives on October 20, 2011. The cost of proceeding with the binding arbitration was discussed. The Chairperson advised that referral #2007-TLEC-005 appears to deal with the matter at the heart of the BCN allegation of material failure, and the draft Referral Protocol on that referral would be circulated by December 30, 2011 along with a request for comments by the Party representatives. BCN representatives agreed to wait and see how the Referral file #2007-TLEC-005 is determined before proceeding with binding arbitration on its allegation of material failure that led to Manitoba’s referral #2006-Manitoba-005. By year end Referral file #2007-TLEC-005 had been referred to SAC in accordance with the MFA provisions, as IMC had not reached a consensus on the proposed resolution, or an alternative.

2.1.5 REFERRAL: 2007-TLEC-005: CROWN RESERVATIONS – PORTAGES

a) ISSUE: 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 MFA Subsection 1.01(21) and transferable to Canada in accordance with MFA Subsection 7.01(2). Accordingly 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 BCN’s 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 MFA Sections 3.01(4) and (5), and referable to the IMC under MFA Section 3.11.

b) LAND AFFECTED: Two Bunibonibee Cree Nation (BCN) Selections (Trout Falls and Wipanipanis Portage) totalling 946.39 acres.

c) BACKGROUND: On December 23, 2002, Manitoba gave notice to the BCN of the existence of a portage across its Trout Falls and Wipanipanis Portage Selections, and asserted that a portage was a “competing consideration”, and therefore that the Selections were not eligible under the Principles. Between March 1, 2007 and July, 2007, the IMC representatives began a renewal of the IMC initiative, and adopted procedures and a work plan to do so. In conjunction with this renewal, the IMC representatives adopted a “Protocol For The Referral and Review of an Issue or Matter in Dispute Under the 1997 Manitoba Framework Agreement on Treaty Land Entitlement”.

At an IMC meeting dated April 18, 2007 the Portage issue was discussed and Manitoba undertook to provide a report setting out the results of its review of all Selections with portages. At an IMC Meeting dated June 14, 2007, Manitoba presented its report dated June 6, 2007 regarding “Selections containing a portage”, to the IMC.

The IMC undertook in its 2010/2011 Work Plan to determine the updated status on this referral and make a decision on action required. Between May and August, 2010 the IMC reviewed the Portage Referral (IMC File #2006-BCN/TLEC-003), and in follow up, the Chairperson presented an analysis dated June 30, 2010, which was subsequently agreed to by consensus of the Parties. It was agreed at an IMC Meeting dated July 27, 2010 to separate the IMC file into two new files. (2006-Manitoba-005 and 2007-TLEC-005) This 2007-TLEC-005 referral file deals with the July 18, 2007 TLEC referral related to “Crown Reservations – Portages”.

In the 2010/11 IMC Work Plan it was agreed to conduct a series of Focus Group Meetings on this topic. Four meetings were held in 2010/11. (On September 14, 2010, October 28, 2010, December 13, 2010, and January 24, 2011. In conjunction with the Focus Group Meetings, Manitoba conducted site assessments of the selections containing portages and updated their comments. The need for a portage was subsequently removed from 11 of 22 selections. The remaining 11 selections total approximately 35,557 acres, with the actual area of the portages being approximately 65 acres. The Parties have also explored alternatives for all of the other selections, and Manitoba wrote the EFNs in February, 2011 offering to proceed with the transfer of the Selection if the EFN excluded the portage trail, or agreed with Canada granting Manitoba an easement for the general public to cross the proposed reserve, along the portage trail.

d) 2011-2012 WORK PLAN AND TARGETED RESULTS: The 2011-2012 IMC Work Plan describes the required actions and targeted results necessary to advance this referral towards resolution. It is intended that the IMC Focus Group will present its options to IMC for resolution on this matter, and simultaneously, the EFNs are anticipated to respond to the February, 2011 status report letters from Manitoba (response outstanding to date), with their respective views on accommodating a portage with a portage easement agreement. If there is no agreement reached between Manitoba and BCN, the Chairperson is to prepare the Referral in the Form of the Protocol for circulation and review by the IMC representatives. The review of the Referral in the Form of the Protocol would either result in a consensus being reached on the Treatment of Crown Reservations – Portages, or if no consensus is reached, the IMC is to proceed in accordance with the IMC Policies and Procedures Manual, and refer the matter to the SAC.

e) PROGRESS DURING 2011-2012: The Focus Group recommendations were due by June 30, 2011 but were delayed due to meeting postponements. (A meeting scheduled for March 18, 2011, was postponed until April 18/11, and the next meeting scheduled for June 9, 2011 was also postponed and not held until September 12, 2011.) At the September 12, 2011 Focus Group meeting, it was agreed that the Focus Group had served its purpose but that the IMC representatives had not reached consensus on a recommended mechanism to accommodate a portage. The delay with the Focus Group recommendations bumped the due date for the Referral Protocol to be updated to reflect the Focus Group deliberations and proposed resolution to December 31, 2011, and it was circulated by the Chairperson on December 29, 2011. The TLEC agreed with the Chairperson’s proposed means of resolution, but Manitoba and Canada disagreed. None of the Parties felt that further discussion at a meeting would assist the Parties in reaching consensus. In accordance with MFA Subsection 34.09(7) the Chairperson determined that the IMC was unable to make a decision on a means of resolving this I/M by consensus and for this reason on February 8, 2012 referred the I/M to the Senior Advisory Committee with a recommendation that it attempt to reach a decision on a means to resolve this matter by March 23, 2012. On February 22, 2012 the Chairperson circulated a chart outlining “Next Steps” to the IMC representatives. On April 3, 2012 the RDG of AANDC, on behalf of the SAC, wrote to the Chairperson and advised that the SAC considered the referred file #2007-TLEC-005 on March 22, 2012, but failed to come to a consensus on the means to resolve this matter in dispute, or on the appropriate dispute resolution mechanism to be employed to resolve this matter in dispute, and therefore requested a meeting with the Chairperson on this matter on April 17, 2012.

2.1.6 REFERRAL 2007-BPFN-001: EXCLUSION OF HIGHWAY CONTROL AREAS FROM ACQUISITIONS

- a) **ISSUE:** On June 26, 2006, Manitoba advised the Buffalo Point First Nation (BPFN) that among other things Manitoba was entitled to a control area to be excluded from the land acquired by the BPFN along PTH No.12. Buffalo Point objected to exclusion of a highway control area from its land acquisition on PTH 12, and on March 15, 2007, the BPFN referred the matter to the IMC.
- b) **LAND AFFECTED:** The Buffalo Point First Nation (BPFN) acquired a 70.63 acre parcel along Provincial Trunk Highway #12, and this referral is specific to this one parcel of acquired land.
- c) **BACKGROUND:** The exclusion of the highway control area would result in the exclusion of a 125 foot wide strip of land fronting PTH No.12 in accordance with MFA Section 13.03, and Manitoba has offered to purchase it from BPFN. Chief Thunder and Manitoba presented their views at the IMC meeting on December 12, 2007.

The right of exclusion, and the width associated with an undivided Provincial Trunk Highway exclusion, are not in dispute. At the December 12, 2007 meeting, then Chairperson Rod McLeod advised that MFA Section 13 is clear on the exclusion of the “controlled areas” of a Provincial Trunk Highway, but notwithstanding, the relevant provisions indicate exceptional circumstances may at times be considered by Manitoba (as the right of exclusion and width are both qualified by the word “ordinarily”).

Manitoba and BPFN remain in negotiation on, i) if the full controlled area, as defined in *The Highways Protection Act*, should be excluded in this instance, and ii) fair consideration for the 125 foot strip of land that Manitoba has stated is required for the right of way, and offered to purchase from BPFN.

Many options have been explored by the Parties and the BPFN to enable this acquisition to proceed to reserve status. Resolution is complicated by the fact that the land best suited to BPFN’s development aspirations is the strip requested by Manitoba.

The IMC undertook in its 2010/2011 Work Plan to determine the updated status on this referral and make a decision on action required. On December 17, 2010, the Chairperson scoped the IMC file, determined which information and updates were outstanding, requested the missing information from the Parties and drafted the referral in the form of the Referral Protocol for discussion by the IMC. The Chairperson circulated the initial draft of the Referral in the Form of the Protocol on January 19, 2011. At that time the Chairperson formally requested comments on the Referral in the Form of the Protocol from the Parties as well as copies of any additional documents/ information that each Party believes to be relevant to a full consideration of this referral. In response the Parties have provided documents and information. On February 16, 2011 BPFN wrote to IMC with additional considerations for IMC, as well.

- d) **2011-2012 WORK PLAN AND TARGETED RESULTS:** The 2011-2012 IMC Work Plan describes the required actions and targeted results necessary to advance this referral towards resolution. Upon receipt of the information requested by the Chairperson – the formal views of the Parties and any additional information the Parties feel is pertinent to a full consideration of the referral, the material is to be reconciled into the Referral Protocol document, and circulated to IMC representatives seeking consensus. Upon consensus being reached that it reflects the views of each Party, the Protocol for the Referral and Review of the I/M is to be augmented with the Chairperson’s proposed Interpretation of the MFA and proposed means of resolution, and it will then be circulated with a time frame for final comments. If this does not lead to consensus, the referral will be advanced to SAC seeking resolution and direction.
- e) **PROGRESS DURING 2011-2012:** The Chairperson circulated Draft #2 of the Referral in the Form of the Protocol on May 16, 2011. Manitoba and TLEC commented on May 17 & 27 respectively. At the IMC meeting held on July 5, 2011 this referral was discussed in detail, as was the “controlled area” and its affect on this BPFN acquisition. TLEC believes this referral turns on the word “ordinarily”. IMC convened a meeting on September 27, 2011 to specifically discuss this referral and options with representatives from Manitoba Infrastructure and Transportation (MIT), who attended to offer their perspective on “controlled areas” and their relationship to land selected and acquired pursuant to the MFA. MIT confirmed that there are different possible outcomes for similar situations dependent upon the specific circumstances, and there was some discussion on this negotiated outcome option.

On November 30, 2011 the Chairperson circulated the completed Referral Protocol document augmented with the Chairperson's proposed interpretation of the MFA provisions and proposed resolution of the I/M. At the IMC meeting held on January 17 & 18, 2012 the IMC representatives confirmed that the Parties agreed with the form of resolution proposed by the Chairperson in the augmented Referral Protocol, and this I/M was resolved by consensus. The IMC has confirmed three options to address the MFA principles that are applicable to this acquisition. These three options are for BPFN to;

- Determine the existing control line location and sell the "controlled area" portion of the acquisition to MIT at fair market value,
- Determine the existing control line location and hold the "controlled area" portion as private "fee simple" land and have the balance of its acquisition set apart as reserve, or
- Meet with MIT to discuss details of BPFN's proposed development and access management issues, and through that discussion seek agreement on; highway access points, use of the land adjacent the highway, and the size of a controlled area/PTH #12 right of way that addresses the interests of each party at this location.

With respect to Option #3, MIT confirmed at the September 27, 2011 IMC meeting that there are different possible outcomes for similar situations dependent upon the specific circumstances. MIT advised that in order to agree with a smaller controlled area/PTH #12 ROW width, it needs to understand the EFN's development intentions. This understanding will also facilitate discussion on the future highway access points that will be required, which is an important issue for both MIT and BPFN. With or without exclusion of the "controlled area" from an EFN acquisition, Manitoba currently controls the location of entrances onto, and exits from, Provincial Trunk Highways.

The IMC also agreed that Schedule "B" EFNs are anticipated to acquire additional parcels of land adjacent highways and that the information that IMC has gathered through review of this matter should be shared with these EFNs. The IMC agreed therefore, to prepare an Informational Bulletin on these matters in order to share the information. This will increase awareness that acquisitions along highways will be affected by controlled areas, and these need to be considered during the acquisition process, and addressed during the land transfer process. (Please refer to **Appendix F: Bulletin No.3 Acquisitions Adjacent Roads and Highways**)

2.1.7 REFERRAL 1999-BPFN-001: LAND IN A PROVINCIAL PARK

- a) **ISSUE:** On June 23, 1999 Buffalo Point First Nation (BPFN) wrote to then IMC Chairperson (Ron Maurice) and referred its Birch Point selection pursuant to MFA Subsection 6.02(8). Its Selection of approximately 116 acres that included Birch Point Provincial Park had been determined ineligible by Manitoba. BPFN understands that MFA Subsection 3.03(6) states that EFNs may not generally select lands in Provincial Parks, but feels the use of the word "generally" implies that exceptions may be made. Since Manitoba has previously sought to lease the Park to private interests, and BPFN wishes to continue to operate the campground, it feels that this should be one of these exceptional situations. As well BPFN feels that Manitoba mistakenly applied MFA Subsection 3.02(12) to the Selection.
- b) **LAND AFFECTED:** This referral is selection specific. BPFN's Birch Point Selection is approximately 116 acres. The portion of the BPFN selection that overlaps Birch Point Park is approximately 40 acres.
- c) **BACKGROUND:** On September 16, 1998, Manitoba advised the Buffalo Point First Nation that the portion of its Selection within Birch Point Provincial Park was not eligible for Selection under MFA Subsection 3.03(6) because Birch Point was designated under the Provincial Lands Act and the park is the only provincial facility to provide access to the Lake of the Woods. On May 6, 2010 Manitoba notified BPFN that; the portion of the selection that overlapped Birch Point Provincial Park was amended on the Crown Land Registry to remove the portion within the Provincial Park, the land necessary for the road and road right of way would be excluded in accordance with MFA Sections 13.01 and 13.03 of the MFA, and approximately 77.77 acres would be eligible for transfer if BPFN wished to proceed. Manitoba further noted that as per MFA Subsection 9.09(1), where an EFN identifies land in a Provincial Park as land of cultural or historical significance, it is intended that Manitoba and the EFN will enter into an agreement on protection of this land that reflects the significance to the EFN. Manitoba asked BPFN for suggestions on alternate methods of management or protection of land within Birch Point Provincial Park.

In 2010/2011 the Chairperson scoped the IMC file, determined which information and updates were outstanding, requested the missing information from the Parties, circulated the Referral in the Form of the Protocol on January 19, 2011, and formally requested comments from the Parties, as well as copies of any additional

documents/ information that each Party believes to be relevant to a full consideration of this referral. In addition, on January 19, 2011 the Chairperson requested that the sections entitled “Interpretation of the Relevant Provisions of the MFA” and “Proposed Resolution and Options Considered” be submitted by TLEC and Canada, by April, 2011.

- d) **2011-2012 WORK PLAN AND TARGETED RESULTS:** The 2011-2012 IMC Work Plan describes the required actions and targeted results necessary to advance this referral towards resolution. Upon receipt of the information requested by the Chairperson – the formal views of the Parties and any additional information the Parties feel is pertinent to consideration of the referral - the material is to be reconciled into the Referral Protocol document, and circulated to the IMC representatives seeking consensus. If discussions, and/or a discussion paper, and/or Focus Group do not lead to consensus, the Protocol for the Referral and Review of the I/M is to be augmented with the Chairperson’s proposed Interpretation of the MFA and proposed means of resolution, and it will then be circulated with a time frame for final comments. If this does not lead to consensus, the referral is to be advanced to the SAC seeking resolution and/or direction.
- e) **PROGRESS DURING 2011-2012:** On May 13, 2011 the Chairperson circulated draft #2 of the Referral Protocol document to the IMC representatives for review and comment, and circulated draft #3 on June 28, 2011. At the July 5, 2011 IMC meeting it was confirmed that all Parties agree that the MFA Subsection 3.03(6) provision whereby an EFN “may not generally Select land” in a provincial park applies to this situation. TLEC is of the view that the wording of the MFA indicates that there are exceptions to this general situation, and this is one of those situations. The Parties discussed the IMC retaining an independent legal opinion to clarify the MFA provision on this matter but a consensus amongst the representatives could not be reached to proceed in this manner. At the IMC meeting on October 3, 2011, Manitoba undertook to convene a time for Provincial Parks officials to meet with IMC to explain its interpretation of the MFA provisions relating to selections within Provincial Parks and options that might be available in these situations. This meeting could not be convened until March 5, 2012, and this affected the target dates in the IMC Work Plan. The next step is for the Chairperson to add his proposed interpretation of the MFA provisions and proposed resolution of the issue, and to circulate the augmented Referral Protocol requesting comments and seeking consensus. The target date was agreed to be June 30, 2012.

2.1.8 REFERRAL 1999-NCN-003: EFFECTIVE DATE OF AGREEMENT

- a) **ISSUE:** The Nisichawayasihk Cree Nation (NCN) referred this issue to the IMC when it disagreed with Canada on the Date of Execution of the NCN’s Treaty Entitlement Agreement (TEA). The issue is to determine the effective date of the NCN TEA, as the NCN and Manitoba signed the TEA on July 30, 1998, but the Federal Minister of DIAND did not sign the TEA until September 1, 1998.
- b) **LAND AFFECTED:** While this referral is very significant to NCN, it does not negatively affect the transfer of any land selections to reserve status.
- c) **BACKGROUND:** On August 25, 1999, the matter concerning the Date of Execution of the NCN’s TEA was referred to the IMC. The NCN alleged that the Date of Execution was July 30, 1998, as this was the date that was typed on the TEA, and the date of the signing ceremony in Nelson House. All parties signed the TEA that day excepting Canada who had a representative initial beside the signature block. Canada subsequently sent the TEA to the Minister’s office where it was signed by Minister Jane Stewart, who also hand dated her signature September 1, 1998.

The July 30, 1998 date is also the 90th anniversary date of NCN signing its adhesion to Treaty No. 5. Canada has taken the position that the date of execution is Sept 1, 1998. Canada references MFA Section 30.03 wherein it describes a TEA coming into force upon execution by the EFN and all Parties.

In 2010-2011 the Chairperson scoped the IMC file, determined which information and updates were outstanding, requested the missing information from the Parties, and on January 18, 2011, circulated the Referral in the Form of the Protocol to the IMC representatives and formally requested comments, as well as copies of any additional documents/ information that each representative believes to be relevant to a full consideration of this referral. In addition, the Chairperson requested that the section entitled “Interpretation of the Relevant Provisions of the MFA” be submitted by Manitoba and TLEC, and the section entitled “Proposed Resolution and Options Considered” be submitted by all Parties, by April, 2011.

- d) **2011-2012 WORK PLAN AND TARGETED RESULTS:** The 2011-2012 IMC Work Plan describes the required actions and targeted results necessary to advance this referral towards resolution. Upon receipt of the information requested by the Chairperson – the formal views of the Parties and any additional information the Parties feel is pertinent to consideration of the referral - the material is to be reconciled into the Referral Protocol document, and circulated to the IMC representatives seeking consensus. If discussions, and/or a discussion paper, and/or Focus Group do not lead to consensus, the Protocol for the Referral and Review of the I/M is to be augmented with the Chairperson’s proposed Interpretation of the MFA and the proposed means of resolution, and circulated with a time frame for final comments. If this does not lead to consensus, the referral is to be advanced to the SAC seeking resolution and/or direction.
- e) **PROGRESS DURING 2011-2012:** Canada provided its position on this issue on May 5, 2011. Draft #2 of the Referral Protocol was completed by the Chairperson and circulated to the IMC representatives for comments on May 13, 2011. Manitoba commented that the most recent correspondence on this matter received from NCN was from 2002. Canada had written to NCN in July, 2010 and asked to meet with NCN to determine if NCN considers this matter resolved, but this meeting never took place. On September 21, 2011 the Chairperson wrote to NCN Chief and Council, provided the status of the IMC Referral Protocol, and requested an opportunity to meet with the Council; to discuss the current status of the referral, to ensure that NCN’s current views are completely understood, and to discuss next steps. This letter was followed by a number of phone calls to the NCN and while agreement to meet was reached, a suitable time could not be confirmed. No further written clarification has been received from NCN and by March 29, 2012 the Chairperson had again written NCN seeking an opportunity to meet and discuss the referral.

2.1.9 REFERRAL 2003-BON-001: SURPLUS FEDERAL LAND

- a) **ISSUE:** On December 4, 2002, Canada advised the Brokenhead Ojibway Nation (BON) that the Kapyong Barracks had been designated as a “strategic disposal” under the Treasury Board Policy on the Disposal of Surplus Real Property and that it would be transferred to the Canada Lands Company for disposal. In addition Canada advised that the MFA did not apply to the strategic disposal process, as the interest of the EFN’s cannot be considered on a priority basis.

On January 22, 2003, the BON wrote to the Chairperson of the IMC, referred the matter to the IMC, and requested the IMC to initiate the dispute resolution process found in MFA Article 34. In its letter, the BON alleged that Canada failed to forward notice of Surplus Federal Land, with respect to the Kapyong Barracks to the BON, and that Canada mistakenly interpreted that the MFA provisions dealing with surplus Federal Crown property did not apply to the Kapyong Barracks.

- b) **LAND AFFECTED:** This referral is selection specific. BON selected a parcel of approximately 160 acres of surplus federal Crown land (Kapyong Barracks in Winnipeg, Manitoba), however Canada designated this land as a “strategic disposal”, and BON referred this classification to the IMC.
- c) **BACKGROUND:** On January 25, 2008, the First Nations of Treaty 1, including BON, filed a Notice of Application in Federal Court and commenced an application for judicial review of the November 2007 Treasury Board decision to transfer the Kapyong Barracks to the Canada Lands Company Ltd. (CLC), seeking a declaration that Canada had a legal duty to consult and accommodate them before disposing of the Barracks. The Judge allowed the judicial review application and the IMC referral was not active for some time. The Federal Court decision was rendered on September 30, 2009, and that decision was subsequently appealed by Canada.

The IMC decided by consensus at the IMC meeting dated December 16&17, 2010 to formally place this issue/matter in dispute in abeyance while the litigation is ongoing. The Chairperson wrote to BON Chief and Council on January 13, 2011 and advised that the 2003-BON-001 referral had been formally placed in abeyance by the IMC given the ongoing litigation of this matter. This decision was taken in accordance with the IMC Policies and Procedures Manual.

- d) **2011-2012 WORK PLAN AND TARGETED RESULTS:** The 2011-2012 IMC Work Plan describes the required actions and targeted results necessary to address this referral. Since IMC previously placed this referral in abeyance given the ongoing litigation, IMC was tasked with monitoring this situation. In addition, after considering the results of the litigation, and possible appeals, the IMC is to make a decision on the appropriate action to be taken.

e) **PROGRESS DURING 2011-2012:** On May 3, 2011 the Federal Court of Appeal determined that the main issue of the appeal is whether Canada had a duty to consult the First Nation respondents before deciding to transfer the Kapyong Barracks to CLC and, if so, whether Canada had discharged that duty. The Federal Court also identified a related issue, that being if Brokenhead was required to pursue the dispute resolution process contained in its Agreement (MFA) before proceeding to court. In its judgement, the Federal Court of Appeal allowed the appeal and determined that the matter should be returned to a judge of the Federal Court for redetermination of the issues.

The Federal Court of Appeal Judge noted six problems with the adequacy of the Federal Court Judge's reasons. Noteworthy is the Judge's comment that,

"Sixth, Canada argues that Brokenhead began and then wrongfully abandoned the dispute resolution mechanism contained in its agreement with Canada. There is a general rule, with exceptions, that a party must exhaust the administrative remedies available to it before commencing an action or an application for judicial review: *C.B. Powell Ltd. v Canada (Border Services Agency)*, 2010 FCA 61, 400 N.R. 367, at paragraph 4. The Judge was no doubt aware of this rule, yet he made no finding one way or another as to what impact, if any, the dispute resolution mechanism available to Brokenhead had on its ability to claim relief from the courts. Again, effective appellate review is impossible because the Judge has not made any findings with respect to this important issue."

On September 8, 2011 Michael Bailey, Maurice Law, wrote to the Chairperson and advised that he is the newly appointed legal counsel for BON and that they would like to continue pursuing the Dispute Resolution Process and would like to meet to discuss the process. The Chairperson forwarded the information to the IMC representatives on September 9, 2011 and requested the IMC representatives to assemble the facts and documents that each considers to be relevant to a full consideration of BON's referral, and submit them to the IMC. This request was formalized into an Undertaking at the October 3, 2011 IMC meeting.

Maurice Law, on behalf of BON, filed a Motion of Partial Discontinuance in the Federal Court of Canada on September 29, 2011 and thereby BON discontinued its participation as an Applicant in Action No. T-139-08.

On October 12, 2011 the Chairperson wrote to Mr. Bailey and in response to his question respecting what IMC would require of BON in the immediate short term, provided a detailed letter on what IMC would require of BON. The Chairperson briefed the SAC on this matter at a meeting on November 24, 2011. On December 23, 2011 Manitoba advised that it is not a party to this matter as the issue is entirely within federal jurisdiction, and as such it was not in a position to provide additional information or background facts towards resolution of this matter. At the IMC meeting held January 17 & 18, 2012 TLEC explained that it was obtaining a letter of consent from BON before releasing the information to the IMC. Canada explained that it does not feel BON is entitled to resume the IMC dispute resolution process, as its understanding is that BON has abandoned the IMC process. Canada acknowledged that all Party representatives agreed by consensus with IMC placing the 2003-BON-001 referral file in abeyance on January 13, 2011, which decision implies that IMC had an open file to place in abeyance. Canada however, explained that it does not want to be engaged in two processes at once – one through court and one through the MFA, and therefore feels that the court and appeals processes must be completed first. The Chairperson commented that if the members of IMC did not engage on issues before IMC, it is not possible for IMC to reach consensus. For this reason therefore, he did not consider it appropriate for a member of the Committee to not complete its responsibilities as described in the IMC Policies and Procedures Manual, and each representative is responsible for completing those responsibilities even when the referral is not directly related to the Party the IMC member represents. In response to Canada's views, the Chairperson replied that with respect, it is the role of the IMC to determine which referrals the IMC has received as issues/matters in dispute, rather than that of any one Party who has a representative on IMC. The Chairperson reminded the Committee that the Referral file # 2003-BON-001 has been on the IMC's list of Current Issues/Matters in Dispute since at least 2007 when Rod McLeod was Chairperson, and this list was circulated to the Parties regularly for comments, with no disagreement being submitted from any Party representative. In addition, this list of Current Issues/Matters in Dispute has been a regular appendix to the IMC Annual Report since 2007/2008, and drafts of the Annual Report were also reviewed by all Party representatives with no disagreement being submitted from any Party representative. The undertaking was carried forward.

On February 6, 2012 TLEC provided the IMC with copies of material that TLEC had on file pertaining to the Kapyong Barracks and BON's referral to the IMC. Also on February 6, 2012 Manitoba confirmed that it was prepared to continue to participate in any consideration of the matter by the IMC.

At year end Canada's formal response to the undertaking was outstanding, and a reconfirmation of Canada's IMC representative's comments was received in a letter dated April 5, 2012.

2.1.10 REFERRAL 2006-MANITOBA-001: PROCESS FOR LAND SELECTION AND ACQUISITION

- a) **ISSUE:** On January 13, 2006 Bunibonibee Cree Nation (BCN) Chief Gabriel Hart wrote to the Manitoba Deputy Minister of MANA and pursuant to MFA Subsection 36.01(1) alleged that Manitoba had breached its MFA obligations. The BCN alleged that Manitoba has failed to comply with a fundamental term or condition of the MFA included the following particulars; a) the breach of Manitoba's obligations contained in MFA Subsection 6.02(6), and b) Manitoba permitted several registrations to be made against lease #3482 which encumbers the BCN's Knee Lake Lodge Selection. The failure to register BCN's Knee Lake Lodge selection in the Crown Lands Registry enabled several registrations (Third Party Interests) to be made against the lease that currently encumbers the property, including an assignment for collateral purposes that created the authority for a creditor to transfer the leasehold interest to an interested purchaser pursuant to a receivership of the assignee.

On February 3, 2006 the DM of MANA, H. Bostrom, responded to the BCN allegation, advised that Manitoba does not consider itself to be in breach because; a) the selection was registered in the Crown Lands Register on July 20, 2000, and the selection was already subject to a prior existing TPI in miscellaneous lease No. 3482 in favour of Knee Lake Lodge Inc., b) the consent of Manitoba to an assignment of a lease by a leaseholder for collateral purposes is not a "disposition" as defined in MFA Subsection 1.01(27), and c) Manitoba regularly consents to assignments for collateral purposes. As a result, Manitoba referred the matter to the IMC in accordance with MFA Subsection 36.02(2) of the MFA.

- b) **LAND AFFECTED:** This referral is selection specific, and only affects the BCN Selection of approximately 1,511 acres known as the "Knee Lake Lodge".
- c) **BACKGROUND:** On December 17, 2010, the Chairperson scoped the IMC file, determined which information and updates were outstanding, requested missing information from the Parties and drafted the referral in the form of the Referral Protocol for discussion by IMC. The Chairperson circulated the Referral in the Form of the Protocol on January 11, 2011. At that time the Chairperson formally requested comments on the Referral in the Form of the Protocol from the IMC representatives, as well as copies of any pertinent documents that each IMC representative believes to be relevant to a full consideration of this referral.

In addition, given his findings on the file, the Chairperson completed an assessment of the MFA provisions relating to material failure in relation to this referral, and on January 11, 2011 forwarded a copy to the Parties for consideration and comments. Manitoba agreed with the analysis in March, 2011, and Canada's and TLEC's responses were outstanding at year end.

- d) **2011-2012 WORK PLAN AND TARGETED RESULTS:** The 2011-2012 IMC Work Plan describes the required actions and targeted results necessary to advance this referral towards resolution. The TLEC and Canada representatives are to respond to the Chairperson's January 11, 2011 assessment of the MFA provisions and how IMC should proceed with respect to this referral. The Chairperson is also to write to BCN detailing the results of the IMC analysis of the MFA provisions and the IMC consensus on how this matter is to proceed. The Chairperson is to discuss the available options to proceeding with binding arbitration with BCN, (one option being a referral on the I/M underlying its material failure allegation) to facilitate a decision being reached by BCN Chief and Council. Upon confirmation by BCN, the IMC is to facilitate either proceeding to binding arbitration, or in accordance with BCN's decision.
- e) **PROGRESS DURING 2011-2012:** In response to the Chairperson's assessment of the MFA provisions relating to material failure in relation to this referral, Canada agreed with the Chairperson's analysis on May 6, 2011. TLEC confirmed at the July 5, 2011 IMC meeting that it does not agree with the Chairperson's analysis. The Chairperson advised that MFA Subsection 36.01(5) is not based upon consensus, and it directs the Chairperson to refer the matter directly to binding arbitration to determine whether the Party or EFN against which the allegation has been made has failed to materially comply with a fundamental term or condition of the MFA or a TEA. On May 16, 2011 TLEC provided a package of documents to the IMC on this matter, and on May 26, 2011 wrote to advise the Chairperson that it does not consider the Crown lease to be a third party interest. On June 14, 2011 Manitoba wrote to disagree with the TLEC's interpretation.

On August 8, 2011 the Chairperson wrote to BCN Chief and Council and provided a status report on the BCN allegation of material failure that led to Manitoba's referral to the IMC. A copy of the Chairperson's assessment was also provided to the Chief and Council. It concluded that given the manner that the referral was handled by the IMC and the relevant MFA provisions, the Chairperson is directed to refer the matter directly to binding arbitration, and the Chairperson outlined the next steps to be followed to proceed in that manner. On October 20, 2011 the Chairperson met with BCN Councillors and representatives and discussed this referral and the available options in detail. BCN remains concerned with the costs of the binding arbitration process and by year end, BCN had not determined if it would initiate the arbitration process.

This completes the description and status of the Current I/M that have been referred to the IMC. Please refer to **Appendix C** for the List of Historic Issues or Matters in Dispute that IMC has resolved.

2.2 2011-2012 IMC WORK PLAN: MONITORING MFA IMPLEMENTATION

Part 2.0 of the Work Plan assigned to the IMC by the Parties directed that the IMC to monitor the following topics and make recommendations to achieve the targeted results/goals that were developed for each and that are described below.

2.2.1 STRATEGIC PLANNING

a) **BACKGROUND:** The Parties are engaged in three Party Strategic Planning to co-ordinate their approach to MFA implementation and assist each Party in implementing its responsibilities under the MFA. Coordination and communication is paramount and essential to implementing the MFA – a three Party, 21 First Nation, multi step process, involving hundreds of parcels of land. At an IMC Strategic Planning Focus Meeting convened on March 3, 2009 the representatives of the Parties began a three Party Strategic Planning initiative facilitated by the then IMC Assistant Chairperson.

From the outset, one of the key objectives of the Strategic Planning initiative was to reach consensus on a three Party land transfer plan, and share it with the EFNs, so that the EFNs can understand and anticipate the timeframes targeted for parcel by parcel land transfers, and co-ordinate their efforts with those of the Parties.

During Strategic Planning meetings the Parties confirmed that their 2011-2012 Annual (fiscal year) Plan needed to include at a minimum the work/tasks required to advance:

- the parcels on Appendix "A" which were targeted for transfer by March 31, 2012;
- the parcels on Appendix "B" which are targeted for transfer by March 31, 2013;
- the parcels on Appendix "C" which are targeted for transfer by March 31, 2014; and,
- the remaining EFN priority parcels listed on Appendix "D" (which are anticipated to take more than three years to transfer).

The Parties consider Appendices A, B, and C which include the parcels that are one year, two years, and three years respectively away from reserve status, to comprise the main components of the Annual Work Plan for fiscal year 2011-12.

The planning process begins with an annual three Party assessment of the land transfer steps that can be completed during the fiscal year for each parcel. If it is determined by the Parties that a particular parcel can meet the dates for transfer during the fiscal year, it is listed on Appendix A. If the remaining steps will take two years to complete it is included on Appendix B, and if the remaining steps will take three years to complete it is included on Appendix C. For some time the Parties have 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, the Parties recognized that it would be difficult to maintain the rate of implementation moving forward. (Please refer to **Chart 2** to compare the acreage and number of parcels set apart annually.)

The Chairperson met with SAC on March 17, 2011 and recommended that SAC request the 2011- 2012 Annual Plan from the Parties by April 30, 2011 and that SAC circulate the 2011- 2012 Annual Plan of the Parties to the EFNs to ensure it is confirmed for all Parties and the EFNs early in the 2011- 2012 fiscal year. This was intended to elevate the profile and emphasize the importance of the Annual Plan.

b) 2011-2012 WORK PLAN FOCUS AND TARGETED RESULTS: The Parties are to ensure that the 2011/12 Annual Plan is adopted by the three Parties, provided to SAC, and circulated to the EFNS. The Annual Plan is to confirm the milestone targets for each EFN parcel (with a focus as well on EFN priority parcels as requested by TLEC in response to EFN concerns about those parcels), and the Chairperson is to monitor the Parties progress with development and implementation of the three Party Annual Plan.

The Chairperson is to participate in Strategic Planning meetings and encourage the Parties to complete their Strategic Planning undertakings by due dates as per their commitments to each other in order to facilitate the success of the Strategic Planning Process. In addition, the Chairperson is to make recommendations respecting Strategic Planning considerations that may not have been fully considered, and respecting the effectiveness of the Strategic Planning initiative as a whole.

The Chairperson is also to monitor the Parties achievements with respect to; adopting an Annual Plan, implementing the Annual Plan, and responding to the Chairperson's recommendations that are intended to facilitate the effectiveness of the Strategic Planning process. The targeted result is for the Parties to complete their Strategic Planning undertakings in accordance with their timeframe commitments to each other.

The Chairperson is also to promote and facilitate the preparation and adoption of the 2012/13 Annual Plan by the Parties during March, 2012, for provision to SAC, and circulation to the EFNs by March 31/12.

c) PROGRESS DURING 2011-2012: The IMC Chairperson attended the three Party Strategic Planning meetings, monitored the progress, of the three Party Strategic Planning process and submitted commentary and recommendations periodically throughout the fiscal year.

The Parties succeeded in developing and confirming the first three Party Annual Plan in 2011-2012 and circulating it to the EFNs on October 6, 2011. With this Plan confirmed, the Parties efforts are coordinated towards common goals. The Parties all feel that the adoption of the first three Party Annual Plan in 2011-2012 is a huge step forward from past years. The IMC and all Parties believe the Annual Plan should be confirmed and shared with the EFNs earlier in the fiscal year, and the target date for release of the 2012-2013 Annual Plan is June, 2012.

A number of positive benefits result from tracking the completion of the Annual Plan milestone goals on the tracking charts prepared by the Parties for this purpose, including;

- The EFNs can be kept informed of how their land selections and acquisitions are proceeding,
- All Parties and EFNs will have a current and common understanding of next steps and primary responsibility, and
- The achievement of the milestone goals included in the three Party Annual Plan can be monitored by each Party, so that attention can be directed by the Parties towards those milestone tasks that are proving to be more difficult to achieve.

The content of the 2011-2012 Annual Plan represents the specific targets the Parties agreed could be accomplished over the course of the fiscal year to advance the transfer of land to reserve status in partial fulfillment of the Manitoba Framework Agreement (MFA). The implementation of this plan, which is comprised of the parcels identified in Schedules A, B, and C, as well as Schedule D which constitutes the "Priority Parcels" as identified by the Entitlement First Nations, is contingent upon each Party's efforts to complete their respective process step targets which derive from the Land Transfer Reserve Creation Process Manual adopted by SAC.

The 2011- 2012 Annual Plan pertains to April 1, 2011 to March 31, 2012. Commentary on the results of the Parties success in meeting their respective targets outlined in Schedule A, B, C and D, follows below.

(i) 2011-2012 Annual Plan Schedule "A" = Activities required to transfer Parcels targeted for reserve status by March 31, 2012

- Acreage Goal: 29,063.82 acres targeted for IR status in 2011-2012.
- Achieved: 9,276 acres set apart.
- Parcel Goal: 29 parcels targeted for IR status in 2011-2012.
- Achieved: 4 parcels set apart.

The primary reason for not reaching the targeted goal was delay in the survey plan approval process, which is a key milestone in the reserve creation process as it is a prerequisite to providing Manitoba with a formal legal description of the lands for inclusion in the Provincial Order in Council to transfer the lands to Canada. It is important to note that this step relies upon Canada's survey contractors responding in a timely fashion to recommended survey plan revisions and additional information requested by the Manitoba Director of Surveys Office. This did not occur in time for subsequent process steps to be completed. The parties have taken the time frames associated with this process into consideration in the development of the Annual Plan for 2012-13 to ensure greater success in meeting their targets. To that end a service standard of three months within which to respond has been established for Canada's survey contractors.

(ii) 2011-2012 Annual Plan Schedule "B" = Activities required to steadily advance Parcels targeted for reserve status by March 31, 2013

The 52 parcels on Schedule B, while not targeted for transfer to reserve status over the course of the planning period do represent Selections/Acquisitions that are relatively advanced in the reserve creation process. By March 31, 2012 the parcels on Schedule "B" were intended to advance to Schedule "A" of the 2012-2013 Annual Plan, and be transferred to reserve status by March 31, 2013.

- Acreage Goal: 62,222.09 acres targeted to advance to 2012-2013 Annual Plan Schedule "A".
- Achieved: 12,445.33 acres advanced.
- Parcel Goal: 52 parcels targeted to advance to 2012-2013 Annual Plan Schedule "A".
- Achieved: 3 parcels advanced

The two key process steps occurring most frequently for Schedule B parcels are the granting of Approval in Principle (AIP) for the proposed addition to reserve in accordance with Canada's Additions to Reserves Policy (34 of 52 parcels) and the approval of survey plans by Manitoba's Director of Surveys Office (39 of 52 parcels). The majority of the EFN/TLEC targets were concerned with satisfying Band Council Resolution requirements related to the survey plan approval process.

Of the 34 parcels targeted to receive AIP only seven achieved that status. Of the 39 parcels targeted for Manitoba Director of Surveys approval only eight were ultimately approved. It is significant to note however, that in 27 cases the Manitoba Director of Surveys Office had not yet received the survey plan from Canada's contractors (as targeted) to enable Manitoba to initiate its review.

(iii) 2011-2012 Annual Plan Schedule "C" = Activities required to steadily advance Parcels targeted for reserve status by March 31, 2014

By March 31, 2012 the parcels on Schedule "C" are intended to advance to Schedule "B" of the 2012-2013 Annual Plan, and be transferred to reserve status by March 31, 2014.

- Acreage Goal: 41,465.15 acres targeted to advance to 2012-2013 Annual Plan Schedule "B".
- Achieved: 1,241.22 acres advanced.
- Parcel Goal: 66 parcels targeted to advance to 2012-13 Annual Plan Schedule "B".
- Achieved: 11 parcels advanced

The parcels on Schedule C were comprised largely of those crown land selections identified by the parties as being in a position to advance to the survey stage (51 of the 66 parcels). The key process step is the signing of the RSM plan by the EFN, Canada and Manitoba; as execution of the RSM plan is a prerequisite to Canada contracting the formal survey of the selection. The execution of the RSM plan evidences that all parties are satisfied with the boundaries of the selection as depicted on the plan and provides the basis upon which Canada's survey contractors formally survey the selection in the field.

It was recognized at the outset of finalizing the Annual Plan for 2011-12 that the parcels identified on Schedule C had a survey cost estimate which constituted more than Canada's available survey budget for that fiscal year. This fact was communicated in the Executive Summary to the Annual Plan which was provided to the EFN's on October 6, 2011.

(iv) 2011-2012 Annual Plan Schedule “D” = Priority Parcels as identified by the EFNs should steadily advance towards reserve status

The parcels on Schedule D represent those selections/acquisitions which the EFN's have deemed to be their reserve creation priorities. That said, for the most part the parcels on Schedule D pose unique challenges for all of the Parties in advancing them through the reserve creation process, and at this time the Parties do not anticipate the transfer of the majority of these parcels prior to March 31, 2016. The accommodation of existing third party interests remains a significant barrier to advancing Schedule D parcels. Minimal progress was made during the planning period for the majority of those parcels on Schedule D. The parties remain committed to working with the EFN's to advance the priority parcels. It must be recognized that the EFN's play a lead role in the decision making process as it relates to the accommodation of third party interests. The emphasis in the Annual Plan for 2012/13 will again be placed on examining the methods available to resolve a particular third party interest and achieving consensus among all the stakeholders on the most appropriate course of action. Until such time limited progress, if any will be achieved.

Overall the Parties were not as successful as originally anticipated in meeting their established targets. A number of factors contributed to this but generally it was found that when a particular target was not met it resulted in a negative cascading effect of subsequent tasks also failing to be achieved given the interdependent nature of the process steps. This initial experience and the lessons learned will assist with the development of the second three Party Annual Plan in 2012-2013 and result in the planning goals being more realistic.

Foremost among the considerations integrated into the upcoming 2012-2013 Annual Plan are the following:

- Adopting a more conservative approach with respect to the time frames associated with certain tasks that are consistent with established service standards;
- Application of service standards for certain tasks;
- Developing a planning approach that relies upon achieving targets within a certain time frame (by quarter) rather than a specific date;
- Completing interim reporting in a timely manner to provide the flexibility to both modify and report on progress during the year.

The more frequently the tracking charts are updated, the more current the status of the information is for the Parties and EFNs; and the sooner implementation issues can be identified and attention directed towards addressing those issues. These positive benefits must be balanced with the time required to keep the tracking charts updated. The Parties have committed to utilizing the tracking charts during parcel review meetings, and encouraging the EFNs to refer to the tracking charts to determine; process, next steps, responsibility, and land transfer status. If this is being done regularly, it should take virtually no time to add the completion dates for those steps which have been completed since the previous version of the tracking chart was produced and circulated.

On January 13, 2012 the tracking charts (with data current to October 31), were circulated to the EFNs to advise on the progress made towards achieving the Annual Plan milestone targets. The next update (current to March 31, 2012) was confirmed at a Strategic Planning meeting on April 12, 2012. The Parties could then determine which milestone goals were met and which needed to be carried forward as milestone goals for the 2012-2013 Annual Plan. As well, the Parties could then determine which parcels could be included on each appendix of the 2012-2013 Annual Plan (and 2012-2013 milestone goals) for each parcel.

In 2012-2013, it is anticipated that the EFNs will;

- be advised of the Annual Plan and parcel by parcel milestone goals in June, 2012,
- receive updated tracking charts in October confirming progress made during the first 6 months of the fiscal year (between April 1st and September 30th), and
- receive updated tracking charts again in March, 2013 which will confirm the success made during the year, and identify the milestone goals for 2013-2014.

2.2.2 LAND TRANSFER PROCESS

a) **BACKGROUND:** The Parties agree that it is critical to adopt and utilize a common Land Transfer Process. During the second half of the 2009/2010 fiscal year and the first half of the 2010/2011, the Parties completed a review and refinement of the Land Transfer and Reserve Creation Process Manual (LTRCPM), (initially adopted in November 1999 by the Senior Advisory Committee (SAC) pursuant to Section 6.04 of the Manitoba Framework Agreement).

Through the Strategic Planning initiative the Parties agreed that reviewing and refining the LTRCPM would ensure all Parties and EFNs held a common understanding of the land transfer process steps, that this could facilitate parcel review meetings, that this is fundamental to facilitating MFA – TLE implementation, and that this would enable;

- Clear identification of the next steps to be undertaken with respect to each parcel, how each step fits into the overall process, and the Party/EFN responsible for completing that step,
- Improved communications and coordination, by sharing and reviewing this EFN and parcel specific Work Plan with each EFN,
- Improved monitoring and analysis of impediments to implementation, (by parcel and by EFN), so that the Parties and EFNs can then direct their resources to address specific parcel by parcel impediments.

On August 10, 2010 the IMC recommended an amended updated version of the LTRCPM to the Senior Advisory Committee (SAC) and the SAC approved the amended LTRCPM on August 31, 2010. On September 15, 2010 a copy was forwarded to all EFN Chiefs and Councils.

Upon adoption, it became possible to develop Parcel Tracking Charts from the Land Transfer and Reserve Creation Process Manual steps, and the completion dates for each step could be recorded to track the progress of each parcel through the multi step land transfer process. In addition, the next specific steps to be completed for each parcel could be identified easily and form an Annual Work Plan for MFA - TLE implementation. The Parties have completed these Tracking Charts for each land selection/acquisition of each EFN, to monitor and record progress (steps completed and when), and to identify next steps and primary responsibility. Without the regular use of the Tracking Charts, it becomes much more difficult for each Party to complete status reports on Annual Plan implementation.

The Parties have committed to biannual updates and circulation of the Tracking Charts to the EFNs, as well as use of the Tracking Charts during the parcel review meetings.

The LTRCPM and associated Tracking Charts are the only monitoring system in use by the Parties that reflects the SAC adopted land transfer process, and for which updating is shared by the Parties. It reflects primary responsibility for each step, and facilitates the development of common Annual Work Plans, so that all MFA Parties and EFNs work towards common goals each year, and so that their efforts are synchronized and result in optimal land transfer progress.

Monitoring progress is important for the EFNs and the Parties. The Tracking Charts are the tool to accomplish this and timely updates will enable the more difficult goals to be monitored in a comprehensive manner. If the tracking charts are not updated in a timely manner, it is very difficult to determine problem areas and develop remedial action plans to address those areas, during the course of the year.

b) **2011-2012 WORK PLAN FOCUS AND TARGETED RESULTS:** The IMC is to monitor the Parties adherence to the SAC adopted Land Transfer and Reserve Creation Process Manual process and the Parties utilization of this process while reporting to the EFNs on the status of their parcels advancing within the land transfer process. The Chairperson is to facilitate the Parties completing their Acquisition and Selection Tracking Charts and circulating them to the EFNs biannually. In addition, the Chairperson is to monitor the progress of the Parties with respect to meeting their Annual Plan milestone objectives, between each iteration of the tracking charts to determine the achievements of the Parties.

The goal is three Party Compliance with the SAC adopted land transfer process, along with regular biannual circulation of the complimentary Tracking Charts to the EFNs to ensure the EFNs are aware of; progress made towards the milestone goals set by the Parties and the next steps in the process.

- c) PROGRESS DURING 2011-2012:** The first biannual update of the Tracking Charts and circulation to the EFNs was completed in 2011-2012. During 2011-2012 the Parties developed an alternate manner of tracking completion of the milestone goals identified for each parcel in the three Party Annual Plan, and the first update was circulated to the EFNs on January 13, 2012 (data current to October 31, 2011.) The next update is to be circulated by May 15, 2012 with data current to March 31, 2012, and this update will confirm the degree of success with implementation of the first Annual Plan during 2011-2012. This will also enable the milestone goals for the 2012-2013 fiscal year to be determined for each parcel. A final draft was reviewed at a Strategic Planning meeting on April 12, 2012, to reflect progress during the fiscal year.

During 2012-2013 the Parties anticipate that updated Tracking Charts will be circulated by mid-November to provide an update current to September 30, 2012. Each update is anticipated to take less time to produce, and the information contained therein is anticipated to be more succinct, as the Parties become more accustomed to using these jointly developed tracking charts, and sharing information with the EFNs. The Parties should be commended for their coordinated effort to work together, and to assemble and share this information. The Parties agreed that these updates will be circulated to the EFNs by AANDC on behalf of the Parties to the MFA.

2.2.3 INFORMATION MANAGEMENT

- a) BACKGROUND:** Statistical Monitoring and Information management has three primary goals:

The first goal is to manage parcel specific information to be able to quickly and easily determine and communicate the status of a parcel in the land transfer process, including; next steps, primary responsibility, issues outstanding that require attention, and milestone goals to be achieved annually to advance the parcel towards reserve status.

The second goal is to manage the parcel-by-parcel specific data, and roll up the data to produce a variety of comprehensive implementation summaries of practical use to the Parties and EFNs. These could include the identification of parcels which have advanced to a common stage of the land transfer process, or have common outstanding TPIs or issues to be addressed. Alternatively, the roll up could be specific to a certain EFN or a group of EFNs. (e.g. Schedule B EFNs)

The third goal is to document the parcels which have been successfully set apart as reserve, in accordance with specific measurements of interest to the Parties and EFNs including; total reserves and acres set apart for each EFN (distinguishing Crown land reserves/acres from Other Land reserves/acres), if the reserve was a priority parcel of the EFN, the official reserve name for the selected or acquired parcel, the dates of the Order in Council/Ministerial Order that set the land apart as reserve, and roll ups by EFN and for overall MFA implementation.

b) 2011-2012 WORK PLAN FOCUS AND TARGETED RESULTS:

- (i) The Chairperson is to monitor the ongoing use and maintenance of an effective information management system(s) to track the progress of EFN parcels through the land transfer process. In addition, the Chairperson is to monitor the adequacy of the information being tracked, and if the Parties identify additional information requirements, assess the situation and consider recommendations on how this might be achieved.
- (ii) The Chairperson is to monitor the Parties adherence to the Land Transfer and Reserve Creation Process Manual (LTRCPM) process steps and complimentary Tracking Charts when tracking progress and communicating with the EFNs. In addition the Chairperson is to assess the effective use of the complimentary Tracking Charts by all three Parties on a quarterly basis.
- (iii) The Chairperson is to monitor the resolution of the remaining issues affecting the progress of the parcels, and summarize this in the IMC Land Selection/Acquisition Monitoring Charts for quarterly circulation to the Parties, in order to facilitate the clear and timely identification of issues affecting progress of the Parcels through the process.

- c) **PROGRESS DURING 2011-2012:** While the benefits of an effective tracking/monitoring system are beyond question when managing approximately 400 selections and acquisitions through a multi-step, three party, twenty one First Nation, multi-year process; the time and resources required to develop and maintain such a system is a key criterion when evaluating effectiveness. Care should be taken to ensure that duplicate systems are not developed unless the system provides value added benefits worthy of this investment. A second criterion when evaluating the effective use of monitoring and tracking systems is quality control, and the need to ensure the data input is correct.

“TRELES” (a short form of “Treaty Land Entitlement System”) has been the primary computer software system utilized to track and monitor MFA implementation. TRELES is characterized by its quality data control and accuracy, and Manitoba should be commended on the development, maintenance, and the quality control inherent within this MFA tracking and monitoring system. It is also an effective communication tool as it is shared with the Parties, and utilized by all Parties.

During 2011-2012 the process of updating the complimentary LTRCPM Tracking Charts was initiated by the Parties, and by February 2012 had been modified to ensure this tool was being all it could be. By including all Parties in this updating process, “buy in” by all Parties was enhanced.

The LTRCPM based Tracking Charts are structured on the common process steps, reflect the common data base, and their use is anticipated to be a powerful and effective planning and communication tool for the EFNs and the MFA Parties. All Parties need to ensure that they are used regularly by their staff to achieve the benefits associated with their use. Regular use leads to ease of updates for communication purposes. Those still not using the tracking charts become part of the updating and communication problem rather than part of its resolution. This year the Parties have cooperatively refined the Annual Plan appendix charts to incorporate the LTRCPM process steps and targeted milestone completion dates. While this has just been initiated in 2011-2012, it promises to be an effective method of monitoring Annual Plan milestone goal achievements moving forward.

By the end of the 2011/2012 fiscal year Canada, Manitoba, and the TLEC had developed a comprehensive, functional system of internal monitoring of Reserve creation for selections and acquisitions under the MFA through which the Parties can advise and inform the EFNs of progress achieved against; (i) the commonly understood process, and (ii) the milestone goals adopted for each Parcel annually. It was a recommendation of the federal Auditor General’s office in its report of November 2005 that Canada be able to advise and inform the Parties and EFNs on the progress of MFA implementation. The joint effort of the Parties in this regard has produced even more beneficial results than one Party doing this alone.

The LTRCPM Tracking Charts and TRELES systems are not available on line. It is easily possible however, for any of the Parties to e-mail electronic versions of the LTRCPM Tracking Charts or TRELES reports to each EFN as required. Manitoba provides TRELES reports to the Parties quarterly.

During the year, the Parties determined that quarterly updates were not required, and opted instead for biannual updates for circulation to the EFNs.

2.2.4 LAND TRANSFERRED TO RESERVE STATUS

- a) **BACKGROUND:** Land must be transferred for the MFA to be fulfilled. For the purposes of the MFA, the measurement of progress has historically been the overall number of acres set apart as Reserve. For a complete listing of selections and acquisitions which have been set apart, their acreage, the date set apart, the official reserve name, and a confirmation of if each was an EFN priority parcel; please refer to **Appendix B**. Given the multi-year land transfer process however, it is also important to ensure interim milestone goals are achieved and that the parcels move forward through the land transfer process.
- b) **2011-2012 WORK PLAN FOCUS AND TARGETED RESULTS:** The Chairperson is to report on the land transferred to reserve status in accordance with indicators developed by IMC in 2010/2011, including; total acres and parcels, Crown acres and parcels, “Other Land” acres and parcels, smaller parcels - less than 1000 acres, large acres and parcels, acres by EFN, priority acres by EFN, parcels by EFN, and priority parcels by EFN), and to report on the Parties success in achieving the Annual Plan milestone targets they set for themselves.

c-1) PROGRESS DURING 2011-2012: 2011-2012 is the first year that the Parties have confirmed a three Party Annual Plan and it was circulated at the beginning of the third quarter on October 6, 2011. Therefore, there was little progress to measure between the Annual Plan confirmation and the first tracking chart update (effective date of October 31, 2011). By the time the tracking charts were current to year end, the year was complete and the Parties could determine how well they had done in achieving the goals they set for themselves, and develop their 2012-2013 Annual Plan.

Ultimately the success of the Strategic Planning process is measured by the number of parcels attaining reserve status during each reporting period. The overall achievements relating to the parcels listed on each Appendix is discussed in Section 2.2.1 Given the multi-year nature of the land transfer process however, it is also important to assess the interim achievements of the Parties – specifically the realization of the three Party milestone goals confirmed in the 2011-2012 three Party Annual Plan. This helps clarify the reasons underlying why the majority of parcels did not advance from Appendix C to Appendix B, or Appendix B to Appendix A or from Appendix A to reserve status, as anticipated in the three Party Annual Plan.

The following statistics should be considered approximate, but reflect the general trends that have been observed. As this was the first year the three MFA Parties completed an Annual Plan, it is anticipated that the milestone targets set by the three Parties in the 2012-2013 Annual Plan will be more achievable.

(i) Interim Achievements of 2011-12 Schedule “A” Parcels = Parcels targeted for reserve status by March 31, 2012

- TPI/Encumbrances: 13 targeted for resolution.
8 resolved.
- ATR AIP: 4 targeted for AIP (Approval in Principle pursuant to Canada’s Additions to Reserves Policy)
2 received AIP
- Legal to Manitoba: 16 legal descriptions required to transfer parcels
1 was completed.
- MO/PCO: 26 parcels targeted for transfer. (Note: all 29 on Schedule “A” should be targeted for transfer
4 parcels transferred.

The main issue for Schedule A parcels was that the legal descriptions did not get produced to enable the subsequent steps to proceed. The issue is related to the survey contractors not submitting draft product in a timely way, to receive and address timely Federal and Provincial comments, and then finalize the survey plan. This aspect of the overall process needs to be better monitored, and the Parties now intend to meet three times per year to review the status of the survey plan preparation and approval, and thereby facilitate their timely completion to ensure this is improved.

Therefore, of the 29 parcels on the 2011-2012 Schedule A:

- 4 were transferred to IR status.
- 19 remain on Schedule “A” of the 2012-2013 Annual Plan (with a transfer target date extended to March 31, 2013).
- 5 have now been re-evaluated and placed on Schedule B of the 2012-2013 Annual Plan (with a transfer target date of March 31, 2014),
- 1 has been re-evaluated and placed on Schedule C of the 2012-2013 Annual Plan (with a transfer target date of March 31, 2015).

(ii) Interim Achievements of 2011-12 Schedule “B” Parcels = Parcels targeted for reserve status by March 31, 2013

By March 31, 2012 the parcels on Schedule “B” are intended to advance to Schedule “A” of the 2012-2013 Annual Plan, and be transferred to reserve status by March 31, 2013.

- TPI/Encumbrances: 24 targeted for resolution.
1 resolved.
- ESA: 3 Environmental Site Assessments (ESA) targeted for completion

- ATR AIP: 1 completed.
34 targeted for AIP (Approval in Principle pursuant to Canada's Additions to Reserves Policy)
7 received AIP.
- Legal description to Mb: 28 legal descriptions required to transfer parcels.
1 was completed.
- MO/PCO: 26 targeted. (Note: This is an anomaly of the first three Party Annual Plan as these 26 parcels should have been on Schedule "A" if they were targeted for transfer by March 31, 2012. However, only 3 of these advanced to Schedule A, so it was overly optimistic to have this milestone targeted at all for these parcels.)
0 completed.

The main issue for Schedule B parcels was that the legal descriptions did not get produced to enable the subsequent steps to proceed, and this important step needs to be carried forward. (Refer to related comment above.)

As well 27 ATR AIPs were not completed, and this milestone target needs to be carried forward into 2012-2013. This milestone is independent of confirming the legal description and the reason for the high carry forward is unknown, and needs to be determined to address and improve the situation.

As well 23 TPI/Encumbrances were not resolved and are carried forward into 2012-2013 for resolution. This interim goal is also independent of confirming the legal description and the reason for the high carry forward needs to be analyzed in more detail to address and improve the situation. (Please refer to Section 2.2.5 for further discussion of TPIs)

Therefore of the 52 parcels on the 2011-2012 Schedule "B":

- 3 advanced to the 2012-2013 Schedule "A" (as was intended).
- 42 remain on Schedule "B" of the 2012-2013 Annual Plan (With their transfer target date extended to March 31, 2014). (Note: For the majority of parcels it was premature to list these parcels on the 2011-2012 Schedule "B" on the presumption that the remaining steps could be completed in 2 years and the parcels set apart by March 31, 2013.)
- 7 have now been re-evaluated and placed on Schedule C of the 2012-2013 Annual Plan (With their transfer target date extended to March 31, 2015).

(iii) Interim Achievements of 2011-12 Schedule "C" Parcels = Parcels targeted for reserve status by March 31, 2014

By March 31, 2012 the parcels on Schedule "C" are intended to advance to Schedule "B" of the 2012-2013 Annual Plan, and be transferred to reserve status by March 31, 2014.

- TPI/Encumbrances: 47 targeted for resolution.
1 resolved.
- ESA: 17 targeted for completion of Environmental Site Assessments.
0 completed.
- ATR AIP: 52 targeted for AIP (Approval in Principle pursuant to Canada's Additions to Reserves Policy)
0 received AIP.
- RSM SIGNED 51 targeted for signing
26 signed
- SURVEY contract Awarded 17 parcels targeted
17 parcels contracted

The main issue appears to be achieving ATR AIP as none of the parcels targeted for ATR AIP were approved in principle. In part this may be because none of the 17 ESA's that were targeted were completed (and this is a component of the ATR AIP). While the unresolved TPIs likely factored into the high carry forward of the ATR AIP milestone goal, conditional AIPs could have been considered.

As well 46 TPI/Encumbrances were not resolved and remain to be resolved in 2012-2013. The reason for the high carry forward needs to be analyzed in more detail to address and improve the situation.

With 26 signed RSMs and only 17 parcels contracted for survey, 9 parcels have signed RSMs, and this can facilitate survey contracting early in 2012-2013.

As well it is noteworthy that 14 parcels have boundary confirmation issues that require resolution, and upon resolution this will enable the RSMs for these 14 parcels to be executed.

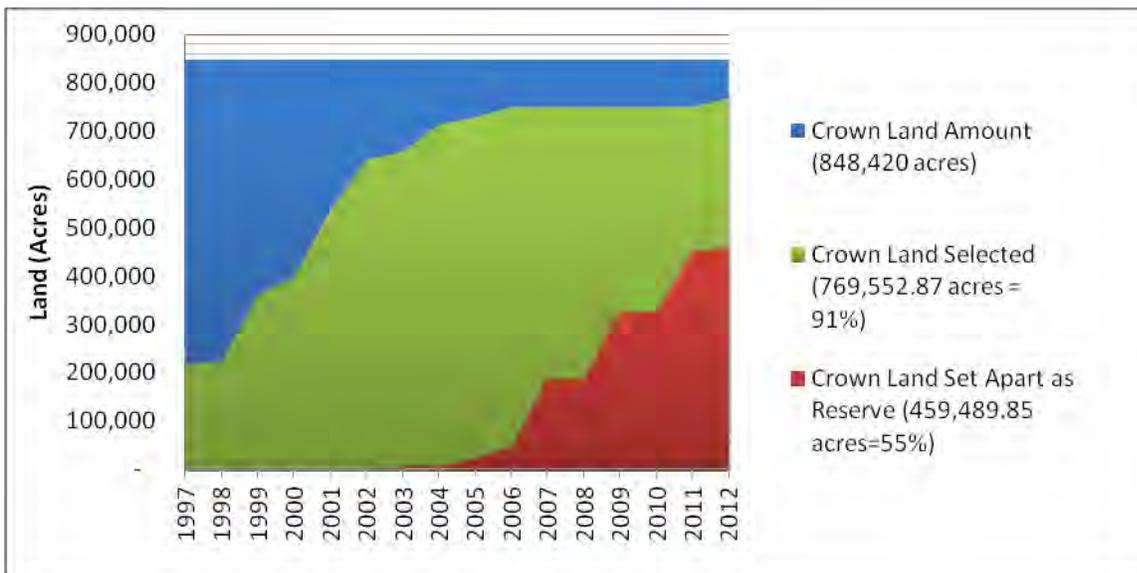
Therefore of the 66 parcels on the 2011-2012 Schedule “C”:

- 11 advanced to the 2012-2013 Schedule “B”. (as was intended)
- 49 remain on Schedule “C” of the 2012-2013 Annual Plan (With their transfer target date extended to March 31, 2015). (Note: For the majority of parcels it was overly optimistic to list these parcels on the 2011-2012 Schedule “C” on the presumption that the remaining steps could be completed in 3 years and the parcels would be set apart by March 31, 2014.)
- 2 have now been re-evaluated and placed on Schedule “D” of the 2012-2013 Annual Plan (With their transfer target date extended to March 31, 2016).
- 4 have now been re-evaluated and placed on Schedule “E” of the 2012-2013 Annual Plan (With their transfer target date extended to March 31, 2017).

c-2) TOTAL ACRES SET APART AS RESERVE UNDER THE MFA: In examining overall statistical performance under the MFA, this IMC Annual Report focuses on the efforts of the 15 EFNs that have signed TEAs to date as shown in **Chart 1**, rather than the entitlement of all of the EFNs under the MFA. These 15 EFNs with signed TEAs have an entitlement to 848,420 acres of Provincial Crown land, and 114,677 acres of Other Land.

The overall rate of Crown Land selection by the First Nations that have signed TEAs is shown in **Chart 4**.

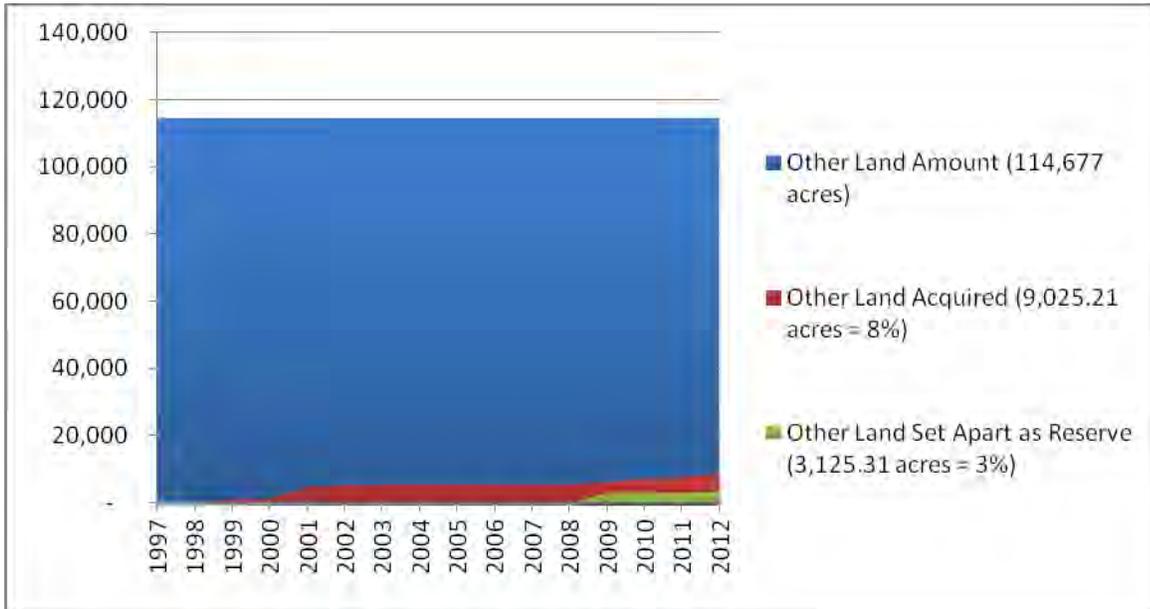
Chart 4: Rate and Amount of Crown Land Selection - 1997 to 2012 by the Fifteen Entitlement First Nations that have signed TEAs



(Crown Land selected = 751,390.87 acres within Manitoba, and 18,162 acres outside of Manitoba.)

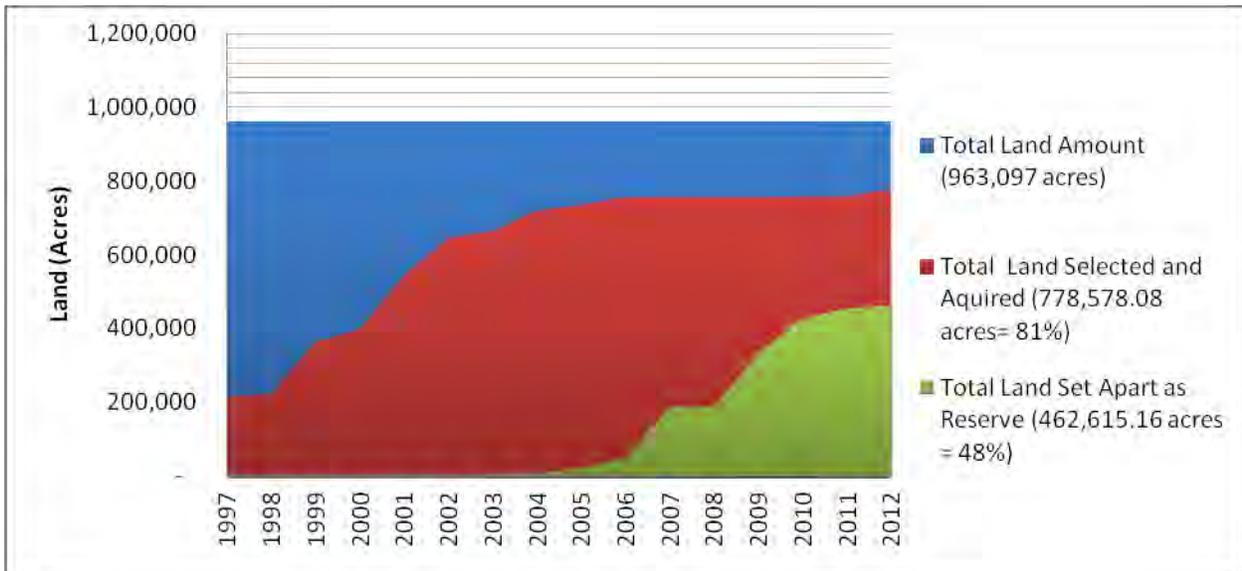
The overall rate of “Other Land” acquisition by the Schedule “B” EFNs is shown in Chart 5.

Chart 5: Rate and Amount of Other Land Acquisition - 1997 to 2012 by the Six Entitlement First Nations Entitled to Purchase or Acquire Other Land that have signed TEAs



From **Charts 4 and 5**, it can be seen that; 55.0% or 459,489.85 acres of the total Crown Land Amount for the 15 EFNs with signed TEAs has been set apart as reserve, while only 3.0%, or 3,125.31 acres of the total Other Land Amount has been set apart for the six EFNs with an entitlement to have Other Land set apart as reserve. (Those EFNs listed on Schedule "B" of the MFA) The very low rate of implementation with respect to Other Land has made developing a better understanding of the difficulties faced by the Schedule B EFNs while acquiring their Other Land, and the difficulties faced by Schedule B EFNs during the processing of their Other Land acquisitions, most important. (Thirty-five percent of the land acquired by EFNs to date has been set apart as reserve.) (Please refer to Section 2.2.9 for further discussion on this matter)

Chart 6: Rate of Reserve Creation - Total Land Amount - 1997 to 2012 by the Fifteen Entitlement First Nations that have signed TEAs



(Total Land Selected and Acquired = 751,390.87 acres selected in Manitoba; 18,162 acres selected outside Manitoba; and 9,025.21 acres acquired in Manitoba)

c-3) ACRES SET APART AS RESERVE FOR EACH ENTITLEMENT FIRST NATION: Progress under the MFA measured by way of total acres set apart as Reserve against the Total Amount of Land, as set out in **Chart 6**, is but one measure of performance. It is also important to measure implementation progress for each individual EFN by determining the number of parcels set apart for each.

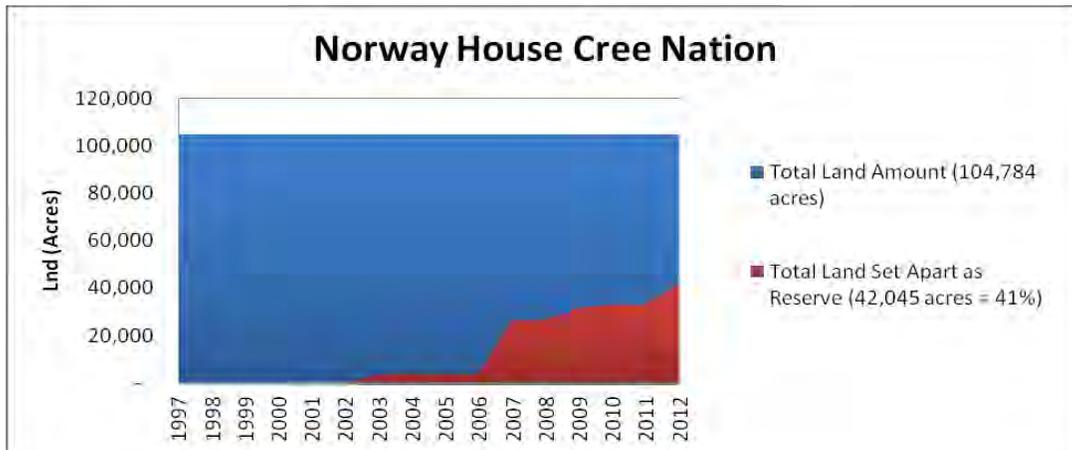
Examination of the acres of land set apart as Reserve for each EFN as a measurement of performance over the last 15 years tells a more precise story for each EFN. For example, at one end of the spectrum, Barren Lands First Nation has not had any land set apart as Reserve to date (due primarily to the unresolved Land In Severalty and regulation of Reindeer Lake matters), while at the other end of the spectrum, the Sapotaweyak Cree Nation has had some 99,701.73 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.

Over the past two years, the IMC Annual Report has included individual charts and a detailed listing of parcels set apart for each EFN to illustrate the progress made for each EFN over the years since the MFA was signed in 1997.

During 2011/2012, 2 EFNs benefited from the 4 parcels that were set apart. During 2011-2012, only one selection for Norway House Cree Nation and three acquisitions for Rolling River First Nation were set apart. While it may not be realistic to achieve a new reserve for each EFN in each year, 13 of the 15 EFNs with TEAs did not have any land set apart as Reserve for their use and benefit during this fiscal year. It is therefore redundant to replicate all individual EFN charts in the 2011-2012 IMC Annual Report. Instead only the charts for the two EFNs which had land set apart during 2011-2012 are included in this year's Annual Report. (Please refer to **Charts 7a and 7b**) Those readers seeking a detailed listing of land set apart as reserve to date for the remaining 13 EFNs with signed TEAs should refer to the 2010-2011 IMC Annual Report.

Chart 7a: Total Acres set apart as Reserve for Norway House Cree Nation

(For similar details on the other 13 EFNs with signed TEAs, please refer to the 2010-2011 IMC Annual Report)

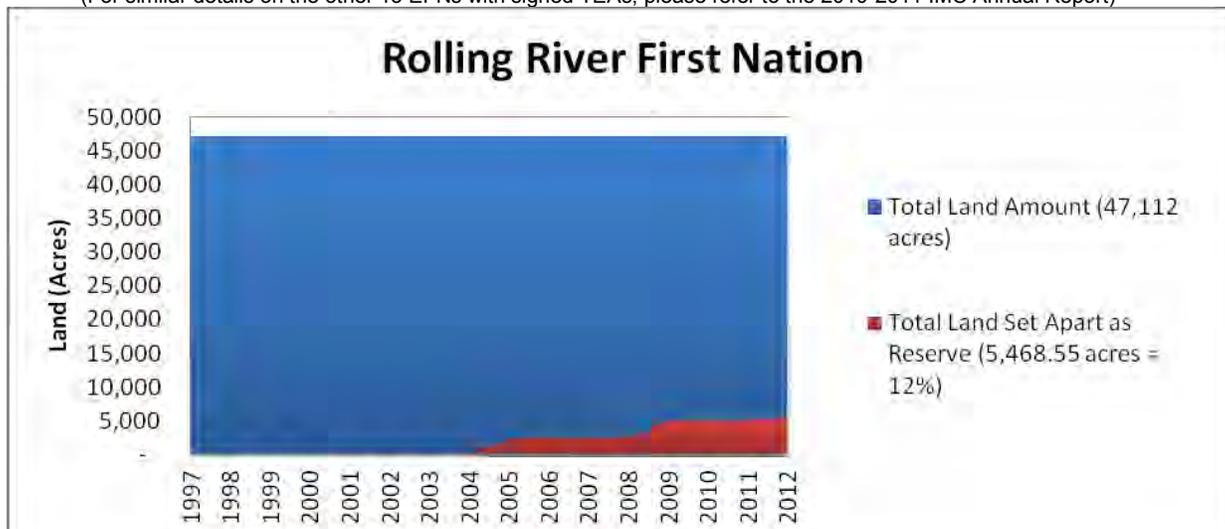


Norway House Cree Nation has selected 106,035.80 acres. (Source: March 30/12 TRELES)

| 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), 17D-4 (Beach Lake) 17D-5 (Little Bolton Lake A & C) 17D-6 (Echimamish River A and The High Rock) 17D-7 (Echimamish River B) 17D-8 (Nelson River East Channel B) 17D-9 (Lawford Lake) | 219.00 84.00 792.00 1,357.00 35.00 1,011.60 724.30 | 17D-3 (Costes Lake B), 17D-4 (Beach Lake) 17D-5 (Little Bolton Lake A & C) 17D-6 (Echimamish River A and The High Rock) 17D-7 (Echimamish River B) 17D-8 (Nelson River East Channel B) 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 | Winnipegosis Indian Reserve | 1,188.00 | Molson Lake Access Road |
| 2011 | OCT.7 | MO-2011-023 | Addition to Norway House Indian Reserve No. 17D-1 | 8,881.00 | North Molson Lake Phase 1 |
| TOTAL | | | | 42,045.60 | |

Chart 7b: Total Acres set apart as Reserve for Rolling River First Nation.

(For similar details on the other 13 EFNs with signed TEAs, please refer to the 2010-2011 IMC Annual Report)

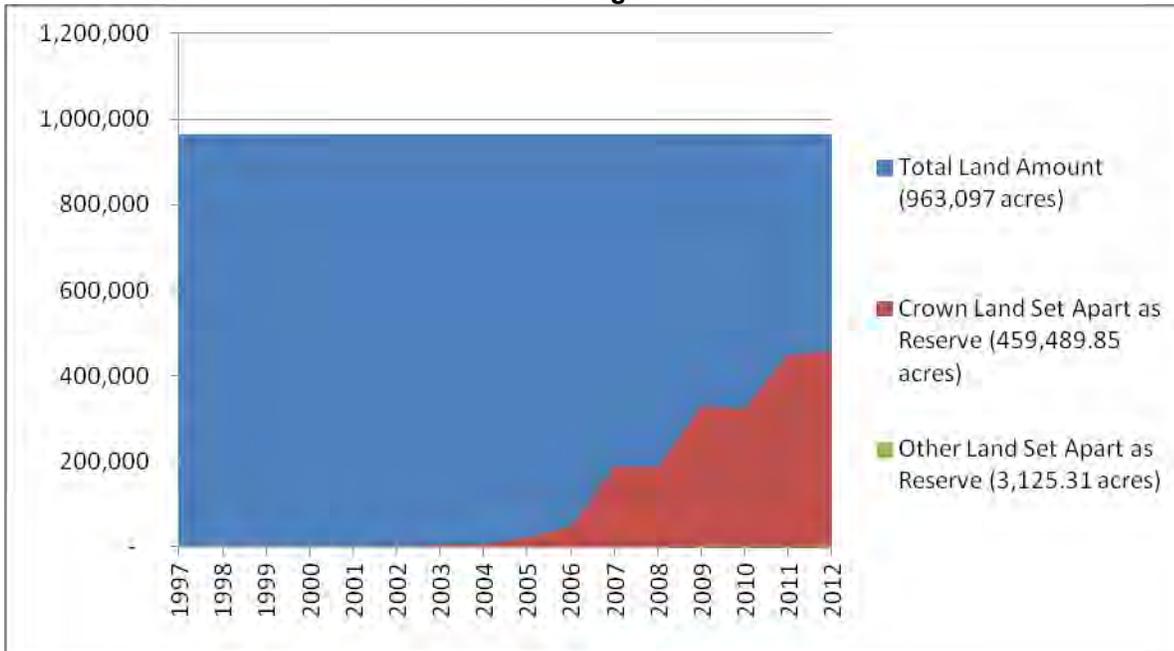


Rolling River First Nation has selected 2,350.70 acres. (Source: March 30/12 TRELES)

| 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 | 163.44 163.62 817.54 971.52 163.35 20.13 51.10 | | 3b - Onanole WMA 3c - Onanole WMA 3d - Onanole WMA 4 Bald Hills 5 NE 12-19-18 WPM RA1 - Interior Road Allowances RA2 - Exterior Road Allowances |
| 2006 | MAY 29 | MO- 2006- 009 | Rolling River IR 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 |
| 2011 | Sept. 6 | MO- 2011- 020 | Additions to Rolling River Indian Reserve No. 67 | | 235.78 160.00 | SE1/4 26-16-19 WPM (Site 6-01) - 155.78 W1/2 of SE ¼ 24-16-19 WPM (Site No. 4-01) NW1/4 24-16-19 WPM (Site No. 13.01) |
| TOTAL | | | | 2,350.70 | 3,117.85 | |

c-4) RESERVE CREATION – TOTAL CROWN LAND ACRES VERSUS OTHER LAND ACRES SET APART AS RESERVE UNDER THE MFA: When the total Crown Land set apart as reserve and the total acquired (Other Land) set apart as reserve are separated for comparison purposes as shown in **Chart 8**, it is quite evident that the amount of Other Land set apart as reserve is lagging far behind the Crown Land set apart as reserve. A contributing factor for this difference is that the EFNs have selected 91.0% of their Crown Land Amount (Please refer to **Chart 4**), while the EFNs have only acquired 8.00% of their Other Land amount. (Please refer to **Chart 5**) Therefore, there are far more confirmed selections in the land transfer process than acquired parcels in the land transfer process.

Chart 8: Rate of Reserve Creation - Crown Land versus Other Land - 1997 to 2012 by the Fifteen Entitlement First Nations that have signed TEAs



(IMC NOTE: In the above Chart 8, 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-5) OTHER LAND ACRES SET APART AS RESERVE FOR SIX SCHEDULE “B” EFNs: The six Schedule “B” EFNs are entitled to acquire 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. (Please refer to **Chart 9** below.) To date, only 9,025.21 acres of land representing 8.0% of the total has been acquired and confirmed for Reserve by the six EFNs having this right. 35.0% of that amount representing twenty-three parcels of land consisting of 3,125.31 acres has been set apart as Reserve. These twenty-three acquired parcels were set apart as the Nashakepenais Indian Reserve for Brokenhead Ojibway Nation and as additions to Rolling River Indian Reserves #67, #67A, and #67B.

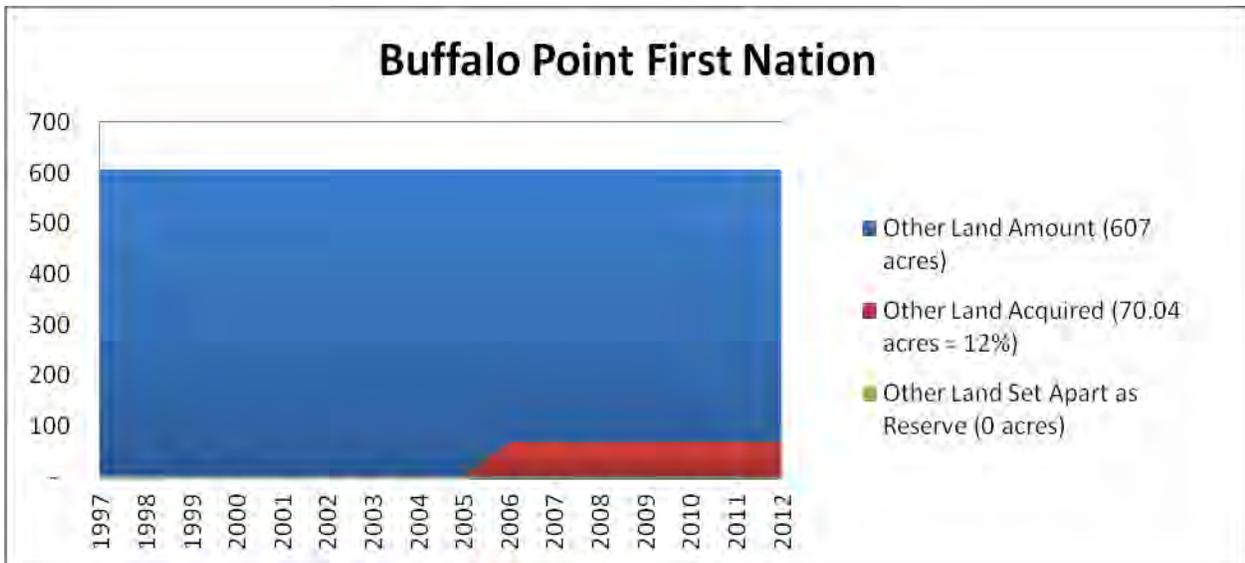
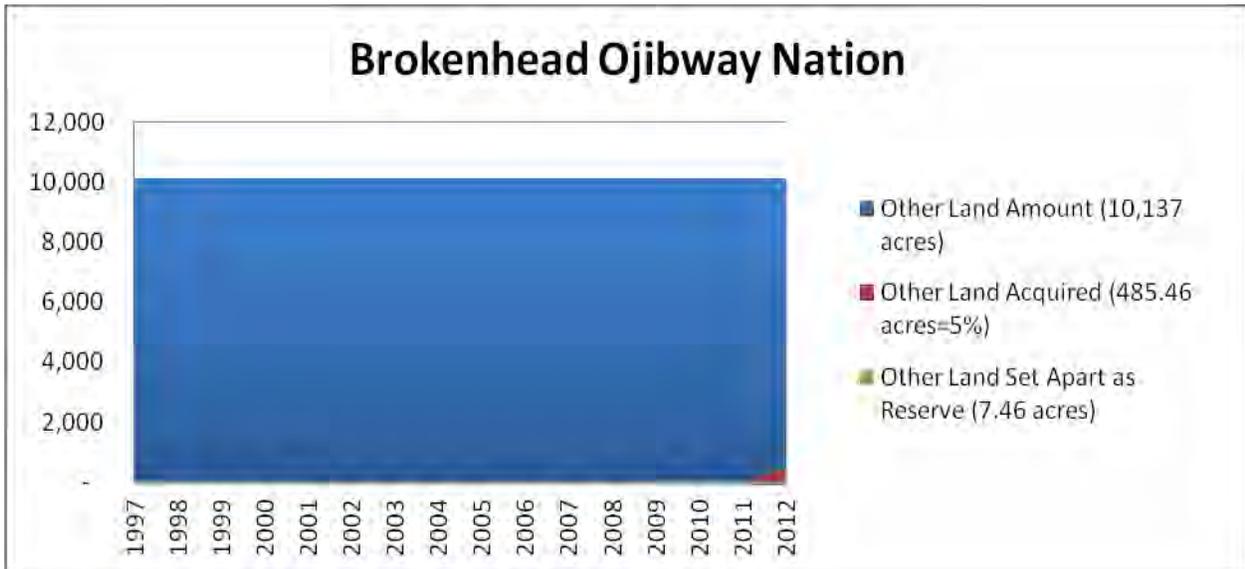
It is promising that an additional 1,623.02 acres were acquired and confirmed by the EFNs during the 2011/2012 fiscal year. (This included 478 acres by Brokenhead Ojibway Nation, 1,120.02 acres by Rolling River First Nation, and 25 acres by Wuskwi Siphk Cree Nation.)

The acquisition of Other land represents a distinct and unique challenge that requires specific attention by the Parties and the six involved EFNs as implementation proceeds. The challenges can be divided into two categories. (i) Difficulties experienced by the EFNs in actually acquiring the Other Land, and (ii) the pace and difficulty of addressing the land transfer requirements for the Other Land after the acquisition is confirmed. At the March 17, 2011 IMC meeting, the IMC agreed that in 2011-2012 IMC should monitor this situation and facilitate resolution of specific issues as required.

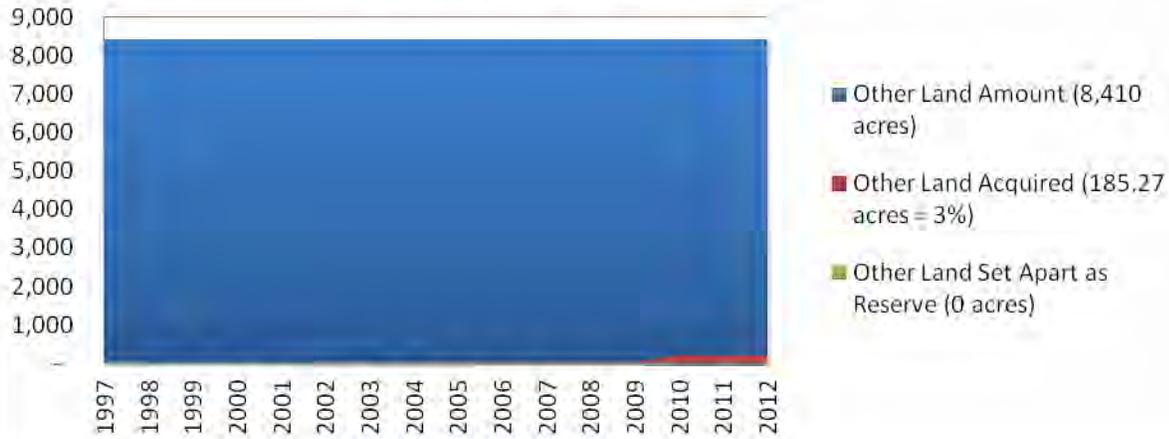
During 2009-2010 and 2010-2011 there were no acquired parcels set apart as reserve. This fiscal year 3 parcels of acquired land totalling 395.78 acres were set apart as additions to Rolling River Indian Reserve No. 67. Four of the six Schedule B EFNs have to date not had any Other Land set apart as reserve.

In response to the EFN concerns with implementation of the Land Acquisition process, and the MFA Parties concerns with the current status of acquiring Other Land, in 2011-2012 the IMC prepared and circulated a Land Acquisition Considerations Discussion Paper, and this is discussed further in Section 2.2.9.

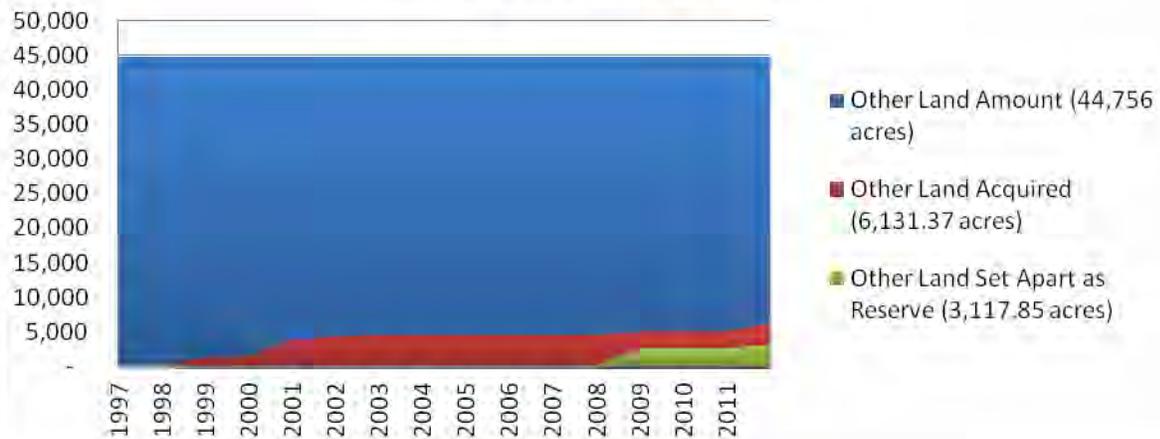
Chart 9: Other Land Amount, Other Land Acquired, and Other Land Set Apart as Reserve for Schedule “B” EFNs



Opaskwayak Cree Nation

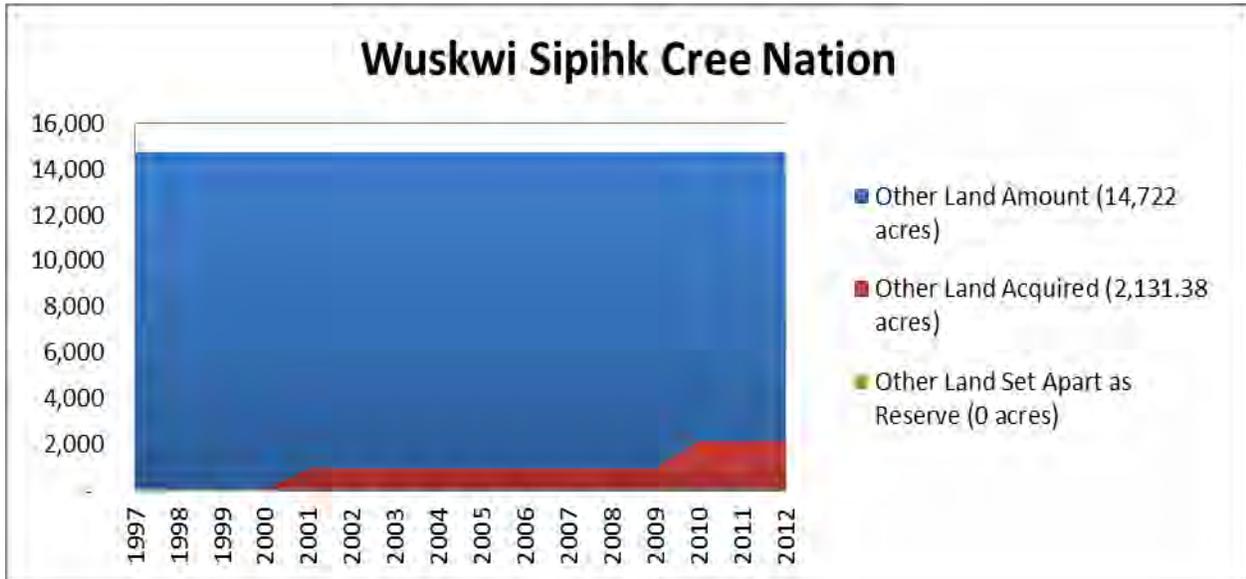


Rolling River First Nation



Sapotaweyak Cree Nation





2.2.5 TPI RESOLUTION

- a) **BACKGROUND:** Third Party Interests (TPIs) require resolution before selected land can be converted to reserve land, and many Selections are encumbered by more than one type of TPI and/or encumbrance. The task of resolving the lengthy list of Third Party Interests (TPIs) and encumbrances affecting confirmed selections and acquisitions has been identified as one of the key issues delaying reserve creation for some time.

During 2010-2011 the Parties developed a Third Party Interest Working Group that produced an options paper on means of addressing each type of TPI and encumbrance. During the Strategic Planning initiative, the Parties agreed to develop specific consensual options for each specific TPI on a parcel-by-parcel basis for discussion with each EFN. This initiative/tool was proposed in response to the observation from the staff of the Parties at Strategic Planning meetings that the Parties were attending parcel review meetings with different perspectives on how the EFN could most effectively resolve the TPI, and the staff observation that receiving mixed messages from the Parties was not conducive to assisting the EFNs with their decision making. The Parties agreed that they should speak to the EFNs with one voice wherever possible, and felt that the resolution of TPIs would be facilitated if specific three Party recommendations for each TPI on each parcel were made jointly by the Parties to the EFNs. This approach became a recommendation of IMC found in the 2010-2011 IMC Annual Report but has not yet been implemented.

- b) **2011-2012 WORK PLAN FOCUS AND TARGETED RESULTS:** Numerous unresolved TPIs are hindering the progress of selected/acquired land moving towards reserve status. The Parties are to review the list of TPIs and encumbrances affecting land selections and acquisitions, and analyze and determine consensual options to resolve issues specific to each parcel. The IMC is to report on if the three Parties have reached agreement on consensual options to resolve the specific TPIs and encumbrances affecting parcels on Appendix C and Appendix D (priority parcels) of the 2011-2012 Annual Plan, and on if the Parties have written to each EFN and recommended the consensual options to resolve each TPI and encumbrance affecting each parcel.

The IMC is also to analyze and determine why IMC feels each TPI/encumbrance is not being resolved as per the recommended consensual options, and prepare recommendations to resolve identified issues, beginning with EFN priority parcels.

Finally, the IMC is to monitor and analyze the success of the Parties in working with the EFNs towards TPI resolution, and monitor and analyze the success of the Parties with reaching their Annual Plan milestone goals set in relation to TPI resolution. (Data anticipated from the September 30/11 Tracking Chart update, the March 31/12 Tracking Chart update and/or the TRELES report.)

c) **PROGRESS DURING 2011-2012:** The IMC found that the Parties did not proceed with this initiative as anticipated. At the IMC meetings of July 5, 2011, October 3, 2011, and January 17 & 18, 2012 the Parties progress with this IMC Work Plan initiative was reviewed and the Party representatives reported at each meeting that they have as yet to address this. It is not understood why the Parties have not addressed the goal the Party representatives on IMC set for themselves, and included in the 2010-2011 IMC Annual Report recommendations. The levels of TPI resolution remains low and it is recommended that if the Parties no longer agree with this approach; that another approach be developed and adopted to proactively address this situation.

Within the 2011-2012 three Party Annual Plan the Parties targeted the resolution of TPIs for parcels included in Appendixes A, B, and C. The TPIs targeted for resolution and the results achieved (by appendix) are as follows:

Chart 10: TPI Targets Achieved During 2011-2012

| 2011-2012 ANNUAL PLAN | TPIs Targeted | TPIs Resolved |
|-------------------------------|---------------|---------------|
| Appendix A | 13 | 8 |
| Appendix B | 24 | 1 |
| Appendix C | 47 | 1 |
| Appendix for Priority Parcels | 91 | 8 |
| TOTAL | 175 | 18 |

2.2.6 EFN PRIORITY PARCELS

a) **BACKGROUND:** Over the past few years, TLEC has annually submitted listings to Canada and Manitoba identifying the selections and acquisitions deemed by the EFNs to be their Priority Parcels. The most recent listing dated "Revised as of June 2, 2010" was submitted by TLEC to IMC on June 15, 2010 and discussed at the IMC meeting of June 23, 2010. This listing contains 141 priority parcels, 120 of them are selections and 21 of them are acquisitions. (Twenty-one of the 37 acquisitions of Other Land listed in TRELES.) With 141 parcels to be treated as priorities, it is not clear how the Parties and the EFNs can focus on so many at once and achieve the results the EFNs are seeking.

It should not matter that an EFN priority parcel is a complex parcel to transfer, because if this was the case, it would imply that only the easier parcels advance through the land transfer process. What is important is that the process of land transfer steps for that priority parcel is not ambiguous, but is clear and known to all Parties and EFNs, and the primary responsibility for completing the next steps is not ambiguous but clear and known to all Parties and EFNs, and that the agreed upon priority parcels make steady progress towards reserve status.

The IMC representatives agree that, in response to a determination by an EFN that particular parcels are a priority, the Parties can:

- commit to making steady forward progress on the transfer of those parcels,
- identify the milestone land transfer steps that can be realistically accomplished during the current year,
- include these milestone goals in the three Party Annual Plan,
- identify primary responsibility for completion of these milestone steps, and
- advise the EFN of the milestone goals set by the Parties with respect to achieving forward progress on its priority parcels each year (through circulation and discussion of the three Party Annual Plan).

b) **2011-2012 WORK PLAN FOCUS AND TARGETED RESULTS:** The Parties are committed to setting and achieving annual milestone targets with respect to advancing EFN Priority Parcels through the land transfer process. The Parties are to develop these targets within and as part of the Strategic Planning process, and include these targets in the three Party Annual Plan. IMC is to monitor and facilitate the achievement of the milestone targets respecting the EFN priority parcels if it appears that the Parties are having difficulty in reaching their milestone targets.

c) **PROGRESS DURING 2011-2012:** The three Parties have confirmed which of the milestone goals set for 2011-2012 were completed by year end, and which would need to be carried forward on the 2012-2013 Annual Plan. The following milestone targets for priority parcels were set and the achievements monitored as follows:

- TPI/Encumbrances: 91 targeted for resolution.
8 resolved.
- ESA: 10 targeted for completion of Environmental Site Assessments..
0 completed.
- ATR AIP: 14 targeted for AIP (pursuant to Canada's Additions to Reserves Policy)
0 received AIP.
- RSM SIGNED 7 targeted for signing
2 signed
- MDSA 31 parcels targeted (Many with same RM = fewer MDSAs)
1 MDSA completed

The main issues delaying the advancement of the Priority Parcels appear to be TPI resolution and concluding Municipal Development and Services Agreements (MDSAs) with municipalities.

In the 2012-2013 three Party Annual Plan the Parties decided to place the advanced priority parcels on Schedules A, B, and C; with the remainder found on Schedule D. In 2012-2013 the priority parcels will be found on:

- 1 is on Schedule "A", and targeted for reserve status by March 31, 2013.
- 5 are on Schedule "B", and targeted for reserve status by March 31, 2014.
- 7 are on Schedule "C", and targeted for reserve status by March 31, 2015.
- 58 are on Schedule "D". (with no associated time frame for reserve creation)

In summary, while the EFNs consider these parcels as their priorities, they are heavily encumbered with TPIs and encumbrances, and many require municipal discussions and possibly MDSAs. Accordingly, the majority cannot be targeted for reserve status before 2015-2016. In terms of interim achievements, it is clear from the above assessment that little progress was achieved with respect to advancing the EFN priority parcels during 2011-2012.

2.2.7 HYDRO EASEMENT PROCESS

a) **BACKGROUND:** The MFA sets out a requirement for a "Hydro Easement" to be granted when land is selected along a developed waterway. At an IMC Hydro Easement Focus Meeting in 2009 the Parties agreed to reach consensus on the details of the Hydro Easement line determination process, while the Parties were continuing to review the proposed Hydro Easement Agreement itself in relation to TLEC's Referral on this matter. (IMC File # 2007-TLEC-002, see Section 2.1.2 for further detail.)

The Manitoba Department of Conservation developed a draft Hydro Easement line determination process, a cross referenced flow chart, and a discussion paper dealing with the "Additional Land" provisions from MFA Article 12, and presented these at a Strategic Planning meeting on June 18, 2009. The Parties reviewed and refined this proposed process between June 18, 2009 and December 16 and 17, 2010, when consensus was confirmed between the Parties at an IMC meeting.

b) **2011-2012 WORK PLAN FOCUS AND TARGETED RESULTS:** The Chairperson is to monitor and review the proposed process for determining 'Hydro Easements', and ensure that it is being implemented consistently, and that consensus is maintained via recommendations when required. If and when concerns with the process arise, issue resolution is to be facilitated by analysis and recommendations.

c) **PROGRESS DURING 2011-2012:** On January 13, 2012 TLEC submitted the main concerns of the affected EFNs with the draft Hydro Easement document, along with its proposed options to resolve these concerns. At the same time TLEC identified a number of areas where TLEC feels the Hydro Easement line determination process should be refined. On February 10, 2012 TLEC circulated the Hydro Easement line determination process with tracked changes, to illustrate the proposed refinements. Manitoba and Canada undertook to review the proposed refinements by March 26, 2012 and this review was underway at year end.

2.2.8 CROWN LAND SELECTIONS: Many EFNs have not completed their Crown Land Selections in order for lands to be converted to reserve.

a) **BACKGROUND:** In accordance with the MFA, upon initiation of the Community Approval Process the EFNs were provided funds to complete a community planning and land selection process. The MFA identifies a three - five year time period for the completion of Crown Land selections, however, only five of the 15 EFNs with TEAs have completed the selection of their full Crown Land entitlement to date. As anticipated by Article 4, extensions of 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 BLFN and NFN which are affected by the Land in Severalty matter which is in arbitration) or confirmed plans for selection of the balance of the Crown Land selections for those EFNs with outstanding selections to be confirmed.

While there is some concern that ten of the 15 EFNs with TEAs have not selected their full Crown land entitlement, this situation should be viewed in context. The IMC determined that for two of these EFNS (Barren Lands and Northlands) the IMC has already provided formal land selection extensions, in recognition of the unresolved issues concerning the right of certain members to take Land in Severalty. For four of the 10 EFNs with outstanding Crown land acres to be selected, the amount to be selected was less than 1,000 acres; and for three EFNs the amount remaining to be selected is between 1,400 and 1,600 acres. Only MCCN has no formal extension in place and a significant outstanding acreage (34,315 acres) of Crown land to be selected. (Please refer to **Chart 11** for further detail.) While in discussions with Barren Lands on this matter, the complication posed by the regulation of Reindeer Lake was also identified as a barrier to advancing the existing selections, as well as to confirming the balance of its selections. This is described in more detail in Section 2.2.11.1.

CHART 11: Outstanding Acres To Be Selected By The 15 EFNs With TEAs

| EFN | TOTAL CROWN LAND ACRES | TOTAL SELECTED ACRES | TOTAL ACRES TO BE SELECTED |
|-----------------|------------------------|----------------------|--|
| Barren Lands | 66,420 | 28,253 | 38,167 (However 7,500 acres is selected in Saskatchewan) |
| Brokenhead | 4,344 | 4,276 | 68 |
| Buffalo Point | 3,432 | 2,609 in Mb. | 823 (However, 970 acres is selected in Ontario) |
| Bunibonibee | 35,434 | 35,210 | 224 |
| God's Lake | 42,600 | 41,077 | 1,523 |
| Manto Sipi | 8,725 | 9,965 | 0 |
| Mathias Colomb | 217,364 | 183,049 | 34,315 (However 115 acres is selected in Saskatchewan) |
| Nisichawayasihk | 61,761 | 72,736 | 0 |
| Northlands | 94,084 | 56,600 | 37,484 (However 4,000 acres is selected in Saskatchewan) |
| Norway House | 104,784 | 106,036 | 0 |
| Opaskwayak | 47,658 | 46,222 | 1,436 (However 5,037 acres is selected in Saskatchewan) |
| Rolling River | 2,356 | 2,350.7 | 5.3 |
| Sapotaweyak | 108,134 | 112,782 | 0 |
| War Lake | 7,156 | 5,586 | 1,570 |
| Wuskwi Sipiik | 44,168 | 44,347 | 0 |

In January 2009 the IMC representatives decided by consensus that a formal application for extensions was not required as in practice the principles were being applied by the Parties in any event, and all representatives agreed that this should continue. This is viewed as a proactive practice which facilitates implementation of the MFA. TLEC requested that this informal practice be confirmed formally.

At an IMC Meeting on January 26, 2011, the representatives of all Parties proactively agreed that the MFA principles should continue to apply, and agreed that there would be no requirement to utilize MFA Article 4 processes for time period extensions to complete Crown Land selections, subject to the EFN developing and submitting a plan for the selection of the balance of its Crown Land amount.

- b) **2011-2012 WORK PLAN FOCUS AND TARGETED RESULTS:** The Chairperson was asked to contact the EFNs with outstanding selections, advise them of the IMC decision, and request Land Selection Plans. Ten EFNs have still to complete their Crown Land Selections.
- c) **PROGRESS DURING 2011-2012:** On April 27, 2011 the IMC wrote to the EFNs with outstanding land to be selected, and advised the EFNs that the Parties have agreed that the MFA principles should continue to apply subject to the EFN developing and submitting a plan for the selection of the balance of its Crown land amount. As well the IMC letter formally requested the Parties to assist the eight EFNs with completion of their land selection plans. It was anticipated that completed land selection plans would be submitted by the EFNs to IMC for review and circulation to the Parties, and that plans would be in place to address how and when the eight EFNs intend to complete their Crown Land Selections, and that the plan would be accompanied by a BCR to confirm the balance of the land selections in accordance with the MFA. No responses or Land Selection Plans were submitted in response to IMC's April 27, 2011 request, and the application of the principles to the future land selections remains informal. By fiscal year end the 15 EFNs had Selected approximately 91.00% (or 769,552.87 acres) of the total Crown Land Amount committed to the 15 EFNs.

2.2.9 ACQUISITION RATES AND TIME PERIODS

- a) **BACKGROUND:** Schedule B EFNs are entitled to acquire 114,677 acres of "Other Land" for conversion to reserve land. During fiscal year 2010-2011, the IMC was asked by the Parties to determine the reasons behind the low rate of acquisition of Other Land by the Schedule "B" EFNs. With a better understanding of the issues faced by the Schedule "B" EFNs while acquiring their Other Land amount, the IMC felt it would be in a better position to consider options and make recommendations for addressing the low rate of acquisition of Other Land by these EFNs.

On January 28, 2011 the IMC wrote to each of the Schedule "B" EFNs and requested feedback to better understand their situation. In summary, the Schedule B EFNs who responded to IMC's inquiry commented on two related but distinct matters that require specific individual attention;

- i) the difficulties each faces with the acquisition of Other Land, and
- ii) the difficulties each faces with having its Other Land set apart as reserve.

From the four Schedule B EFNs who replied to IMC's January 28, 2011 inquiry into the reasons underlying the slow pace of acquisition of Other Land, some common trends can be observed:

- The EFNs are committed to purchasing their full entitlement of Other Land, and are looking for other sources of revenue to ensure that this is possible,
- The EFNs emphasized that additional time will be required for this to be realized,
- The land acquisition process is complicated, and requires considerable due diligence (e.g. environmental assessment) by the EFN prior to purchase. The EFNs have found that the vendors may not wait for this to be completed if other interested parties can complete the sale more quickly.

The target period for completion of the Other Land acquisitions is 15 years from the date of each Schedule "B" EFN's respective TEA, and the time periods will end between March 6, 2013 and January 22, 2014. (Please refer to **Chart 12** for exact dates) None of the Schedule "B" EFNs have acquired all of their Other Land to date. Together these six EFNs have only confirmed 9,025.21 acres of Other Land, or 8.00% of their entitlement to have 114,677 acres of Other Land set apart as reserve pursuant to the MFA. It is readily apparent that the six Schedule "B" EFNs with Other Land Entitlement are unlikely to complete the acquisition of Other Land within the 15 year time period(s).

b) 2011-2012 WORK PLAN FOCUS AND TARGETED RESULTS

The IMC wrote to the Schedule "B" EFNs on January 28, 2011 and requested their views on the challenges each faces with the Other Land acquisition process. The Chairperson is to assist by compiling the information submitted by the EFNs, and completing an analysis with recommendations to the Parties.

The Parties are to determine "Next steps and barriers and issues to be resolved" to advance all confirmed acquisition parcels, and circulate the Acquisition Tracking Charts to the EFNS as part of the Strategic Planning initiative. The IMC is to analyse trends observed through the Acquisition Tracking Chart monitoring process, and report with recommendations to the Parties with its results of this analysis.

The IMC is to monitor the Annual Plan milestones targeted for completion by the Parties for each parcel during 2011/2012, and consider recommendations on how best to advance the parcels towards the milestone goal. Where deemed appropriate, the Chairperson is to make recommendations for the Parties and EFNs on ways and means to resolve issues delaying advancement of acquisitions during 2011/2012.

- c) **PROGRESS DURING 2011-2012:** Over the past year 1,623.02 acres were acquired by the six Schedule “B” EFNs. 3 parcels totalling 395.78 acres were set apart in 2011-2012. (There was no acquired Other Land set apart in 2009-2010, or 2010-2011.)

With respect to the time required to set apart acquisitions as reserve, the IMC feels that the acquisition tracking charts and the three Party Annual Plan which was completed and released to the EFNs on October 6, 2011 will identify the steps that are taking longer to complete, and the Parties can focus on those steps and improve the processing time associated with acquisition land transfers.

In addition the IMC feels that a greater understanding of the difficulties faced by the Schedule B EFNs would enable the Parties to determine if the processes followed by the Parties could be refined to respond more favourably to the barriers faced, and improve the rate of land acquisition and the subsequent processing of land acquisitions.

TLEC organized a Land Acquisition Strategy Forum on September 15 & 16, 2011 to better understand the challenges faced by these EFNs, and the Chairperson was invited to participate. In response to the EFN concerns with implementation of the Land Acquisition process, and the MFA Parties concerns with the low level of acquisition of Other Land to date, the IMC prepared a discussion paper on “Acquisition Process Considerations”, which was circulated to the Schedule “B” EFNs on November 2, 2011. With respect to acquisition time periods, the EFNs have confirmed that they will require more time to complete their acquisitions; with the Rolling River First Nation requesting a 20 year extension, and the Buffalo Point First Nation requesting that the time periods be declared redundant.

The considerations in the IMC discussion paper will not apply equally to each EFN, as each EFN is at a different stage with its Other Land implementation, and each EFN is proceeding in a manner that each determines is best suited to its specific circumstances. The discussion paper does however describe the acquisition process in detail, in order that each Entitlement First Nation can consider the various options identified for discussion and consideration, and perhaps incorporate some of the considerations into the EFN's individual acquisition strategy to address issues each faces with implementation of their individual Land Acquisition process. The Acquisition Process discussion paper divided the process into six major steps and addressed the following:

- **Step #1:** Determining the type of land the EFN wishes to acquire.
- **Step #2:** Determine who will make the final decision on specific parcels of land to purchase.
- **Step #3:** Determine what requirements need to be addressed as the land transfer process unfolds, and to every extent possible take up front action to initiate/complete these requirements in advance.
 - MDSA
 - Property Taxes
 - Third Party Interests (TPIs)
 - Pre Designation Process
- **Step #4:**
 - Acquiring land.
 - Working with Agents
 - Other Considerations During Acquisition/ Purchase
- **Step #5:** After Purchase.
 - Establish a Paper Trail
 - Invite Manitoba and Canada to the RM/EFN MDSA meetings
 - Environmental Site Assessment and Additions To Reserves Approval in Principle
 - Annual Plan
 - Survey Requirements
- **Step #6:** Time Periods

For the six EFNs listed on Schedule “B”; the Date of each TEA, the Acquisition Time Periods, the EFN's Other Land Amount, and the Other Land Acquired to Date are as shown on **Chart 12:**

Chart 12: Schedule “B” EFNs Other Land Particulars

| EFN | DATE OF TEA | MFA 4.01 ACQUISITION TIME PERIOD | OTHER LAND AMOUNT (acres) | OTHER LAND ACQUIRED (acres) |
|----------------------------|-------------------|----------------------------------|---------------------------|-----------------------------|
| Brokenhead Ojibway Nation | September 9, 1998 | September 9, 2013 | 10,137 | 485.46 |
| Buffalo Point First Nation | March 24, 1998 | March 24, 2013 | 607 | 70.04 |
| Opaskwayak Cree Nation | January 22, 1999 | January 22, 2014 | 8,410 | 185.27 |
| Rolling River First Nation | March 6, 1998 | March 6, 2013 | 44,756 | 6,151.37 |
| Sapotaweyak Cree Nation | September 1, 1998 | September 1, 2013 | 36,045 | 1.69 |
| Wuskwi Sipiik Cree Nation | June 9, 1998 | September 9, 2013 | 14,722 | 2,131.38 |
| TOTAL | | | 114,677 | 9,025.21 |

In addition to preparation of the IMC discussion paper, and in order to deal with the matter proactively and expeditiously, and in follow up to a commitment made to the Schedule B EFNs at the Land Acquisition Forum in BPFN; on October 3, 2011 the Chairperson proposed that Canada and Manitoba consider the submission of a referral pursuant to MFA Subsection 4.02(3), which will enable the IMC to address this matter. Otherwise, discussion of acquisition time periods could become quite time consuming, and may become confrontational if the EFNs attribute their inability to acquire their Other Land amounts to the failure of Manitoba or Canada to fulfil their respective obligations under the MFA. Manitoba and Canada have confirmed that they support this in principle but wish to meet again and further discuss the proposed submission of a referral to enable IMC to extend the acquisition time periods of the Schedule “B” EFNs, in accordance with the MFA. By year end Manitoba and Canada were still discussing this matter and no decision had been reached.

When the Land Selection time periods were expiring, and extensions were being requested through a process incorporating referrals to IMC, a great deal of time was spent on this topic only to have the Parties informally extend the application of the principles beyond the expiry of the Selection time periods (and extensions) in any event. If the Parties feel that they will informally extend the application of the principles in any event (as the Parties are doing with Land Selections), there would appear to be little benefit to prolonged discussion, and consideration of a referral to the IMC.

2.2.10 OUTSTANDING TREATY ENTITLEMENT AGREEMENTS (TEAS):

a) BACKGROUND: By the end of the 2011-2012 fiscal year six EFNs which are entitled to enter into TEAs under the MFA had not executed a TEA. None of these six EFNs is included in Schedule “B”, and therefore their entitlement is comprised of 100% Provincial Crown land, and totals 137,529.00 acres. These six EFNs are; Shamattawa First Nation (SFN), Fox Lake Cree Nation (FLCN), Sayisi Dene First Nation (SDFN), York Factory First Nation (YFFN), Marcel Colomb First Nation (MCFN), and O-Pipon-Na-Piwin Cree Nation (OPCN).

The IMC gathered information from a variety of sources during 2010-2011 to determine the status of the issues underlying the hesitation of these six EFNs to proceed with their respective Treaty Entitlement Agreements. There was consensus amongst the Party representatives on IMC that the lead role should not be assumed by IMC, but rather it is a responsibility of the Parties to drive this initiative.

Further, the IMC felt that the Parties to the MFA should have a clear up to date understanding of the factors underlying the hesitation of these six EFNs to move forward with consideration of their respective TEAs. The IMC also felt that the Parties to the MFA should have an Action Plan to address the factors creating this hesitation if possible. While all six EFNs have initiated their Community Approval Process by submission of a BCR to Canada in accordance with MFA Article 29, it is not clear if the opportunity to participate in the MFA will be open ended indefinitely. On March 17, 2011 all IMC representatives confirmed their agreement that the Parties themselves were the appropriate entities to engage with the unsigned EFNs. In the 2010-2011 IMC Annual Report the IMC recommended that the three Parties develop a proactive action plan specific to each EFN without a Treaty Entitlement Agreement, to facilitate these EFNs settling their outstanding Treaty Land Entitlement.

- b) 2011-2012 WORK PLAN FOCUS AND TARGETED RESULTS:** In the IMC Work Plan for 2011-2012, the IMC is requested to follow up on the IMC recommendation that the Parties develop a proactive Action Plan specific to each EFN currently without a TEA. It was anticipated that the IMC would receive a copy of the three Party Action Plan from the Parties, and clarification on any other EFN issues that may be impeding the EFN proceeding with its TEA. Upon receipt and review of the three Party Action Plan, the IMC would monitor implementation.
- c) PROGRESS DURING 2011-2012:** At each 2011-2012 IMC meeting, the Chairperson asked the Party representatives to provide an update on the progress of the Parties with development of EFN specific Action Plans as recommended by the IMC. The Party representatives replied that this had not been initiated. On October 25, 2011 the Chairperson wrote to the Party Directors and asked for a status report. Manitoba responded on December 22, 2011, and advised that it will request that this topic be added to the three Party Strategic Plan for 2012-2013. On January 26, 2012 TLEC responded and proposed that Manitoba and Canada consider convening a one-day roundtable exclusively for the leadership of the six unsigned EFNs, and suggested that this concept be discussed at the next IMC meeting of March 6, 2012. There has been no response from Canada. The 2010-2011 recommendation of the IMC was not addressed by the Parties during 2011-2012. At the Strategic Planning meeting held February 14, 2012 the Parties decided that during 2012-2013 they would target the execution of one TEA for the unsigned EFNs.

2.2.11 OTHER SPECIFIC ISSUES:

Other specific issues are occasionally identified that affect MFA Implementation. A current example of this that is included in the IMC Work Plan is the regulation of Reindeer Lake.

2.2.11.1 REINDEER LAKE:

- a) BACKGROUND:** The regulation of Reindeer Lake has had negative effects on implementation of the Barren Lands First Nation (BLFN) TEA. In 2010-2011 a number of meetings between the Parties and BLFN were facilitated by the IMC Chairperson. Through this process, the Parties agreed that an easement in favour of SaskPower (which regulates Reindeer Lake), and of benefit to the BLFN would be an appropriate manner of addressing this matter.
- b) 2011-2012 WORK PLAN FOCUS AND TARGETED RESULTS:** The Chairperson was directed to facilitate meetings of the Parties and BLFN to reach consensus on how to proceed with resolving the Reindeer Lake regulation matter and its effect on BLFN TLE selections. It was anticipated that a consensus amongst the Parties and BLFN on how to engage Sask Power, and on the accommodation that is required to enable the BLFN TLE selections along Reindeer Lake to advance through the land transfer process would be reached.

Other matters of concern (other than Reindeer Lake regulation) may be identified from time to time. In this event, the IMC will analyze the matter, determine if IMCs involvement is appropriate, if so determine the nature of IMC's involvement, and integrate the matter into the IMC Work Plan. The specifics of the approach will be dependent upon the issue, but in general will include; issue analysis, and development of an IMC consensus on; how best to resolve the matter, enable implementation of the MFA, and advance land parcels through the land transfer process.

- c) PROGRESS DURING 2011-2012:** The Parties and BLFN assigned the role of facilitating discussions with SaskPower to the IMC Chairperson. By the beginning of 2011-2012, the Parties had reengaged on this matter, exchanged perspectives, and reached agreement on the appropriate manner of proceeding with this outstanding impediment to BLFN TEA implementation. In addition the Parties asked the Chairperson to facilitate consensus amongst the Parties on how to engage SaskPower, and on the accommodation that is required to enable the BLFN TLE selections along Reindeer Lake to advance through the land transfer process.

The Parties and BLFN met and agreed on the approach to be taken with SaskPower. The first meeting with representatives of Saskatchewan and Sask Power took place on November 9, 2011, and a frank discussion was held on all aspects of this issue. SaskPower undertook to review the matter internally and to respond to the Parties and BLFN. On March 28, 2012 SaskPower replied and confirmed that additional dialogue would be required, and that Sask Power was interested in continuing this dialogue. It is anticipated that this will carry forward during 2012-2013, and that the BLFN selections will be affected by this matter for some time to come.

2.2.11.2 SURVEY CAPACITY LIMITATIONS:

- a) **BACKGROUND:** During 2010-2011 the IMC understood that more parcels had advanced to the survey stage of the transfer process than the survey budget could accommodate, and recommended that, “Canada secure funding to survey as many parcels as the certified firms can manage to survey in each year, rather than not advancing parcels that are otherwise ready to be surveyed.”
- b) **2011-2012 WORKPLAN FOCUS AND TARGETED RESULTS:** The IMC focus has been to monitor the situation with respect to the 2010-2011 IMC recommendation and determine if the situation is improving or alternatively analyse the implications of proceeding with implementation with the current level of survey resources.
- c) **PROGRESS DURING 2011-2012:** In the 2011-2012 Annual Plan the Parties targeted receipt of signed RSMs by September in order to have the 2011-2012 survey contracts confirmed earlier, however the RSMs were still being signed in October/November and this delayed initiation of the survey contracting.

It was recognized at the outset of finalizing the Annual Plan for 2011-2012 that the parcels identified on Schedule C had a survey cost estimate which constituted more than Canada’s available survey budget for that fiscal year. This concern was flagged in last year’s IMC Annual Report. The survey of the remaining (non-surveyed) parcels on the Annual Plan Appendix “C” will need to be postponed until 2014-2015. This fact was also communicated in the Executive Summary to the Annual Plan which was provided to the EFN’s on October 6, 2011. This financial constraint alone prevented all of the parcels listed on Schedule C from being surveyed. Canada was successful in securing an additional \$220,000.00 from within the region to supplement the 2011-2012 survey budget in an attempt to contract as much of the available work as possible.

RSM’s were executed for 26 parcels identified on Schedule C, and of the 26 signed RSM plans 17 parcels (totaling 9,924 acres) were contracted for survey in fiscal year 2011/12 at a cost of approximately \$1,360,000.00. One other parcel not originally identified on Schedule C was also contracted for survey at a cost of approximately \$292,500.00. Nine of the remaining 10 RSM plans signed and not contracted constituted an additional estimated cost of \$1,095,600.00 with estimated costs for the survey of one parcel not yet having been determined.

It should be recognized that the survey of land for the purpose of formally identifying the boundaries for reserve creation is a multi-year process. As such funds must be set aside from Canada’s budget allocation each fiscal year to cover the ongoing costs associated with projects initiated in the previous fiscal year. In fiscal year 2011-2012 approximately \$361,253.00 of the available survey budget had to be set aside to cover the ongoing costs to complete survey projects initiated in 2010-2011.

The 10 RSM plans which were executed during the 2011-2012 fiscal year, but not contracted due to budgetary constraints, implies that in 2012-2013 the survey contracting can begin earlier in the fiscal year. Additionally, the remaining 25 parcels for which RSM plans were not executed will be re-evaluated by the Parties to determine their current status and this information will be incorporated into the three Party Annual Plan for 2012-2013 with a view toward arranging for their execution this fiscal year.

The 2011-2012 survey contracts for 17 parcels (totaling 9,924 acres) assists the Parties and EFNs with projecting the acreage and number of parcels to be set apart in 2013-2014.

2.3 EFFECTIVE IMC OPERATIONS

- a) **BACKGROUND:** In early 2007, the Parties agreed upon a special initiative – the establishment of a separate office of the independent Chairperson of the IMC to assist them in improving the MFA implementation process. This initiative was undertaken in response to an increasing level of First Nation frustration with the pace of implementation of land claim settlements and TLE in Manitoba, and following up on the report of the implementation of the MFA issued by the federal Auditor General in November 2005. This initiative proved to be a positive step in ensuring a more effective IMC as anticipated by the MFA.

The IMC representatives had determined that the IMC had evolved into an administrative bottleneck arising from the possibly premature referral of issues or matters in dispute without sufficient discussion among the Parties. 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 only act on an issue or matter in dispute at IMC meetings once the matter was referred to the IMC, thereby greatly delaying attempts at resolution. As a result, IMC agreed upon a format for referral 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" to ensure that adequate discussion had first occurred between the Parties and EFNs, and to ensure that adequate background was included with the referral.

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. The IMC office is now adhering to the I/M Referral Protocol format, resulting in a more structured review of an issue or matter in dispute. 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 detail to reflect the fullest extent of that effort.

There have not been any new referrals to the IMC for over four full fiscal years (2008-2009 through 2011-2012), although the reasons for this are uncertain.

The IMC Representatives also worked on several areas identified for improvement in the various interrelated elements of implementation, including information management, communications, working relationships, monitoring of Reserve creation and dispute resolution.

Upon the departure of former IMC Chairperson Rod McLeod in June, 2009 and prior to the appointment of the current Chairperson on May 1, 2010, the Parties had decided to modify the special initiative and again revamp and refine the structure and operations of the IMC. In summary the main revisions were that; an IMC Work Plan would be developed by the Parties (and attached to the Chairperson's Service Agreement), the Assistant Chairperson and Executive Assistant positions would no longer be utilized, and the Chairperson would privately retain and employ executive assistance as deemed necessary by the Chairperson subject to the allocations provided in the IMC annual budget. This structure has been in place for fiscal years 2010-2011 and 2011-2012.

This fiscal year the Parties determined in response to cost-cutting measures required by Manitoba, that the stand alone IMC office would be closed at the termination of its five year lease on May 31, 2012, and the IMC would rent space from the TLEC. This would provide a more affordable base of operations for the independent Chairperson, and a secure place to house the records and files of the IMC, which have grown substantially during 15 years of implementation.

b) IMC ROLE AND RESPONSIBILITY: The IMC is a five member Committee comprised of one representative from Canada, one representative from Manitoba, two representatives from TLEC, and an Independent Chairperson. The IMC's responsibility is to:

- ❖ Generally facilitate the implementation of the MFA, by among other things;
 - monitoring of the progress in implementation;
 - making recommendations to the Parties for the resolution of an issue or matter in dispute relating to the implementation of the MFA or any TEA referred to it by any Party or EFN; and
 - considering the appropriate method of resolution of an issue or matter in dispute; and
- ❖ 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.
- c) **FOCUS:** An efficient and effective IMC is the goal of all MFA Parties. To assist in meeting this goal the Parties developed an annual IMC Work Plan. The actions required by the IMC were structured by fiscal year quarter for each Work Plan topic. Likewise IMC meetings were structured to immediately follow each quarter in order to review the progress accomplished towards the targeted results during that quarter, and to review the topic in light of the completion of the work plan sub components, and information to date. With this structure, it became critical for each IMC representative to complete their assignments (undertakings) in accordance with the representative's commitment. Confirmed meeting summaries track the progress made by IMC towards the year end targeted results, and serve as a self-assessment on the extent to which the Annual IMC Work Plan has been achieved. Timely circulation of these IMC meeting summaries to the Parties provides a consensus report on the extent to which the Annual IMC Work Plan has been achieved.
- d) **PROGRESS DURING 2011-2012:** IMC met quarterly throughout the fiscal year and meeting summaries recorded progress towards the targeted results and were confirmed and circulated efficiently. A series of Focus Group meetings were also held to discuss Referral # 2007-TLEC-005. In addition a special IMC meeting was held to specifically discuss the highway control areas I/M with representatives of MIT (in relation to Referral #2007-BPFN-001) , and a second special IMC meeting was held to discuss selections in provincial parks with representatives of Parks Branch (in relation to Referral #1999-BPFN-001). Meeting directly with representatives of Provincial Departments on referred issues in dispute was appreciated by representatives of all MFA Parties, and contributed to a better understanding of the issues. Undertaking monitoring charts were completed for each meeting to track and record the timely completion of undertakings, and the IMC maintained an annotated IMC Work Plan that linked all undertakings to each specific IMC Work Plan task. The annotated IMC Work Plan tracks the completion of undertakings and the carry forward of incomplete undertakings and the resulting impacts on achieving the targeted results are clear. (Please refer to **Appendix E.**)

Undertakings arising from IMC meetings are most often steps of a multi-step work plan leading to a targeted result. When the time required to complete the undertaking is extended, the time required to reach the target is also extended. The importance of completing undertakings as per commitments is a frequent discussion point at IMC meetings.

The IMC also reviewed and updated the IMC Policy and Procedures Manual periodically as required throughout the fiscal year, and this document guides IMC practices in support of an efficient and effective IMC.

With representatives from all MFA Parties, one of the opportunities that the IMC structure offers is the potential for the Party representatives to reach a consensus on how best to approach certain MFA implementation matters, and to then recommend these approaches to the Parties (in effect to themselves) with the knowledge that there is consensus on this recommendation with the IMC representatives from the other Parties.

Reaching consensus on these implementation matters is not always easy, and each time a recommendation (by the Party representatives on IMC) is not responded to by the Parties, an opportunity to move forward together is lost. Follow through by the Parties on recommendations that their representatives on IMC have agreed to, and have recommended by consensus, determines in part the effectiveness of the IMC.

It is essential that the Parties follow through on IMC recommendations. If a Party representative assigned to IMC reaches consensus with the representatives assigned to IMC by the other Parties on an approach to address an MFA implementation matter; then there would appear to be no reason for the Parties not moving forward together in accordance with the consensus reached. To assign representatives to a Committee that operates by consensus, and upon consensus being reached, not proceeding in accordance with the consensus

reached, does not reflect good faith, does not support the IMC efforts, and does not assist in making the IMC efficient and effective. In 2010-2011 IMC reached consensus and in the Annual Plan made recommendations respecting TPI resolution and with respect to the unsigned EFNs, which were subsequently not embraced or followed up on by the Parties.

- e) **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 the shortcomings 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.

Prior to this fiscal year, two bulletins have been released. These are: a) Concept of Eligibility of Selections or Acquisitions, and b) Selections Under 1,000 Acres in Area. Copies can be found on the IMC web site (www.tleimc.ca)

In 2011-2012 the IMC representatives agreed that the understandings reached while considering Referral #2007-BPFN-001, relating to acquisitions adjacent highways, should be shared through development and circulation of an Informational Bulletin on this topic. By year end the Information Bulletin No. 3 was in final form with Canada and TLEC confirming their agreement and Manitoba's final comments pending.

i. **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.

ii. **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. The second informational bulletin was issued during June 2009.

iii. **Acquisitions Adjacent Roads and Highways:** (Pending at year end: Released in April, 2012)

The third topic identified for clarification by the IMC is entitled, "Acquisitions Adjacent Roads and Highways" This Bulletin deals with the treatment of acquisitions adjacent roads and highways, a subject recently considered by IMC in relation to a Buffalo Point First Nation referral. This Bulletin will ensure that the consensus reached by the IMC on this matter is shared, and clarifies this implementation matter for the benefit of the MFA Parties and the EFNs contemplating acquisitions adjacent roads and highways.

As issues arise, and or Issues/Matters in dispute are resolved, the IMC representatives may find that the development and release of additional explanatory bulletins will be of assistance.

3.0 SUMMARY OF IMPLEMENTATION OF THE MFA

With respect to the progress of setting apart the land selections and acquisitions as reserve, **Chart 2** on page 2 confirms that:

- During the first eight years (or by March 31, 2005) only 13,210.23 acres had been set apart as reserve.
- During the next six years (between April 1, 2005 and March 31, 2011) 440,128.15 acres were set apart as reserve (an average of 73,354.69 acres per year).
- This past fiscal year, the acreage set apart has dropped significantly to 9,276.78 acres.

Some attribute this to the average size of the remaining parcels being smaller, and note that the effort and resources required to transfer a parcel does not change substantially in relation to its size. In addition to acreage set apart therefore, it is important to monitor the parcels set apart, and **Chart 2** on page 2 also confirms the parcels set apart during each fiscal year. Using the same time frames:

- During the first eight years (or by March 31, 2005) 13 parcels were set apart as reserve.
- During the next six years (between April 1, 2005 and March 31, 2011) 128 parcels were set apart as reserve (an average of 21.3 parcels per year).
- This past fiscal year, the number of parcels set apart has dropped significantly to 4 parcels.

It is true that on average the remaining parcels are smaller (approximate average size = 1,070 acres) With respect to survey capacity, this implies that the survey of approximately 17 parcels can be initiated in a year with the available budget.

In 2011-2012 for example, 17 parcels totalling approximately 10,000 acres were contracted for survey, and the remaining parcels are of similar size and degree of remoteness. It is projected therefore, that at the current rate of survey of parcels of approximately equal size and characteristics, with a similar size budget and assuming no increase in the capacity of the survey contractors with the required credentials; that it will take between 17 years (based on an extrapolation of the number of parcels that can be surveyed each year) and 30 years (based on an extrapolation of the number of acres that can be surveyed each year) to fulfil the MFA for the 15 EFNs with signed TEAs. The Parties have confirmed that the receipt of final survey product from the contractors has been slower than anticipated, and therefore it appears that the available firms cannot accommodate additional contracts, even if the budget was increased. Extrapolating the current 2011-2012 cost of surveying “like size parcels” to the remaining parcels, produces an estimated survey cost of between \$30 and \$50 million.

With respect to issues and matters in dispute that have been referred to the IMC, the IMC has closed 26 referral files to date, (The majority related to Crown Land Selection time periods) and there are eight current referrals that remained unresolved as of March 31, 2012. The IMC reached consensus and closed one referral file this year.

One of the primary objectives of the IMC during 2011-2012 has been to manage the referred issues/matters in dispute in a structured and transparent manner that steadily advances the referral towards resolution by consensus, and upon determining that consensus is not forthcoming, advancing the issue/matter in dispute through the progressive dispute resolution mechanisms described in the MFA. This was a consensus recommendation of IMC contained in the 2010-2011 IMC Annual Report. As per this objective IMC determined that consensus was not forthcoming on a second referral file (Crown Reservations – Portages), and it was elevated to the SAC for resolution during this fiscal year in accordance with the MFA provisions. At a meeting on March 22, 2012 SAC did not come to a consensus decision on the means to resolve this matter in dispute, or on the appropriate mechanism to resolve this I/M, and will meet on this again in April, 2012.

This structured approach to referral file management and problem solving is important. The fiscal year end status of each of the eight current referrals is elaborated upon in Section 2.1 of this Annual Report, and on **Chart 3** on page 6.

4.0 SUMMARY AND CLOSING OBSERVATIONS OF THE IMC

a) GENERAL

The IMC is generally responsible for facilitating the implementation of the MFA and is to provide the Senior Advisory Committee with recommendations for the improvement of the implementation of the MFA and any TEA. As IMC completes the tasks assigned by the Parties in the IMC Annual Work Plan, it is appropriate therefore that IMC make recommendations in relation to its findings, and these recommendations are intended to improve implementation of the MFA.

It has been 15 years since the MFA was signed. All Parties agree that implementation challenges continue, and that the remaining parcels are smaller and generally more encumbered.

The Strategic Planning initiative is already assisting the Parties in addressing the challenges, and on October 6, 2011 the three Parties circulated their first three Party Annual implementation Plan to the EFNs.

MFA implementation is now following the Annual Plan, and:

- the TLE MFA land transfer process is transparent and EFN understanding has been improved.
- the Tracking Chart updates take less time to keep up to date;
- the status of each parcel is commonly understood;
- milestone next steps are clear and the responsible Party can be held accountable;
- communications have been improved; and
- working relationships have been improved.

By year end the Parties had tracked their success rate and were able to confirm completed steps, and carried forward steps, for each parcel. The three Parties intend to adopt the 2012-2013 Annual Plan and circulate it to the EFNs earlier in the 2012-2013 fiscal year, and the IMC supports the goal of the Parties releasing their Annual Plan to the EFNs in April of each year.

b) IMC REFERRAL RESOLUTION OF ISSUES/MATTERS IN DISPUTE (discussed in Sections 2.1)

On March 17, 2011 IMC confirmed that advancing resolution of the referrals should be IMC's primary responsibility in 2011-2012. The IMC also confirmed that while IMC representatives would continue to use their best efforts to reach referral resolution by consensus; in cases where this consensus is not forthcoming the referral should be advanced to SAC, and if necessary through the progressive dispute resolution processes described in the MFA. Consistent with this consensus, one referral file (2007-TLEC-005: Crown Reservations - Portages) was advanced to SAC on February 8, 2012.

There are seven other referrals currently before IMC. BLFN's severalty referral is in binding arbitration and awaiting direction from BLFN. (Chief and Council have confirmed that resolution of the Reindeer Lake regulation matter is a priority for BLFN at this time.) This affects 36,800 acres of BLFN selections. Two referrals filed by Manitoba in response to allegations of material failure are to also proceed to binding arbitration in accordance with the MFA provisions. (These two affect 1,511 acres and 947 acres respectively.) A fourth referral is parcel specific and affects 116 acres, (Birch Point Park) and a fifth is related to the effective date of a EA and not affecting any land transfers. Two of the seven referrals currently with IMC, the Hydro Easement referral and the Crown Reservations – Portage referral were both filed in 2007, and are together affecting selections totalling approximately 97,000 acres. With respect to the seventh referral, (2003-BON-001), since the EFN filed a Notice of Application in Federal Court and commenced an application for judicial review, the IMC on December 16, 2010, placed the IMC referral file in abeyance in accordance with the IMC Policy and Procedures Manual. By year end Canada had advised that in their opinion BON has abandoned its referral, and now needs to deal with the I/M in court.

The IMC continues to agree that when consensus is not forthcoming the referral should be advanced to SAC, and if necessary through the progressive dispute resolution processes described in the MFA.

c) COORDINATION AND STRATEGIC PLANNING (discussed in Section 2.2.1)

During 2011-2012 there was continual improvement in communication amongst the Parties and open discussion on all aspects of MFA implementation that are integral to developing a Strategic Implementation Plan. The backbone of the Strategic Planning initiative is a commonly understood and consistently applied land transfer process. The Parties have utilized the SAC adopted land transfer process steps to produce tracking charts, and these confirm and monitor the progress of each land parcel moving through the land transfer process towards reserve status. The Parties also defined annual milestone goals for each parcel and refined and improved their processes for monitoring and tracking achievement of their milestone goals.

The first three Party Annual Plan was circulated to the EFNs on October 6, 2011, and the Parties should circulate the 2012-2013 Annual Plan in June, 2012. The annual target moving forward is for an April release of the three Party Annual Plan.

The Parties agree that since the land transfer process is a multi-year process, the Annual Work Plan must include work on parcels targeted for transfer in subsequent years if that target is to be realized. The confirmation of parcel by parcel milestone steps, primary responsibility for completion of these milestone steps, and how they fit together to form the Annual Implementation Plan are now transparent to the EFNs, and the Plan assists in coordinating the efforts of the EFNs with the efforts of the MFA Parties.

During 2011-2012, the Parties found that many of their milestone objectives were overly optimistic and not achievable. The Parties hope to improve the achievement rate in 2012-2013 by adopting more conservative milestone goal targets. Parcel review meetings are acknowledged by the Parties as necessary to achieve the TPI resolution milestone targets, and therefore agree that a minimum of two meetings should be held with each EFN each year and included in the Annual Plan goals.

d) LAND TRANSFER PROCESS (discussed in Section 2.2.2)

The parcel by parcel tracking charts and Annual Plan milestone step monitoring charts which have been developed by the Parties adhere to the SAC adopted LTRCPM. The first 3 Party Annual Plan and first tracking charts were confirmed and circulated to the EFNs during 2011-2012, and this practice should be continued as it increases awareness and accountability.

e) INFORMATION MANAGEMENT (discussed in Section 2.2.3)

The Parties are collectively committed to tracking the progress of each parcel on “Tracking Charts” that mirror the land transfer steps confirmed in the Land Transfer and Reserve Creation Process Manual (LTRCPM). It is very advantageous for the three Parties to be committed to using the common tracking system, and circulating one common document to the EFNs to confirm the status of each parcel in the land transfer process.

The LTRCPM and associated Tracking Charts are the only monitoring system in use by the Parties that reflects the SAC adopted land transfer process, and for which updating is shared by the Parties. The system reflects primary responsibility for each step, and facilitates the development of a common Annual Work Plan, so that all MFA Parties and EFNs can work towards common goals each year, and so that their efforts are synchronized and result in improved land transfer progress.

A comprehensive functional system of internal monitoring of reserve creation and the achievement of adopted milestone goals is in place and effective. During the year the Parties refined their format for tracking milestone goal completion, and agreed to circulate the updates to the EFNs biannually rather than quarterly. With this refinement, the Chairperson and the Parties can only monitor and report on interim measures of progress once during the year, as well as upon the Parties achievement of their milestone goals at year end.

f) LAND TRANSFERRED TO RESERVE STATUS (discussed in Section 2.2.4)

The Parties have recognized for some time that moving forward it will be difficult to transfer the same volume of land (perhaps due to the fact that the remaining parcels are smaller, yet require the same program/administrative overhead to advance). This came to pass this fiscal year when only four parcels totalling 9,276.78 acres were set apart as reserve. This was lower than targeted and this target was lower than achievements made during the previous five fiscal years.

While the 2012-2013 three Party Annual Plan remained draft at year end, it is anticipated that approximately 18 parcels totalling approximately 27,600 acres will be targeted for transfer in 2012 - 2013. Approximately 40,000 acres are targeted for transfer in 2013-2014.

In 2012-2013 surveys were initiated for 17 parcels totalling 9,923.80 acres and these are targeted for transfer in two – three years (some during 2013-2014 and some during 2014-2015). As the size of the remaining parcels is approximately equal to these 17 parcels, the cost of surveying them is projected to be generally equal, and the acreage and number of parcels to be set apart each year after March 31, 2014 is anticipated to be in the range of 17 parcels totalling 10,000 acres.

g) THIRD PARTY INTERESTS (TPIS) (discussed in Section 2.2.5)

IMC observed and agreed on March 17, 2011 that TPI resolution needs to progress from identifying general means to address issues, to agreement on parcel specific options to resolve the specific TPIS affecting specific parcels, which can then be recommended directly to the EFNs. As resolution of third party interests links directly to Strategic Planning, the IMC view is that TPI resolution initiatives should be led by the Parties.

While it is primarily the responsibility of the EFNs with the assistance of TLEC to resolve the third party interests affecting selections and acquisitions, it is recommended that the Parties aid and assist each other

wherever possible in order for TPI resolution rates to be improved. With respect to TPI resolution, at Strategic Planning meetings, Manitoba and Canada have both confirmed their willingness to work with TLEC towards the development of consensual options for resolving each specific TPI, so that joint recommendations/options can be forwarded to the EFNs for their consideration. Despite this, the Parties did not embrace the IMC recommendation to develop consensual options for each specific TPI and jointly recommend these options to the EFNs, however the rate of TPI resolution remained low in 2011-2012 (approximately 18/175 TPIs resolved) and it is evident that the Parties require a strategy to assist the EFNs in addressing this matter to improve implementation.

It is not understood why the Parties have not addressed the goal the Party representatives on IMC set for themselves, and included in the 2010-2011 IMC Annual Report recommendations. The levels of TPI resolution remains low and it is recommended that if the Parties no longer agree with this approach; that another approach be developed and adopted to proactively address this situation.

h) EFN PRIORITY PARCELS (discussed in Section 2.2.6)

The EFN Priority Parcels are an important component of the three Party Annual Plan. The priority parcels are known, and the milestone steps to be targeted for completion for each priority parcel during 2011-2012 were confirmed by the Parties in the Annual Plan circulated to the EFNs on October 6, 2011. The tracking charts clearly illustrate the “next steps” to be completed for each parcel, and the next steps for the EFN priority parcels are often the resolution of TPIs, and to that extent resolution of third party interests and advancing priority parcels overlap significantly. The success in addressing next steps of Priority Parcels remained low in 2011-2012 and the Parties will need to analyze this situation and determine how it can be improved.

In summary, while the EFNs consider these parcels as their priorities, they are heavily encumbered with TPIs and encumbrances, and many require municipal discussions and possibly MDSAs. 30 parcels require MDSA discussions, (although many parcels could be addressed by each MDSA) and approximately 83 TPIS/Encumbrances remain to be addressed (often multiple on a parcel). In terms of interim achievements, it is clear from the assessment in Section 2.2.6 that little progress was achieved with respect to advancement of the EFN priority parcels during 2011-2012. Accordingly, the majority cannot be targeted for reserve status before 2015-2016.

The Parties will require a strategy to improve the rate of TPI resolution (as discussed above). It is also recommended that all Parties assist the EFNs with discussing issues raised by municipalities, and concluding an MDSA if required. With respect to MDSA's, the IMC proposed an approach for consideration by the EFNs within its Discussion Paper on Acquisition Process Considerations, and further discussion on these considerations may be helpful.

i) HYDRO EASEMENT PROCESS (discussed in Section 2.2.7)

On January 13, 2012 TLEC submitted the main concerns of the affected EFNs with the draft Hydro Easement document, along with its proposed options to resolve these concerns. At the same time TLEC identified a number of areas where TLEC feels the Hydro Easement line determination process should be refined. On February 10, 2012 TLEC circulated the Hydro Easement line determination process with tracked changes, to illustrate the proposed refinements. Manitoba and Canada undertook to review the proposed refinements by March 26, 2012 and this review was underway at year end. It is recommended that the Parties reconvene and discuss these matters and the hydro easement process proposed by TLEC as soon as possible, as this is a component of the referral to IMC that is delaying the advancement of the most parcels and acreage.

j) CROWN LAND SELECTIONS (discussed in Section 2.2.8)

Of the 15 EFNs with TEAs; 5 EFNs have selected all of their Crown land, 4 EFNs have less than 1,000 acres remaining to be selected, 3 EFNs have between 1,000 and 2,000 acres remaining to be selected, Mathias Colomb has 34,315 acres to be selected, and 2 EFNs with unresolved Land In Severalty (LIS) issues have land selection extensions extending for three years after LIS is resolved.

On April 27, 2011 the IMC wrote to these EFNs and confirmed that the MFA principles would continue to apply subject to each EFN submitting a land selection plan. The IMC also recommended that the Parties assist the EFNs with development of their land selection plans at Parcel Review meetings. None of the EFNs submitted land selection plans during the year and application of the MFA principles remains informal.

k) ACQUISITION RATES AND TIME PERIODS (discussed in Section 2.2.9)

The 6 Schedule “B” EFNs are entitled to acquire 114,677 acres of Other Land, and have acquired only 8% of their total Other Land amount (9,025.1 acres). Over the past year 1,623.02 acres of this total were acquired by the six Schedule “B” EFNs.

Of the 9,025.21 acres acquired, 3,125.31 or 35% has been set apart. Three parcels totalling 395.78 acres were set apart in 2011-2012. (There had not been any acquired Other Land set apart in 2009-2010, or 2010-2011.)

In light of the very low acquisition rate, and the unlikelihood of the Schedule “B” EFNs confirming the balance of their “Other Land” within their 15 year land acquisition period(s) set out in the MFA, the MFA Parties should consider extensions to the time periods, which would extend the time when the MFA principles apply to the acquisitions. Whether or not the principles continue to apply until the six EFNs have acquired their total Other Land amount, the legal entitlement for the EFNs to acquire this land will continue in accordance with MFA Section 4.03.

In response to the EFN concerns with implementation of the Land Acquisition process, and the MFA Parties concerns with the current status of MFA implementation respecting Other Land, the IMC prepared a discussion paper on “Acquisition Process Considerations”, which was circulated to the Schedule “B” EFNs on November 2, 2011. The considerations in the discussion paper will not apply equally to each EFN, as each EFN is at a different stage with its Other Land implementation, and each EFN is proceeding in a manner that each determines is best suited to its specific circumstances. The discussion paper does however describe the acquisition process in detail, in order that each Entitlement First Nation can consider the various options identified for discussion and consideration, and perhaps incorporate some of the considerations into the EFN’s individual acquisition strategy to address issues each faces with implementation of their individual Land Acquisition process.

With respect to acquisition time periods, the EFNs have confirmed that they will require more time to complete their acquisitions. On October 3, 2011 the Chairperson proposed that Canada and Manitoba consider the submission of a referral pursuant to MFA subsection 4.02(3), which will enable IMC to address this matter. By year end Manitoba and Canada were still discussing this matter and no decision had been reached. When the Land Selection time periods were expiring, and extensions were being requested through a process incorporating referrals to IMC, a great deal of time was spent on this topic only to have the Parties informally extend the application of the principles beyond the expiry of the Selection time periods (and extensions) in any event. The Parties may wish to consider application of the principles indefinitely upon submission of the EFN plan; similar to the manner the Parties have treated outstanding Crown Land selections.

l) OUTSTANDING TREATY ENTITLEMENT AGREEMENTS (TEAS) (discussed in Section 2.2.10)

During 2010-2011 IMC agreed that this topic was best addressed by the Parties, and on March 17, 2011 IMC confirmed its agreement to recommend that the Parties develop a proactive action plan specific to each EFN currently without a Treaty Entitlement Agreement, to facilitate these EFNs resolving their outstanding Treaty Land Entitlement. This was recommended in the 2010-2011 Annual Report but not acted upon by the Parties. Instead the Parties adopted an approach whereby the 6 unsigned EFNs could approach the Parties if they were interested in proceeding with a TEA. There was no significant forward movement on this aspect of MFA implementation during the year. The Parties have now decided in the Strategic Planning forum to target 1 EFN in 2012-2013 and include the milestone steps for this EFN to enter into a TEA as part of the three Party Annual Plan.

m) REINDEER LAKE REGULATION (discussed in Section 2.2.11.1)

With respect to Reindeer Lake regulation the Parties agreed that the Chairperson should continue to facilitate the meetings of the Parties, BLFN, and SaskPower during 2011-2012 to reach consensus on the accommodation that is required to enable the BLFN TLE selections along Reindeer Lake to advance through the land transfer process. A consensus was reached amongst the Parties and BLFN on how to approach this matter. A meeting was held on November 9, 2011 with the Parties, the BLFN, Sask Power (SP), and the Province of Saskatchewan to exchange views and perspectives. This was the first time the Parties and BLFN had met with SP on this matter, and SP undertook to review the information received, and consider it internally with its Board. On March 28/12 SaskPower legal counsel James Ehmann of Kanuka Thuringer LLP wrote to

BLFN legal counsel, J. Harris and advised that SaskPower is certainly interested in continuing dialogue and believes that much of it can be accomplished by correspondence. Sask Power believes that the 1997 Terms of Reference were on a without prejudice basis and have run their course. They also set parameters for the future discussions in relation to; the flooding claim, the impact claim, and the easement claim. It was clear at year end that more discussion and correspondence will be required, and that the BLFN will be affected and unable to advance through the land transfer process in the foreseeable future.

n) SURVEY CAPACITY LIMITATIONS (discussed in Section 2.2.11.2)

In 2010-2012 the IMC recommended that the goal be to secure funding to survey as many parcels as the certified survey firms can survey in any given year, rather than not advancing parcels that are otherwise ready to be surveyed. By ready, the Parties mean that signed RSMs are in place.

The remaining selections are of similar size and degree of remoteness to those contracted during 2011-2012. With a similar size survey budget, the Parties can anticipate an average of approximately 17 parcels totalling an average of 10,000 acres annually, moving forward. At this pace, implementation of the MFA for the 15 EFNs with TEAs is projected to take between 17 and 30 years at a survey cost of \$30 to \$50 million. In addition, the Parties will require staff to complete their MFA responsibilities for this same projected period of time.

o) INVOLVEMENT OF REPRESENTATIVES ON THE SENIOR ADVISORY COMMITTEE

Given the current status of MFA implementation after 15 years of effort and with the challenges and projected implementation time period that lie ahead, a greater involvement of the senior most officials of the Parties from time to time to resolve matters that are routinely failing to reach consensus at IMC would be beneficial to making progress in achieving the goals of the MFA.

5.0 SUMMARY AND CLOSING OBSERVATIONS OF THE IMC CHAIRPERSON

Approximately 14 years ago, 15 EFNs entered into Treaty Entitlement Agreements with Manitoba, Canada, and the TLEC. In exchange for a release of their respective claims and rights arising out of the Per Capita Provision of their respective Treaties, the EFNs received commitments to the consideration contained in their Treaty Entitlement Agreements. This consideration included the entitlement to have 848,420 acres of Crown land and 114,677 acres of Other Land set apart as reserve land.

To date the Parties have set apart 55% of the Crown land entitlement and 3% of the Other Land entitlement for the 15 EFNs with TEAs. A few of the 15 EFNs have made significant progress with implementation, however other EFNs are much further behind, and one has not had any land set apart as reserve in partial fulfilment of its Treaty Entitlement Agreement.

Many factors contribute to the implementation of the MFA as discussed in detail within this Annual Report of the IMC for 2011-2012. Even if all such matters were resolved tomorrow, projections of the time which will be required to have the remaining land selections surveyed and set apart as reserve are conservatively estimated to be between 17 and 30 additional years, as determined by the available survey budget and the ability of the qualified survey firms to undertake and complete the contracts. The cost of these remaining surveys is projected to be between \$30 and \$50 million, and in addition the Parties will each require staff complements to fulfil their respective MFA responsibilities throughout this projected time period.

While the representatives of the Parties regularly assure each other that they are utilizing their best efforts to implement the MFA in a timely manner, it is fair to say that no one anticipated that it would take the EFNs a further generation to receive the full consideration committed to the EFNs within their TEAs.

The initiation of the three Party Strategic Planning process, and adoption of the first three Party Annual Implementation Plan during the past fiscal year is commended. It is essential that the Parties and EFNs work cooperatively together in a coordinated fashion pursuant to an overall plan in order to implement the MFA effectively and efficiently. There is little doubt that the three Party Annual Planning process will improve each year, as the previous year's experiences are incorporated into the planning process.

Given the range of time and resources that have been projected to fully implement the MFA, it is recommended that the Crown and First Nations conduct a more detailed analysis to confirm these time and cost projections, determine

if this is acceptable, and if not discuss means by which this situation can be remedied in a fair and honourable manner.

I am privileged to have been appointed Chairperson of the IMC by the Senior Advisory Committee and to have had this opportunity to work with the MFA Parties, the IMC members, and the EFN communities, to assist with implementing the Per Capita land Provision of the Treaties. These are historic promises confirmed in the Treaties upon which this young country was built, and we are all responsible for ensuring that they are fulfilled with honour and fairness.

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 Aboriginal Affairs and Northern Development Canada, and the Minister of Aboriginal and Northern Affairs for Manitoba, as of March 31, 2012.



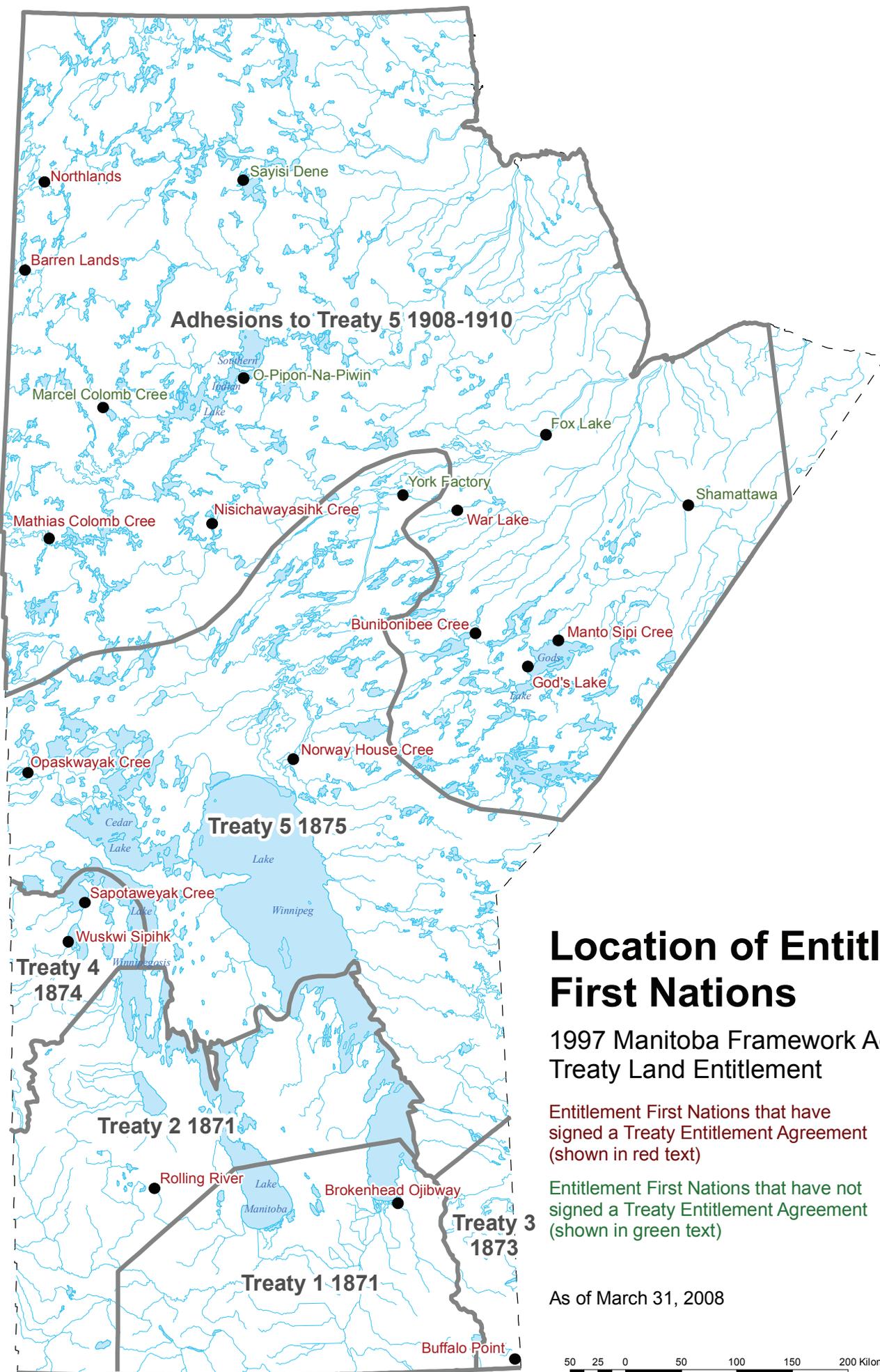
Lloyd Grahame
Chairperson

6.0 SUMMARY OF APPENDICES

| | |
|------------|--|
| Appendix A | Location of Entitlement First Nations Map |
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| Appendix C | List of Historic Issues or Matters in Dispute |
| Appendix D | Definitions used in the 2011-2012 IMC Annual Report |
| Appendix E | 2011-2012 Annotated IMC Work Plan |
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Appendix A

Location of Entitlement First Nations Map



Northlands

Sayisi Dene

Barren Lands

Adhesions to Treaty 5 1908-1910

O-Pipon-Na-Piwin

Marcel Colomb Cree

Fox Lake

Mathias Colomb Cree

Nisichawayasihk Cree

York Factory

War Lake

Shamattawa

Bunibonbee Cree

Manto Sipi Cree

God's Lake

Opaskwayak Cree

Norway House Cree

Treaty 5 1875

Sapotaweyak Cree

Wuskwi Sipiik

Treaty 4 1874

Treaty 2 1871

Rolling River

Brokenhead Ojibway

Treaty 3 1873

Treaty 1 1871

Buffalo Point

Location of Entitlement First Nations

1997 Manitoba Framework Agreement on Treaty Land Entitlement

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

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

As of March 31, 2008



Appendix B



MFA Implementation: Reserve Land Creation by Fiscal Year

**IMPLEMENTATION MONITORING COMMITTEE
MFA TLE ENTITLEMENT FIRST NATIONS
IMPLEMENTATION BY FISCAL YEAR**

| YEAR | DATE | OCPC/MD NO. | RESERVE NAME - ADDRESS | FIRST NATION | SELECTION ADDRESS | ACQUISITION ACRES/EA | FORMER SELECTION / ACQUISITION NAME - <i>if not history</i> |
|--------------|-------------|----------------|---|----------------------------|-------------------|----------------------|---|
| 2000 | MARCH 23 | OCPC-2000-378 | Wushak Spikah I.R. FN No. 1 | Wushak Spikah | 1,049.00 | | Old Building Bay Phase 1 |
| 2000 | DECEMBER 3 | OCPC-2000-1938 | Wushak Spikah I.R. No. 2 | | 276.18 | | PTH No. 10 |
| 2000 | DECEMBER 3 | OCPC-2000-1938 | Ponask Lake Indian Reserve | | 3,699.95 | | Ponask Lake |
| 2000 | APRIL 22 | OCPC-2004-442 | Addition to Wushak Spikah First Nation I.R. No. 1 | Norway House Cree Nation | 995.80 | | Old Building Bay Phase Two |
| 2000 | FEBRUARY 1 | OCPC-2005-68 | Wushak Spikah Indian Reserve No. 4 | Wushak Spikah First Nation | 472.00 | | Stona Rock Point |
| 2000 | FEBRUARY 1 | OCPC-2005-68 | Wushak Spikah Indian Reserve No. 5 | Wushak Spikah First Nation | 3,644.20 | | Beir River / PTH 10 |
| 2000 | FEBRUARY 17 | MO-2005-001 | Wushak Spikah Indian Reserve No. 8 | Wushak Spikah First Nation | 270.30 | | Making North |
| 2000 | MARCH 14 | MO-2005-003 | Buffalo Point First Nation I.R. No. 1 | Buffalo Point First Nation | 92.40 | | PTH 12 / International Boundary |
| 2000 | MARCH 14 | MO-2005-003 | Buffalo Point First Nation I.R. No. 2 | Buffalo Point First Nation | 859.70 | | Poplar Point |
| 2000 | MARCH 14 | MO-2005-003 | Addition to Beir River I.R. No. 36A | Buffalo Point First Nation | 283.17 | | Goath Point 1A |
| 2000 | MARCH 22 | OCPC-2005-416 | | | 868.20 | | Goath Point 4B |
| 2000 | DECEMBER 6 | OCPC-2005-2297 | Wushak Spikah Indian Reserve Nos. 3A, 3B, 3C, 3D, 3E and 3F | Wushak Spikah First Nation | \$10.40 | | Goath Point 4C |
| 2000/2005 | | | | | 13,210.23 | 0 | Swan Lake Islands (010.39) |
| TOTAL | | | | | 13,210.23 | 0 | 2000/2005 - 13 Parcels Totalling: 13,210.23 |
| 2005 | MAY 9 | MO-2005-006 | Riding River Indian Reserve No. 67A | Riding River First Nation | 163.44 | | 30 - Onawode WMA |
| 2005 | MAY 19 | OCPC-2005-819 | | | 163.62 | | 30 Onawode WMA |
| 2005 | MAY 19 | OCPC-2005-819 | Andrew Bay Indian Reserve | | 817.54 | | 30 Onawode WMA |
| 2005 | MAY 19 | OCPC-2005-819 | Chataway Lake/Kivik Lake Indian Reserve | | 971.52 | | 4 Bald Hills |
| 2005 | MAY 19 | OCPC-2005-819 | Vermyes Lake Indian Reserve | | 163.35 | | 5 NE 12-19-18 WPM |
| 2005 | NOVEMBER 28 | OCPC-2005-2237 | North Promont Ridge Indian Reserve | | 20.13 | | RAT - Interior Road Allowances |
| 2005/2006 | | | | | 51.10 | | RAT - Exterior Road Allowances |
| 2005 | MAY 19 | OCPC-2005-819 | | | 168.50 | | Andrew Bay |
| 2005 | MAY 19 | OCPC-2005-819 | | | 277.09 | | Chataway Lake/Kivik Lake |
| 2005 | MAY 19 | OCPC-2005-819 | | | 8.26 | | Vermyes Lake |
| 2005 | NOVEMBER 28 | OCPC-2005-2237 | | | 8,520.00 | | North Promont Ridge |
| 2005/2006 | | | | | 9,333.56 | 0 | 2005/2006 - 11 Parcels Totalling: 9,333.56 |
| TOTAL | | | | | 22,543.78 | 0 | CUMULATIVE TOTAL = 22,543.78 |
| 2006 | APRIL 3 | MO-2006-004 | Buffalo Point First Nation Indian Reserve No. 3 | Buffalo Point First Nation | 270.30 | | Buffalo Point Access Road |
| 2006 | APRIL 3 | MO-2006-004 | Sagaweyah Cree Nation - Spruce Island Indian Reserve | Sagaweyah Cree Nation | 4,566.00 | | Spruce Island |
| 2006 | MAY 29 | MO-2006-009 | Riding River Indian Reserve (No. 67 B) | Riding River First Nation | - | 158.14 | Roulet Hill acquisition property |
| 2006 | JUNE 8 | OCPC-2006-504 | Kapawastik Indian Reserve | Nuchaweyastik Cree Nation | 4,621.00 | | Pikapepa Lake |
| 2006 | JUNE 8 | OCPC-2006-505 | Moonahawakan Indian Reserve | Nuchaweyastik Cree Nation | 986.00 | | Beir Tree Brook West |
| 2006 | JUNE 8 | OCPC-2006-506 | Opekuokajikahk Indian Reserve | Nuchaweyastik Cree Nation | 1,747.62 | | Harding Lake |
| 2006 | JUNE 8 | OCPC-2006-507 | Wapostah Indian Reserve | Nuchaweyastik Cree Nation | 3,586.50 | | Lehook Lake |
| 2006 | JUNE 8 | OCPC-2006-508 | Wushak Spikah Indian Reserve | Nuchaweyastik Cree Nation | 1,984.12 | | Goath River |
| 2006 | JUNE 22 | OCPC-2006-942 | Red Cross Lake North Indian Reserve | Goath Lake First Nation | 313.30 | | Red Cross Lake North |
| 2006 | JUNE 22 | OCPC-2006-942 | Red Cross Lake East Indian Reserve | Goath Lake First Nation | 871.60 | | Red Cross Lake East |
| 2006 | JUNE 22 | OCPC-2006-942 | Oxford House Indian Reserve No. 24A | Goath Lake First Nation | 361.00 | | No. 24A - Carrot Bay |
| 2006 | JUNE 22 | OCPC-2006-942 | Oxford House Indian Reserve No. 24B | Goath Lake First Nation | 4,294.70 | | No. 24B - Cobin Lakes |
| 2006 | JUNE 22 | OCPC-2006-942 | Oxford House Indian Reserve No. 24C | Goath Lake First Nation | 993.00 | | No. 24C - Beir Lake |
| 2006 | JUNE 22 | OCPC-2006-942 | Oxford House Indian Reserve No. 24D | Goath Lake First Nation | 11.34 | | No. 24D - Atkinson Lake |
| 2006/2007 | | | | | 24,362.48 | 158.14 | 2006/2007 - 14 Parcels Totalling: 24,520.62 |
| TOTAL | | | | | 46,906.26 | 158.14 | CUMULATIVE TOTAL = 47,064.40 |

| YEAR | DATE | DCPC/NO ID | RESERVE NAME - ADDRESS | TRUST NATION | SELECTION ACRES/EA | ACQUISITION ACRES/EA | FORMER SELECTION / ACQUISITION NAME - TRUST RESERVE |
|--------------|-----------|----------------|---|---------------------------|--|----------------------|---|
| 2007 | MAY 10 | DCPC-2007-726 | Wudlaw Spkha Indian Reserve No. 8 | Wudlaw Spkha First Nation | 1,845.00 | | North Stimprock Lake |
| 2007 | JULY 23 | MD-2007-073 | Wudlaw Spkha Indian Reserve No. 7 | Wudlaw Spkha First Nation | 14,456.00 | | Katla Hills |
| 2007 | JULY 23 | MD-2007-074 | Sapotaawayak Cree Nation Indian Reserve | Sapotaawayak Cree Nation | 58,745.20 | | Dawson Bay **N.B. There are 6,719.6 more acres to be transferred as per Prov. OIC No. 5162/2008 dated Nov. 25/08 ** |
| 2007 | JULY 31 | DCPC-2007-1170 | Oxford Lake North Shore Indian Reserve Waposeew Lake Indian Reserve, Whitemud Lake Indian Reserve | Bunbombee Cree Nation | 3,422.00 176.00 5,110.00 | | Oxford Lake North Shore Waposeew Lake Whitemud Lake |
| 2007 | JULY 31 | DCPC-2007-1172 | Elkar Ridge B Indian Reserve Peter Burtons/Shorly Rapids Indian Reserve, Wagamnukookak Narrows Indian Reserve | Goth Lake First Nation | 244.00 1,848.00 2,347.00 | | Elkar Ridge Peter Burtons/Shorly Rapids Wagamnukookak Narrows |
| 2007 | AUGUST 10 | MD-2007-078 | Norway House Indian Reserve Nos. 17D-1 to 17D-48 Norway House Indian Reserve Nos. 17D-2 17D-3 (Coles Lake B), 17D-4 (Beach Lake) 17D-5 (Little Bobon Lake A & C) 17D-6 (Echmanah River A and The High Rock) 17D-7 (Echmanah River B) 17D-8 (Nelson River East Channel B) 17D-9 (Lawford Lake) | Norway House Cree Nation | 2,031.25 2,916.00 219.00 84.00 792.00 1,357.00 35.00 1,011.60 724.30 | | (Inumbered 1 to 48 inclusive) - Mobson Lake Island Island River A & B 17D-3 Coles Lake B 17D-4 Beach Lake 17D-5 Little Bobon Lake A & C 17D-6 Echmanah River A and The High Rock 17D-7 Echmanah River B 17D-8 Nelson River East Channel B 17D-9 Lawford Lake **N.B. There are 3,596 more acres to be transferred as per Prov. OIC No. 3242/2008 dated Aug. 2008 ** |
| 2007 | AUGUST 10 | MD-2007-020 | Norway House Indian Reserve No. 17D-1 | Norway House Cree Nation | 3,598.00 | | North Mobson Lake Phase 3 |
| 2007 | AUGUST 10 | MD-2007-021 | Pelican Rapids Access Road Phase 1 Indian Reserve | Sapotaawayak Cree Nation | 9,915.00 | | North Mobson Lake Phase 1**N.B. This reserve creation was taken from Prov. OIC Nos. 450/2004 dated Nov. 3/04 and Pelican Rapids Access Road Phase 1 |
| 2007 | AUGUST 10 | MD-2007-022 | Root Lake Beach Ridge Site Indian Reserve | Ojibwayak Cree Nation | 20,790.00 8,699.00 | | Root Lake Beach Ridge Site |
| 2007/2008 | | | | | 140,465.95 | 0 | 2007/2008 - 75 Parcels Totaling: 140,465.95 |
| TOTAL | | | | | 187,372.21 | 158.14 | CUMULATIVE TOTAL = 187,530.35 |

| YEAR | DATE | FORUM NO. | RESERVE NAME - ADDRESS | FEED SOURCE | SELECTION ACREAGE | ACQUISITION ADDRESS | FORMER ELECTION/ACQUISITION NAME - FEEN PRIORITY |
|--|-------------|---------------|---|---------------------------|-------------------|---------------------|--|
| 2008 | MAY 1 | OCPC-2008-825 | Elker Ridge A Indian Reserve | God's Lake First Nation | 1,189.00 | | Elker Ridge A |
| 2008 | MAY 1 | OCPC-2008-826 | Chepi Lake Indian Reserve | Manito Sipi Cree Nation | 264.00 | | Chepi Lake |
| 2008 | MAY 29 | OCPC-2008-991 | Promised Ridge Indian Reserve | Manito Sipi Cree Nation | 2,780.00 | | Promised Ridge |
| 2008 | JUNE 16 | MO-2008-017 | Huckey Island Indian Reserve | Burntwood Cree Nation | 1,740.00 | | Huckey Island |
| 2008 | AUGUST 21 | MO-2008-028 | Manito Sipi Indian Reserve | Sapotaweyah Cree Nation | 3,684.00 | | Manito Sipi Indian Reserve |
| 2008 | AUGUST 21 | MO-2008-029 | Addition to Sapotaweyah Cree Nation Indian Reserve | Sapotaweyah Cree Nation | 6,719.60 | | Dawson Bay - Phase Two |
| 2008 | AUGUST 21 | MO-2008-030 | God's Lake Southeast of Community Indian Reserve | God's Lake First Nation | 3,091.00 | | God's Lake Southeast of Community (FEEN PRIORITY) |
| 2008 | AUGUST 21 | MO-2008-031 | Nain Sakahabun Indian Reserve | Burntwood Cree Nation | 6,974.30 | | Wendy Lake |
| 2008 | AUGUST 27 | MO-2008-032 | Nain Sakahabun Indian Reserve | God's Lake First Nation | 749.00 | | Kerron Lake |
| 2008 | SEPTEMBER 4 | MO-2008-034 | Addition to Sapotaweyah Cree Nation Indian Reserve | Sapotaweyah Cree Nation | 4,220.73 | | Dawson Bay - Phase Three |
| 2008 | SEPTEMBER 4 | MO-2008-035 | Berch Landing Indian Reserve | Burntwood Cree Nation | 910.56 | | Ironwood Point Phase 1 (FEEN PRIORITY) |
| 2008 | SEPTEMBER 4 | MO-2008-036 | Overflying River Indian Reserve | Sapotaweyah Cree Nation | 151.42 | | Ironwood Point Phase 2 (FEEN PRIORITY) |
| 2008 | SEPTEMBER 4 | MO-2008-036 | Overflying River Indian Reserve | Sapotaweyah Cree Nation | 1,158.90 | | Overflying River |
| 2008 | SEPTEMBER 5 | MO-2008-036 | Moosewood Indian Reserve No. 2 | War Lake First Nation | 301.80 | | No. 2 - Rock Quarry |
| 2008 | SEPTEMBER 5 | MO-2008-036 | Moosewood Indian Reserve No. 3 | War Lake First Nation | 178.80 | | No. 3 - Landing River |
| 2008 | SEPTEMBER 5 | MO-2008-036 | Opekanow Sakahabun Indian Reserve | Nechuaweyah Cree Nation | 26.81 | | Apekanow Lake Addition |
| 2008 | SEPTEMBER 5 | MO-2008-036 | Nurmykook Sakahabun Indian Reserve | Nechuaweyah Cree Nation | 2,955.00 | | Badlock Lake Addition |
| 2008 | OCTOBER 1 | MO-2008-039 | Addition to Wuskwesipik First Nation Indian Reserve No. 1 | Wuskwesipik First Nation | 320.00 | | NIQ 6-41-24 WPM - 300 |
| 2008 | OCTOBER 10 | MO-2008-040 | Nechuaweyah Indian Reserve | Wuskwesipik First Nation | 160.00 | | NE1/4 17-41-24 WPM - 160 |
| 2008 | DECEMBER 19 | MO-2008-043 | Anderson Indian Reserve | Wuskwesipik First Nation | 310.94 | | S 1/2 31-41-24 WPM - 310.94 |
| 2008 | DECEMBER 19 | MO-2008-043 | Hart Indian Reserve | Wuskwesipik First Nation | 312.05 | | NW 1/4 & SE 1/4 1-41-25 WPM - 312.05 Total 1720.95 |
| 2009 | JANUARY 12 | MO-2009-003 | Wesuskow Owekiko Indian Reserve | Wuskwesipik First Nation | 157.00 | | NE 1/4 1-41-25 WPM - 157 |
| 2009 | JANUARY 12 | MO-2009-003 | Nepotawehnow Sakahabun Indian Reserve | Wuskwesipik First Nation | 157.00 | | SE 1/4 20-41-25 WPM - 157 |
| 2009 | JANUARY 12 | MO-2009-003 | Kinnosomiyah Indian Reserve | Wuskwesipik First Nation | 303.96 | | S 1/2 36-41-25 WPM - 303.96 |
| 2009 | FEBRUARY 26 | MO-2009-006 | Addition to Riding River Indian Reserve No. 67 | Riding River First Nation | 7.46 | | E1/2 S1/2 Paul Injominan (FEEN PRIORITY) |
| 2009 | FEBRUARY 26 | MO-2009-006 | Addition to Riding River Indian Reserve No. 67A | Riding River First Nation | 0 | | Painted Stone Portage A |
| 2009 | FEBRUARY 26 | MO-2009-006 | Addition to Riding River Indian Reserve No. 67B | Riding River First Nation | 3,195.45 | | Painted Stone Portage B |
| 2009 | FEBRUARY 26 | MO-2009-006 | Addition to Riding River Indian Reserve No. 67C | Riding River First Nation | 2,209.10 | | Painted Stone Portage C |
| 2009 | FEBRUARY 26 | MO-2009-006 | Addition to Riding River Indian Reserve No. 67D | Riding River First Nation | 70,688.00 | | Churchill River Area 35A |
| 2009 | FEBRUARY 26 | MO-2009-006 | Addition to Riding River Indian Reserve No. 67E | Riding River First Nation | 4,520.00 | | Churchill River Area 35B |
| 2009 | FEBRUARY 26 | MO-2009-006 | Addition to Riding River Indian Reserve No. 67F | Riding River First Nation | 1,366.00 | | Churchill River Area 35C |
| 2009 | FEBRUARY 26 | MO-2009-006 | Addition to Riding River Indian Reserve No. 67G | Riding River First Nation | 1823.9 | | Churchill River Area 35D |
| 2009 | FEBRUARY 26 | MO-2009-006 | Addition to Riding River Indian Reserve No. 67H | Riding River First Nation | 164.00 | | E1/2 of SE 1/4 24-16-19 WPM (Site No. 3-01) - 80.00 |
| 2009 | FEBRUARY 26 | MO-2009-006 | Addition to Riding River Indian Reserve No. 67I | Riding River First Nation | 576.00 | | NE 1/4 24-16-19 WPM (Site No. 2-01) - 157.92 |
| 2009 | FEBRUARY 26 | MO-2009-006 | Addition to Riding River Indian Reserve No. 67J | Riding River First Nation | 164.00 | | NE 1/4 30-17-18 WPM (Site 2) - 155.00 |
| 2009 | FEBRUARY 26 | MO-2009-006 | Addition to Riding River Indian Reserve No. 67K | Riding River First Nation | 164.00 | | NE 1/4 34-16-19 WPM (Site No. 11-01) - 160.00 |
| 2009 | FEBRUARY 26 | MO-2009-006 | Addition to Riding River Indian Reserve No. 67L | Riding River First Nation | 164.00 | | NW 1/4 18-17-18 WPM (Site No. 3-02) - 156.00 |
| 2009 | FEBRUARY 26 | MO-2009-006 | Addition to Riding River Indian Reserve No. 67M | Riding River First Nation | 164.00 | | NW 1/4 25-16-19 WPM (Site No. 8-01) - 160.00 |
| 2009 | FEBRUARY 26 | MO-2009-006 | Addition to Riding River Indian Reserve No. 67N | Riding River First Nation | 164.00 | | S 1/2 36-16-19 WPM (Site No. 14-01) - 200.00 |
| 2009 | FEBRUARY 26 | MO-2009-006 | Addition to Riding River Indian Reserve No. 67O | Riding River First Nation | 164.00 | | SE 1/4 34-16-19 WPM (Site No. 10-01) - 160.00 |
| 2009 | FEBRUARY 26 | MO-2009-006 | Addition to Riding River Indian Reserve No. 67P | Riding River First Nation | 164.00 | | SW 1/4 25-16-19 WPM (Site No. 9-01) - 160.00 |
| 2009 | FEBRUARY 26 | MO-2009-006 | Addition to Riding River Indian Reserve No. 67Q | Riding River First Nation | 164.00 | | SW 1/4 26-16-19 WPM (Site No. 7-01) - 160.00 |
| 2009 | FEBRUARY 26 | MO-2009-006 | Addition to Riding River Indian Reserve No. 67R | Riding River First Nation | 164.00 | | SW 1/4 31-17-18 WPM (Site 1) - 155.00 |
| 2009 | FEBRUARY 26 | MO-2009-006 | Addition to Riding River Indian Reserve No. 67S | Riding River First Nation | 164.00 | | E1/2 of SW 1/4 13-19-18 WPM (Site No. 1-02) - 82.00 |
| 2009 | FEBRUARY 26 | MO-2009-006 | Addition to Riding River Indian Reserve No. 67T | Riding River First Nation | 164.00 | | W 1/2 of SW 1/4 13-19-18 WPM (Site No. 2-02) - 82.00 |
| 2009 | FEBRUARY 26 | MO-2009-006 | Addition to Riding River Indian Reserve No. 67U | Riding River First Nation | 164.00 | | NE 1/4 27-17-18 WPM (Site 8) - 144.00 |
| 2009 | FEBRUARY 26 | MO-2009-006 | Addition to Riding River Indian Reserve No. 67V | Riding River First Nation | 164.00 | | NW 1/4 26-17-18 WPM (Site 7) - 157.00 |
| 2009 | FEBRUARY 26 | MO-2009-006 | Addition to Riding River Indian Reserve No. 67W | Riding River First Nation | 164.00 | | NW 1/4 27-17-18 WPM (Site 10) - 101.00 |
| 2009 | FEBRUARY 26 | MO-2009-006 | Addition to Riding River Indian Reserve No. 67X | Riding River First Nation | 164.00 | | SE 1/4 34-17-18 WPM (Site 9) - 19.00 |
| 2009 | FEBRUARY 26 | MO-2009-006 | Addition to Riding River Indian Reserve No. 67Y | Riding River First Nation | 164.00 | | SW 1/4 26-17-18 WPM (Site 6) - 155.00 |
| 2009 | FEBRUARY 26 | MO-2009-006 | Addition to Riding River Indian Reserve No. 67Z | Riding River First Nation | 164.00 | | 20082009 - 48 Parcels Totaling: 126,445.68 |
| TOTAL AMOUNT OF LAND SET APART AS RESERVE AS OF MARCH 31, 2009 | | | | | 123,874.29 | 2,571.39 | CUMULATIVE TOTAL = 313,976.63 |

| YEAR | DATE | JOY-NO | RESERVE NAME - RESERVE | FIRST NATION | SELECTION ACRES | ACQUISITION ACRES | FORMER SELECTION / ACQUISITION NAME - NO NEW PARCELS |
|---|--------------|-------------|--|-----------------------------|---|-------------------|--|
| 2000 | JUNE 17 | MO-2000-017 | Wuskwik Sakahyukon Indian Reserve Addition to Opakanow Sakahyukon Indian Reserve Addition to Nuntaykooz Sakahyukon Indian Reserve | Nasichawayashka Cree Nation | 2,270.22 1,968.64 5,758.00 | | Gauer Lake Asoqanow Lake Itadock Lake |
| 2000 | AUGUST 7 | MO-009-025 | High Hill Lake Indian Reserve | Bunbomee Cree Nation | 1,043.00 | | Osochikuan Narrows |
| 2000 | AUGUST 7 | MO-009-025 | Osochikuan Indian Reserve | Bunbomee Cree Nation | 630.00 | | Osochikuan Narrows |
| 2000 | AUGUST 7 | MO-009-026 | Kispikamuk Indian Reserve | Bunbomee Cree Nation | 4,643.00 | | Lyns Bay |
| 2000 | AUGUST 7 | MO-009-027 | Sopuk Sakahagan (A) Indian Reserve Sopuk Sakahagan (B) Indian Reserve Sopuk Sakahagan (C) Indian Reserve Misahaganek Sip Indian Reserve Mitsahaganek Sakahagan Indian Reserve Moooswahpuk Sakahagan Indian Reserve Kamhioosapukuk Pivestak Indian Reserve Nahuk Oshkagits | Mathas Coomb Cree Nation | 5,164.00 7.23 10.26 1,809.00 3,613.00 1,392.00 4,283.00 907.00 | | Sopuk Lake Sopuk Lake Addition West Sopuk Lake Addition East Nelson Bay Hornock Lake Ronald Lake Bloodstone Falls McKnight Lake |
| 2000 | AUGUST 7 | MO-2000-022 | Channel Island Sopotaweyak Cree Nation Indian Reserve | Sopotaweyak Cree Nation | 3,358.00 | | Channel Island |
| 2000 | AUGUST 7 | MO-2000-023 | PTH 12 Sopotaweyak Cree Nation Indian Reserve | Sopotaweyak Cree Nation | 143.30 | | PTH 12 |
| 2000 | AUGUST 7 | MO-2000-024 | Winnepocook Indian Reserve | Norway House Cree Nation | 1,168.00 | | Molon Lake Access Road |
| 2000/10 | | | | | 38,787.65 | 0 | 2000/2010 - 17 Parcels Totalling : 38,757.65 |
| TOTAL AMOUNT OF LAND SET APART AS RESERVE AS OF MARCH 31, 2010 | | | | | 350,064.15 | 2,729.53 | CUMULATIVE TOTAL = 352,733.68 |
| 2010 | AUGUST 5 | MO-2010-010 | Ogankweyak Cree Nation 21A South Indian Reserve | Ogankweyak Cree Nation | 123.00 | | 21 A South |
| 2010 | AUGUST 5 | MO-2010-011 | Ogankweyak Cree Nation Rocky Lake Indian Reserve No. 1 | Ogankweyak Cree Nation | 1,857.70 | | Rocky Lake & Rocky Lake Addition |
| 2010 | AUGUST 13 | MO-2010-012 | Pichapashka Wasahow Indian Reserve | Mathas Coomb Cree Nation | 72,199.00 | | Churchill River |
| 2010 | NOVEMBER 3 | MO-2010-021 | Shah chick Indian Reserve | Northlands First Nation | 2,959.00 | | South of Northlands |
| 2010 | NOVEMBER 24 | MO-2010-022 | Hawkins Indian Reserve | Geoff's Lake First Nation | 614.00 | | Esker Ridge C |
| 2010 | NOVEMBER 30 | MO-2010-023 | Thyghokwain are Indian Reserve | Northlands First Nation | 497.00 | | Cochrane River Parcel B |
| 2010 | NOVEMBER 30 | MO-2010-023 | Treahuk nu Indian Reserve | Northlands First Nation | 321.00 | | Cochrane River Parcel C |
| 2010 | NOVEMBER 30 | MO-2010-023 | Thyghokwain Indian Reserve | Northlands First Nation | 117.00 | | Cochrane River Parcel D |
| 2010 | NOVEMBER 30 | MO-2010-023 | Sweeney Lake Indian Reserve | Nasichawayashka Cree Nation | 1,663.00 | | Sweeney Lake |
| 2010 | NOVEMBER 30 | MO-2010-025 | Wackoonoo Bay Indian Reserve | Nasichawayashka Cree Nation | 4,438.00 | | Wackoonoo Bay |
| 2010 | NOVEMBER 30 | MO-2010-025 | Mill 20 Second Revision Indian Reserve | Nasichawayashka Cree Nation | 1,821.00 | | Mill 20 (second revision) |
| 2011 | FEBRUARY 7 | MO-2011-002 | Egg Lake Indian Reserve No. 1 | Ogankweyak Cree Nation | 13,695.00 | | Egg Lake |
| 2010/11 | | | | | 100,684.70 | 0 | 2010/2011 - 13 Parcels Totalling : 97,962 |
| TOTAL AMOUNT OF LAND SET APART AS RESERVE AS OF MARCH 31, 2011 | | | | | 450,688.85 | 2,729.53 | CUMULATIVE TOTAL = 453,338.38 |
| 2011 | SEPTEMBER 12 | MO-2011-020 | Addition to Rolling River I.R. No. 1 (Camper)1 | Rolling River First Nation | 235.78 | | Formerly Camper1 |
| 2011 | SEPTEMBER 12 | MO-2011-020 | Addition to Rolling River I.R. No. 1 (Manns) | Rolling River First Nation | 160.00 | | Formerly Manns |
| 2011 | OCTOBER 20 | MO-2011-023 | Addition to Norway House I.R. No. 1 (D-1) | Norway House Cree Nation | 9,051.00 | | Formerly North Molton Lake Phase 1 |
| 2011/12 | | | | | 8,881.00 | 395.78 | |
| TOTAL AMOUNT OF LAND SET APART AS RESERVE AS OF MARCH 31, 2012 | | | | | 459,489.85 | 3,125.31 | CUMULATIVE TOTAL = 462,615.16 |

Appendix C



Historic Issues or Matters in Dispute

LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE March 31, 2012

| IMC File Number Party/EFN RE: | Referral Date | MFA Sections | MFA Headings | General Issue / Background | Missing Documents | Means of Resolution | Other Related Files |
|---|---------------|---|--|---|---|---|---------------------|
| 1999-BPFN-002 Buffalo Point First Nation RE: Reed River Selection | 6/23/1999 | 1.01(62), 1.01(65), 6.02(8), 12.01, 12.02 | Definitions and Interpretation, Defined Words and Phrases, Navigable Waterway, Ordinary High Water Mark; Water Interests, Selection or Acquisition of Non-navigable Waterways, Reserve Boundaries on Navigable Waterways | ISSUE: Is the Reed River a navigable waterway OR is the bed and shore of Reed River eligible for transfer? BACKGROUND: On December 21, 1999, Manitoba advised the Buffalo Point First Nation (BPFN) that their Reed River Selection was adjacent to a Navigable Waterway and as such the bed and shore of Reed River below the Ordinary High Water Mark was ineligible for Selection under Paragraph 12.02(b). On June 23, 1999, BPFN referred the matter to the IMC under Subsection 6.02(8) regarding the question of whether the Reed River was a Navigable Waterway. | Letter from Manitoba advising the BPFN that the Reed River is a Navigable Waterway and bed not available for selection for Reserve. Report entitled "Historic Uses of the Reed River – Lake of the Woods." | This issue was resolved through discussion of the parties. In support of those discussions, Canada had also provided a report entitled "Historic Uses of the Reed River – Lake of the Woods." The affected property (formerly known as Gould's Point) was set apart as Reserve on March 14, 2005. | |
| 1999-RRFN-004 Rolling River First Nation RE: Certain Selections | 9/19/1999 | 1.01(105), 3.11, 6.02(7) 13.05 | Definitions and Interpretation, Defined Words and Phrases, Undeveloped Road Allowance; Principles for Land Selection and Acquisition, Reference of Matters to the Implementation Monitoring Committee; Land Selection and Acquisition Process, Process for Land Selection and Acquisition; Roads, Highways and Airports, Undeveloped Road Allowances | ISSUE: The Rolling River First Nation (RRFN) alleged that Manitoba identified an Undeveloped Road Allowance affecting certain Selections a considerable time after Manitoba responded to the RRFN that the Selections were eligible for Selection under Subsection 6.02(7). BACKGROUND: On September 19, 2001, the RRFN referred the matter to the IMC under Section 3.11, identifying the availability of the government road allowance located between the (SE 22-19-18WPM) and the (SW 23 – 19 – 18 WPM). To be set apart as reserve as an issue. | Documents referred to in the RRFN Letter to the IMC on September 19, 2001, such as the June 14, 2000 response to the RRFN from Manitoba. | Discussions between Manitoba and Rolling River First Nation led to a resolution in which the government road allowance at issue was made available. The selections, including the Undeveloped Road ROW were set apart as Reserve May 9, 2005. | 2001-RRFN-001 |

LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE March 31, 2012

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

LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE March 31, 2012

| IMC File Number Party/EFN RE: | Referral Date | MFA Sections | MFA Headings | General Issue / Background | Missing Documents | Means of Resolution | Other Related Files |
|---|---------------|--------------------|---|---|--|---|--|
| 2000-MCCN-002 Mathias Colomb Cree Nation / Marcel Colomb First Nation RE: Allocation of TLE land and Federal Payments between MCCN and MCFN | 9/27/2000 | 1.01(23), 40.20 | Definition and Interpretation, Defined Words and Phrases, Date of Execution, Miscellaneous Provisions, Effect of Amalgamation and Creation of First Nations | ISSUE: On September 27, 2000, the Mathias Colomb Cree Nation (MCCN) requested the assistance of the IMC in resolving the question concerning the allocation of the TLE land and Federal payments between the MCCN and the new Marcel Colomb First Nation (MCFN). BACKGROUND: On November 15, 2000, the TARR Centre was appointed by the IMC as an independent fact finder to identify relevant dates and populations of the respective EFNs. The parties agreed to the fact finder's report dated December 4, 2000, on the recommended allocation of the TLA and Federal Payments between the MCCN and the MCFN. | | On August 23, 2001, the MCCN withdrew its reference to the IMC in regards to the resolution of the allocation of TLE assets between MCCN and MCFN. | 1999-MCCN-005, 2001-CANADA-004, 2002-MCCN/TLEC-001 |
| 2001-RRFN-001 Rolling River First Nation RE: Extension of Crown Land Selection Time Period | 3/26/2001 | 4.02, 4.02(1) | Periods of Selection and Acquisition of Land, Extension of Periods | ISSUE: On March 26, 2001, the Rolling River First Nation (RRFN) requested a 6 month extension to its Crown Land Selection period under Subsection 4.02. BACKGROUND: The RRFN alleged it was unable to select its land within the Period of Selection due to extended discussions with Manitoba regarding the eligibility of their Selections. After the setting apart as Reserve of the Selection at issue in file 1999-RRFN, the RRFN would have only 5.7 acres of its Crown Land Amount to Select. | Plan from RRFN, Letter from IMC to RRFN re the IMC's decision on the RRFN's extension request. Decision of the IMC is not on file. | At the April 2, 2001 IMC meeting, a decision was made that IMC would write to Canada/Manitoba and ask for their comments on this matter. At the May 8, 2001 IMC meeting, the minutes record that IMC has extended the Land Selection period under 4.02(4) subject to a detailed plan being submitted, "that will provide a BCR for the road allowances they wish to purchase to accommodate their acreage selection discrepancy." | 1999-RRFN-004 |

LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE March 31, 2012

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

LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE March 31, 2012

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

LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE March 31, 2012

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

LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE March 31, 2012

| IMC File Number Party/EFN RE: | Referral Date | MFA Sections | MFA Headings | General Issue / Background | Missing Documents | Means of Resolution | Other Related Files |
|--|---------------|------------------------------|--|--|-------------------|---|------------------------------------|
| 2002-BCN-002 Bunibonibee Cree Nation RE: Extension of Crown Land Selection Time Period | 1/28/2002 | 4.02, 4.02(1), 4.02(4) | Periods of Selection and Acquisition of Land, Extension of Periods | <p>ISSUE: On January 28, 2002, the Bunibonibee Cree Nation (BCN) requested an extension of its Crown Land Selection period under Subsection 4.02(1).</p> <p>BACKGROUND: The BCN alleged it was unable to select its land within the Period of Selection because the BCN did not have sufficient time to confirm Selections in the amount of its Crown Land Amount that satisfied Selection objectives established by the members of the BCN.</p> | | On January 31, 2002, the IMC discussed the matter and agreed that it would be preferable if Manitoba or Canada referred the matter under 4.02(3). BCN was advised by letter dated January 31, 2002. IMC further advises that it could then extend the Period of Selection pursuant to Subsection 4.02(4). Manitoba referred the matter under 4.02(3) on February 8, 2002. Referral 2002-BCN-002 was replaced by Referral 2002-Manitoba-004. | 2002-MANITO BA -004 |
| 2002-OCN-003 Opaskwayak Cree Nation RE: Extension of Crown Land Selection Time Period | 1/31/2002 | 4.02, 4.02(1), 4.02(4) | Periods of Selection and Acquisition of Land, Extension of Periods | <p>ISSUE: On January 31, 2002, the Opaskwayak Cree Nation (OCN) requested an extension of its Crown Land Selection period under Subsection 4.02(1).</p> <p>BACKGROUND: The OCN alleged it was unable to select its land within the Period of Selection due to the lack of suitable Crown Land within reasonable proximity that met the requirements set out in the MFA and the OCN's own criteria for Selection.</p> | | On January 31, 2002, the IMC discussed the matter and agreed that it would be preferable if Manitoba or Canada referred the matter under 4.02(3). OCN was advised by letter dated January 31, 2002. IMC further advises that it could then extend the Period of Selection pursuant to Subsection 4.02(4). Manitoba referred the matter under 4.02(3) on February 8, 2002. Referral 2002-OCN-003 was replaced by Referral 2002-Manitoba-005. | 2002-MANITO BA-005 2003-OCN-005 |

LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE March 31, 2012

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

LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE March 31, 2012

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

LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE March 31, 2012

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

LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE March 31, 2012

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

LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE March 31, 2012

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

LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE March 31, 2012

| IMC File Number Party/EFN RE: | Referral Date | MFA Sections | MFA Headings | General Issue / Background | Missing Documents | Means of Resolution | Other Related Files |
|--|-------------------|--------------------------|---|---|-------------------|--|--|
| <p>2003-OCN-005</p> <p>Opaskwayak Cree Nation</p> <p>RE: Extension of Crown Land Selection Time Period</p> | <p>12/10/2003</p> | <p>4.02, 4.02(1)</p> | <p>Periods of Selection and Acquisition of Land, Extension of Periods</p> | <p>ISSUE: On December 10, 2003 Opaskwayak Cree Nation requested an extension to their Crown Land Selection period as per section 4.02(1). OCN requests an extension for two years and since the Province did not declare certain selections ineligible for over one year, until December 30, 2002, OCN feels this should now be extended until January 21, 2005.</p> <p>BACKGROUND: OCN's TEA is dated January 22, 1999, and their period for Crown Land selection expired on January 21, 2002. OCN previously submitted a referral and request for an extension (2002-OCN-003) dated January 31, 2002. Manitoba also referred the matter (2002-MANITOBA-005 on February 8, 2002. On September 17, 2002, the IMC informed the OCN that it appeared unnecessary for the IMC to grant an extension of the Period of Selection at this time because the OCN had actually selected its Land within the 3 year period provided under the MFA. If selections are later withdrawn, IMC can consider again at that time as per 4.02(6) & (7).</p> | | <p>In a letter dated December 19, 2003 IMC acknowledges the OCN request.</p> <p>At an IMC meeting dated January 19, 2004 it was agreed that IMC would grant an extension of 6 months to July 21, 2004 owing to issues over the interpretation of the MFA. This will be conditional upon OCN selecting an additional 569.43 acres to fulfill its outstanding Crown Land amount and arranging a selection review meeting with the parties. OCN's next selection was Egg Lake and it was received by Manitoba on 2005/10/11.</p> <p>(NOTE: the IMC Annual Report for years ending March 31, 2002, 2003, and 2004 refer to two extensions granted; the first was valid until January 22, 2003, and the second expired January 22, 2004.)</p> | <p>2002-OCN-003</p> <p>2002-MANITOBA-005</p> |

LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE March 31, 2012

| IMC File Number Party/EFN RE: | Referral Date | MFA Sections | MFA Headings | General Issue / Background | Missing Documents | Means of Resolution | Other Related Files |
|---|------------------|--------------|--|---|---|---|---------------------|
| <p>2004-SCN-001</p> <p>Sapotaweyak Cree Nation</p> <p>RE: Concerns with Canada's survey practice.</p> | <p>2/26/2004</p> | <p>23.04</p> | <p>Costs of Environmental Audit and Survey of Land, Survey to Meet Standards</p> | <p>ISSUE: On February 26, 2004, the Sapotaweyak Cree Nation (SCN) referred the matter to the IMC alleging that errors in cutting survey lines on their Pelican Rapids Selection Phase 1 survey resulted in lost timber and unwanted access to the land and that Canada's surveyor did not adhere to accepted survey standards in completion of the survey.</p> <p>BACKGROUND: In March 2005, the IMC retained an independent surveyor (All Sect Surveys Ltd.) as a fact finder.</p> <p>On March 23, 2005 Canada and SCN met with the fact-finder Andrew Miles and resolved the issue to their mutual satisfaction.</p> <p>The EFN subsequently refreshed the boundaries of the Selection.</p> | <p>Letter dated March 9, 2004 from SCN to the IMC referenced in letter dated April 6, 2004 from SCN to IMC.</p> <p>Letter dated May 27, 2004 from the TLEC and other documents from the IMC and SCN referenced in letter dated June 1, 2004 from D'Arcy & Deacon to TLEC.</p> <p>Document appointing fact finder in March, 2005.</p> <p>October 20, 2005 document reference in letter dated October 31, 2005 from SCN to IMC.</p> | <p>Canada and SCN met with fact-finder Andrew Miles on March 23, 2005 and agreed to a resolution by way of having the boundaries refreshed by the First Nation, and the plan of survey approved.</p> <p>On August 10, 2004, the Selection was set apart as Reserve.</p> | |

LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE March 31, 2012

| IMC File Number Party/EFN RE: | Referral Date | MFA Sections | MFA Headings | General Issue / Background | Missing Documents | Means of Resolution | Other Related Files |
|--|------------------|----------------|--|--|--|---|---------------------|
| <p>2006-RRFN-002 Rolling River First Nation RE: Transfer of Administration and Control from Manitoba to Canada</p> | <p>2/27/2006</p> | <p>7.01(2)</p> | <p>Transfer of Land and Interests from Manitoba to Canada, Manitoba to transfer Crown Land and Interests to Canada</p> | <p>ISSUE: Rolling River First Nation (RRFN) alleged that there is a "regulatory gap" that occurs when the administration and control of all interests of Manitoba in land is transferred from Manitoba to Canada arising from the existence of a contractor lien on title.</p> <p>BACKGROUND: This matter relates to a Rolling River acquisition known as the former Ronald Hill property, specifically the quarter section identified as the SE 20-17-18 WPM. The specifics of the issue revolved around the application of a builder's lien(s) against this quarter section, which by law prevented any further disposition of the property until such time as the lien was addressed and removed. On February 27, 2006, RRFN referred the matter to the IMC. This issue arose as a result of a matter between the First Nation and one of its contractors and was resolved as between them.</p> <p>The characterization of the issue as a regulatory gap issue is confusing. In fact a regulatory gap did not arise in the context of application of a builder's lien against this particular quarter section of the former Ronald Hill property.</p> | <p>Confirmation of actions referred to in the IMC Draft Minutes of May 23 & 24, 2006/ June 1 & 2, 2006, i.e. the Chairperson writing to Canada requesting clarification on this issue and Canada's and Manitoba's responses.</p> | <p>The builder's lien was addressed by the RRFN and the lien removed. The transfer of the title from RRFN to Canada subsequently occurred.</p> <p>The acquired fee simple land was then set apart as Reserve on May 29, 2006.</p> | |

LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE March 31, 2012

| IMC File Number Party/EFN RE. | Referral Date | MFA Sections | MFA Headings | General Issue / Background | Missing Documents | Means of Resolution | Other Related Files |
|---|------------------|------------------------------|---|--|---|--|---------------------|
| <p>2007-TLEC-004 TLEC RE: BILL 32 consultation and MFA subsection 40.12</p> | <p>8/27/2007</p> | <p>10.02, 40.12</p> | <p>Miscellaneous Provisions, Constitutional or Legislative Changes</p> | <p>ISSUE: TLEC alleged that Manitoba failed to consult with the TLEC as per the common law duty Subsection 40.12 in regards to the introduction of Bill 32 BACKGROUND: On August 27, 2007, the TLEC referred the matter to the IMC. TLEC further asserts that Bill 32 would unilaterally take away the right of the EFNs to determine the scope of the rights in the Replacement Interest under Subsection 10.02.</p> | | <p>Bill 32 did not proceed and died on the Order Paper. File closed. Decision made at May 14, 2008 IMC Meeting.</p> | |
| <p>2006-TLEC-004 TLEC / Manitoba RE: Competing considerations and Eligibility of selections less than 1,000 acres.</p> | <p>5/19/2006</p> | <p>3.02(3)-(7), 3.11</p> | <p>General Principles for Selection and Acquisition of Land, Reference of Matter to the Implementation Monitoring Committee</p> | <p>ISSUE: The TLEC allege that Manitoba was incorrectly characterizing selections ineligible due to competing considerations (e.g. the cost of survey of a Hydro Easement line) on many Selections under 1,000 acres. In addition that Manitoba was raising the issue a considerable time after it responded to the EFNs regarding the eligibility of the Selections under Subsection 6.02(7). BACKGROUND: On May 19, 2006, TLEC referred the matter to the IMC under Section 3.11. On June 7, 2007, Manitoba provided an update of their September 7, 2005 report on the "Less than 1000 acres" issue. At the IMC request, Manitoba provided a report itemizing the 31 Selections of less than 1000 acres that Manitoba "deemed" not</p> | <p>Letter dated November 18, 2004 and letter dated January 28, 2005 referred to in TLEC's referral dated May 19, 2006 to the IMC.</p> | <p>Referral was resolved through the consensus achieved in the form of Bulletin #1 entitled "Concept of Eligibility of Selections or Acquisitions", dated February, 2009, and Bulletin #2 entitled "Selections Under 1,000 Acres in Area", dated June, 2009.</p> | |

LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE March 31, 2012

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|----------------------------------|------------------------|-----------------|-------------------------------|---|---|--|
| <p>2006-TLEC-004 - Con't</p> | | | | <p>eligible because of competing considerations. Two focus meetings have been held to review and discuss the varying interpretations and applications of the relevant MFA provisions. In addition a discussion paper on Selections of Land Less Than 1,000 Acres in Area has been prepared by the IMC. The IMC party representatives then asked the IMC Office to prepare a bulletin on this matter, in accordance with the discussion paper, to provide guidance to the parties and the EFNs on this matter. These led to the IMC development of two bulletins, or procedural and operational guidelines; the first on the concept of eligibility, and the second on Selections Under 1,000 Acres in Area. Bulletin #1 on the Concept of Eligibility of Selections or Acquisitions was released in February, 2009. Final comments have been received from the parties and release of Bulletin #2 entitled "Selections Under 1,000 Acres in Area" was released in June, 2009.</p> | | |
| <p>2003-SCN-004</p> | <p>02/07/20 03</p> | <p>Part III</p> | <p>Third Party Interests.</p> | <p>ISSUE: Canada requested appropriate releases and indemnities from SCN for land they considered occupied by unregistered interests prior to accepting land transfers from Manitoba. SCN believes that their acceptance of the lands on an "as is where is" basis should suffice and further that where cabins were used by SCN members, there were no TPIs to resolve. On February 7, 2003, in follow up to a SCN, Manitoba, and Canada meeting on this matter, Councillor Nelson Genaille referred it to IMC.</p> <p>BACKGROUND: Various individuals have developed cabins on Crown land and neglected to obtain the necessary permits or other legal tenure. Crown land selections by various EFNs contain</p> | <p>The IMC Office chaired focus meetings on January 10, 2008 and January 30, 2008 to assist the Parties in defining options available to resolve the unregistered interests arising from the construction of structures/buildings by members of an EFN on a selection prior to or after the selection is made by the EFN that were not legally permitted.</p> | |

LIST OF HISTORIC ISSUES OR MATTERS IN DISPUTE March 31, 2012

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|-------------------------------|--|--|--|--|
| <p>2003-SCN-004 Con't</p> | | <p>cabins and sometimes more substantial developments and these now encumber property, by their presence rather than by registered third party interests. It is the lack of registration of the interest and lack of legal land tenure that differentiates these developments from other third party interests. On February 12, 2003 Canada wrote to the IMC Chairperson and identified this issue as significant and fundamental to the fulfilment of the contractual obligations set out in the MFA, identified 19 selections with this type of issue, and confirmed their preparedness to continue the reserve creation process for lands affected by such occupation conditional upon Manitoba and TLEC participating towards resolving the issue.</p> <p>Canada developed a document entitled, "An Agreement Respecting Pre Transfer Uses of Crown Lands". SCN entered into an agreement of this type on December 15, 2006. And to bring closure to this referral Canada provided a copy to the IMC Chairperson on June 23, 2009.</p> | <p>Canada provided a copy of the Canada – SCN Agreement dated December 15, 2006 at an IMC meeting on June 23, 2009 and this referral was closed.</p> | |
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Appendix D



Definitions used in the 2011/2012 IMC Annual Report

DEFINITIONS USED IN THE 2011/2012 ANNUAL REPORT OF THE IMC

- "AFC" means Agreed Forms Committee;
- "AIP" means Agreement in Principal;
- "BCN" means Bunibonibee Cree Nation;
- "BLFN" means Barren Lands First Nation;
- "BON" means Brokenhead Ojibway Nation;
- "BPFN" means Buffalo Point First Nation;
- "CAP" means Community Approval Process;
- "EFN" means Entitlement First Nation;
- "FRPFIA" means Federal Real Property and Federal Immovables Act;
- "IMC" means the Implementation Monitoring Committee;
- "I/M Referral Protocol" means the agreed format or "Protocol" for the referral and review of an Issue or Matter in Dispute;
- "LIS" means Land In Severalty;
- "LSS" means the Land Selection Study;
- "MANA" means Manitoba Aboriginal and Northern Affairs;
- "MCCN" means Mathias Colomb Cree Nation;
- "MCFN" means Marcel Colomb First Nation;
- "MFA" or "**Framework Agreement**" means the 1997 Manitoba Framework Agreement on Treaty Land Entitlement;
- "MNRTA" means the Manitoba Natural Resources Transfer Agreement;
- "NCN" means Nisichawayasihk Cree Nation;
- "NHCN" means Norway House Cree Nation;
- "OCN" means Opaskwayak Cree Nation;
- "OPCN" means O-Pipon-Na-Piwin Cree Nation;
- "RRFN" means Rolling River First Nation;
- "SCN" means Sapotaweyak Cree Nation;
- "TEA" means a Treaty Entitlement Agreement;
- "TLEC" means the Treaty Land Entitlement Committee of Manitoba, Inc.
- "TLE" means Treaty land Entitlement under any Treaty in Manitoba.
- "TPI" means Third Party Interest;
- "TRELES" means Treaty Land Entitlement System;
- "WSCN" means Wuskwi Sipiik Cree Nation;

Appendix E



2011-2012 Annotated IMC Work Plan

IMC ANNUAL WORKPLAN for 2011 / 2012

DATE: April 18, 2012

The IMC is generally responsible for facilitating implementation of the MFA and any TEA that includes, but not limited to, monitoring progress of implementation and making recommendations and resolving any matters or issues in dispute under the MFA.

As per Section 31 of the MFA, the Parties shall use their best efforts that include assignment of appropriate personnel to discharge obligations and all undertakings under the MFA and work supplemental to the IMC.

While this Work Plan represents the IMC's agreed scope of activities it is implementing in the 2011-2012 fiscal year towards making progress and meeting its obligations under the MFA, it does not replace nor is intended to alter the terms of the MFA nor any of the obligations of the Parties or the IMC created hereunder.

| Work Plan Responsibility # 1.0: Resolving or Referring Disputes | | | | | | |
|---|-----------------------|--|--|---|---|---|
| # | REFERRAL FILE NUMBER | DISPUTE MAIN ISSUES | REQUIRED ACTIONS BY IMC | IMC LEAD | DUE DATE | TARGET RESULTS BY MARCH 31/12 |
| 1.1 | TLEC 2007-TLEC-002 | TLEC disagrees with transfer of Administration & Control to MB, has concerns about possible impacts on Treaty & Aboriginal Rights, and has concerns about proposed content of agreed form of Hydro Easement. | EFNs and TLEC to finalize review and present concerns and options for resolution of concerns, in writing to facilitate follow up discussion at Hydro Easement Focus Group meetings). Parties Reconvene and discussions ensue to better understand TLEC/EFN concerns and options presented for resolution. Decision by Parties on if consensus can be reached on a means to move forward. If no consensus reached, IMC to proceed in accordance with the IMC Policies and Procedures Manual. | EFN/TLEC CHAIR/PARTIES PARTIES CHAIRPERSON | July 31/11 CF to December 31/11 August 1 – December 31/11 CF to Dec 31/11 – March 31/12 December 31/ 11 CF to March 31/12 February 28/12 CF to May 31/12 | Specific issues of concern on easement issue presented by TLEC/EFNs. TLEC presentation of its preferred options for resolving issues of concern to IMC for consideration. COMPLETE: Submitted January 13, 2012 Discussions between Parties with respect to identified/confirmed issues and proposed means of resolution. IMC to review situation and determine status of referral and ongoing role if Parties reengage on this matter. Consensus reached on Hydro Easement Agreement. Finalization of the Referral in the Form of the Protocol Document. |
| <p>MARCH 25/11 UND #1: (IMC Work Plan # 3.0) Resolving or Referring Disputes: The Chairperson will update the list of current referrals to March 31, 2011 by April 11, 2011 and circulate them to the Parties for comments, which are due by April 28, 2011 to facilitate the current list being included within the 2010-2011 Annual Report. COMPLETE AND APPROVED FOR ANNUAL REPORT APPENDICE ON APRIL 28/11.</p> <p>MARCH 15/12 UND #9: IMC Work Plan 1.0 Resolving or Referring Disputes: The Chairperson will prepare a draft letter to a list of adjudicators (to be confirmed) inquiring into their interest in working under contract for the IMC to assist with the resolution of IM that have arisen in connection with the implementation of the MFA, and circulate it to the Party representatives by March 28, 2012. COMPLETE. CHR CIRCULATED DRAFT LETTER ON MARCH 23, 2012. COMMENTS RECEIVED ON MARCH 28, 2012.</p> <p>MARCH 15/12 UND #10: IMC Work Plan 1.0 Resolving or Referring Disputes: The representatives of the Parties serving on IMC will submit a list of six adjudicators who they believe would be suitable for purposes of assisting IMC with the resolution of IM that have arisen in connection with the implementation of the MFA, and submit them to the Chairperson by March 26, 2012. COMPLETE. LISTS PROVIDED BY MANITOBA ON MARCH 1/12; CANADA ON MARCH 23/12, AND TLEC ON MARCH 25/12.</p> | | | | | | |
| <p>MARCH 25/11 UND #2: (IMC Work Plan #3.1) Hydro Easement Issue IMC File No. 2007-TLEC-002: TLEC is to review and discuss the Hydro Easement issue in detail with all of the affected EFNs, and advise IMC of their main concerns with the Easement Agreement and their proposed options on or before July 31, 2011. ON TARGET AS APRIL 28/11 UND #2</p> | | | | | | |

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| <p>APRIL 28/11 UND #1: IMC Work Plan 1.1 Referral 2007-TLEC-002 (Hydro Easement): the Chairperson is to draft a letter to TLEC requesting: a) an update on its "Joint Working Group on Hydro Easements", b) its intentions once this work is completed, and c) the continued relevancy of its referral. The draft letter is to be circulated by May 15/11 to the Parties for comments, with a target of May 31/11 for transmission of the letter. COMPLETE – LETTER SENT MAY 30-11</p> | <p>APRIL 28/11 UND #2: IMC Work Plan 1.1 Referral 2007-TLEC-002 (Hydro Easement): TLEC is to review and discuss the Hydro Easement issue in detail with all of the affected EFNs, and advise IMC of their main concerns with the Easement Agreement and their proposed options on or before July 31, 2011. CARRY FORWARD TO JULY 5/11 UND #1</p> |
| <p>JULY 5/11 UND #1: IMC Work Plan 1.1 Referral 2007-TLEC-002 (Hydro Easement): TLEC is to review and discuss the Hydro Easement issue in detail with all of the affected EFNs, and advise IMC of their main concerns with the Easement Agreement and their proposed options on or before August 31, 2011. CARRY FORWARD TO OCT. 3/11 UND #1</p> | <p>OCTOBER 3/11 UND #1: IMC Work Plan 1.1 Referral 2007-TLEC-002 (Hydro Easement): TLEC is to review and discuss the Hydro Easement issue in detail with all of the affected EFNs, and advise IMC of their main concerns with the Easement Agreement and their proposed options to resolve these concerns on or before December 31, 2011. COMPLETE – TLEC SUBMITTED ON JANUARY 13, 2012.</p> |
| <p>JANUARY 17&18/12 UND #1: IMC Work Plan 1.1 Referral 2007-TLEC-002 (Hydro Easement): The Chairperson will write to the Directors of the Parties by January 24, 2012, and recommend that the Parties meet to initiate discussions on TLEC's submission by mid February. The Chairperson will request confirmation on if the Parties intend on bringing their legal counsel to the first meeting and ask them to give some consideration to the forum best suited to reaching agreement on the Hydro Easement. COMPLETE: CHAIRPERSON LETTER SENT JANUARY 24, 2012. Manitoba responded on February 7, 2012. Response from all Parties to Chairperson's invitation to meet carried forward to March 15, 2012 UND #1.</p> | <p>MARCH 15/12 UND #1: IMC Work Plan 1.1 Referral 2007-TLEC-002 (Hydro Easements): Manitoba and Canada are to reply to the Chairperson's letter of January 24, 2012 and confirm if they are willing to meet with TLEC to discuss the concepts and ideas proposed in its letter of January 13, 2012, and if so to propose times when each is available to meet, and to comment on if each feels legal counsel should be in attendance, by March 31, 2012. MANITOBA REPORTED VERBALLY ON APRIL 17/12. CANADA CF to APRIL 17/12 – UND #1</p> |
| <p>MARCH 15/12 UND #2: IMC Work Plan 1.1 Referral 2007-TLEC-002 (Hydro Easements): Manitoba and Canada are to confirm in writing that they are in agreement with the 2007 version of the H/E document that was being discussed immediately before TLEC filed its referral on this matter by April 16, 2012. CARRIED FORWARD TO APRIL 17/12 UND #2</p> | <p>APRIL 28/11 UND #3: IMC Work Plan 1.2 Referral 2004-BLFN-002 (Severalty): The Chairperson is to locate Ron Maurice's analysis on Severalty and attachments, and circulate it to BLFN and the Parties by May 15, 2011. COMPLETE: CHAIRPERSON CIRCULATED ON MAY 11-11</p> |

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| <p>1.2</p> | <p>BARREN LANDS 2004-BLFN-002</p> | <p>Barron Lands alleged Canada materially failed to comply with a fundamental term or condition of the MFA regarding Lands in Severalty issue.</p> | <p>IMC to ensure BLFN Chief and Council are aware of the current status of this referral, and to encourage BLFN to make a decision respecting if and how to proceed with binding arbitration. IMC may proceed with binding arbitration in accordance with direction received from BLFN, the MFA provisions, and the IMC Policies and Procedures Manual.</p> | <p>CHAIRPERSON</p> | <p>September 20/11</p> | <p>Barren Lands is aware of the status and decision to be made. BLFN makes a decision on how they wish to proceed with this referral. CHR and CHIEF discussion on Nov 9/11 and December 15/11 telecom: Chief and Council priority is SaskPower and RL regulation. BLFN would like to meet on LIS in late January/12.</p> | <p>Advance IM towards resolution.</p> |
| | | | | <p>CHAIRPERSON</p> | <p>March 31/12</p> | | |

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| <p>APRIL 28/11 UND #3: IMC Work Plan 1.2 Referral 2004-BLFN-002 (Severalty): The Chairperson is to locate Ron Maurice's analysis on Severalty and attachments, and circulate it to BLFN and the Parties by May 15, 2011. COMPLETE: CHAIRPERSON CIRCULATED ON MAY 11-11</p> | <p>JULY 5/11 UND #2: IMC Work Plan 1.2 - 2004-BLFN-002 (Severalty): TLEC and Canada are to review the Manitoba proposal that is outlined above respecting how to move forward with Land in Severalty (LIS) and provide comments by July 31, 2011. TLEC COMPLETED September 6/11 and CANADA CARRIED FORWARD TO OCT. 3/11 UND #2.</p> |
| <p>OCTOBER 3/11 UND #2: IMC Work Plan 1.2 - 2004-BLFN-002 (Severalty): Canada is to review the Manitoba proposal for IMC to write to BLFN outlining the option of BLFN setting apart TLE selections with CPs in place for those members who have elected to take land in severalty, and provide comments by October 7, 2011. COMPLETE: CANADA PROVIDED COMMENTS ON OCTOBER 6/11.</p> | <p>OCTOBER 3/11 UND #3: IMC Work Plan 1.2 - 2004-BLFN-002 (Severalty): The Chairperson distributed a discussion paper on the characteristics of Certificates of Possession on September 20, 2011 and the Parties are to review this discussion paper and provide comments by October 14, 2011 to facilitate the proposed letter to BLFN and the Chairperson's discussions with BLFN on this matter. COMPLETE: CHR Forwarded to BLFN legal counsel on December 8/11.</p> |

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| 1.3 | <p>MANITOBA 2006-Manitoba-005 (Formerly 2006-BCN/TLEC-003)</p> | <p>Buntonbee & TLEC alleged Manitoba materially failed to comply with a fundamental term or condition of the MFA regarding the treatment of "portages".</p> | <p>TLEC and BCN have been advised on September 1, 2010 that given history of file, matter to now proceed to binding arbitration. TLEC placed allegation in abeyance on February 4/11, and BCN is to confirm intentions.</p> <p>Discuss matter and options to proceeding with binding arbitration with BCN.</p> <p>Upon confirmation by BCN, proceed to binding arbitration, or in accordance with BCN decision.</p> | <p>BCN</p> | <p>July 31/11</p> | <p>Confirmation of BCN intentions</p> <p>Decision reached by BCN Chief and Council. CHR met with BCN on August 8/11 and October 20/11: BCN decision is to wait and see how 2007-TLEC-003 is resolved before proceeding.</p> <p>Upon BCN confirmation, initiation and conclusion of Binding Arbitration process, as more particularly described in IMC letter to BCN dated September 1/10, or act in accordance with BCN decision.</p> |
| <p>JULY 5/11 UND #3: IMC Work Plan 1.3 – 2006-Manitoba-005 (Material Failure): The Chairperson is to discuss this referral and the available options with BCN and report to the Parties by July 31, 2011. COMPLETED AUGUST 9, 2011.</p> | | | | | | |
| <p>OCTOBER 3/11 UND #4: IMC Work Plan 1.3 – 2006-Manitoba-005 (Material Failure): The Chairperson is to discuss this referral and the available options with BCN and report to the Parties by December 7, 2011. COMPLETE: CHR met with BCN on October 20/11 and reported to IMC reps on November 7/11.</p> | | | | | | |
| <p>JANUARY 17&18/12 UND #2: IMC Work Plan 1.3 Referral 2006-Manitoba-005 (Material Failure): The Chairperson is to write to BCN and confirm his understanding that BCN wishes to wait for IMC's determination respecting Referral file 2007-TLEC-005 before proceeding with binding arbitration relating to its Material Failure allegation. COMPLETE: CHAIRPERSON LETTER SENT JANUARY 25, 2012. No response received from BCN.</p> | | | | | | |

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| 1.4 | TLEC 2007-TLEC-005 (formerly 2006-BCW/TLEC-003) | TLEC referred Manitoba's treatment of Crown Reservations - Portages. | Focus Group to present options to IMC for resolution on Crown reservation. | CHAIRPERSON | June 30/11 CF as final meeting held on September 12/11 | Focus Group recommendations. COMPLETED NOVEMBER 1/11 |
| | | | EFNs to respond to February/11 status report letters from Manitoba | EFNS | June 30/11 | Response from each EFN with its view on accommodating a portage with a portage easement agreement. NO RESPONSE TO DATE Acknowledgment of EFN letters/opinions and advice on what IMC intends to do. |
| | | | If there is no agreement reached with BCN, preparation of the Referral in the Form of the Protocol for circulation and review respecting the TLEC referral. | CHAIRPERSON | September 30/11 CF TO DECEMBER 31/11 | Draft of the Referral in the Form of the Protocol circulated to the Parties for final review. CIRCULATION TARGETED FOR DEC 20/11 |
| | | | Consensus Reached on the Treatment of Crown Reservations - Portages. | CHAIR/PARTIES | February 28/12 | Consensus on the treatment of Crown reservations- Portages. |
| | | | If no consensus reached, IMC to proceed in accordance with the IMC Policies and Procedures Manual | CHAIRPERSON | February 28/12 | Finalization of the Referral in the Form of the Protocol Document |

OCTOBER 3/11 UND #5: IMC Work Plan 1.4: 2007-TLEC-005 (Crown Reservations - Portages): As there was no consensus reached by the Focus Group on a mechanism to accommodate a portage, the Chairperson is now to update the draft of the Referral Protocol and circulate it to the Parties for review and comments, as per the IMC Work Plan, by December 31, 2011. **COMPLETE: CHAIRPERSON CIRCULATED ON DECEMBER 29, 2011.**
Crown Reservations - Portages FG: September 12/11 UND #1: Manitoba is to review the April 19, 2011 draft of the layperson's description of a "Portage Easement Agreement", and is to provide comments to IMC by September 26, 2011. **NOT SUBMITTED AND AT JAN 17&18 IMC MEETING DEEMED REDUNDANT**
Crown Reservations - Portages FG: September 12/11 UND #2: TLEC will review the draft generic "Portage Easement Agreement" dated September 11, 2011 and provide comments to IMC by October 11, 2011. **NOT SUBMITTED AND AT JAN 17&18 IMC MEETING DEEMED REDUNDANT**
Crown Reservations - Portages FG: September 12/11 UND #3: Manitoba undertook to clarify its "if ownership changed" comment on TLEC's proposed "permit" option in writing to IMC. **NOT SUBMITTED AND AT JAN 17&18 IMC MEETING DEEMED REDUNDANT**
Crown Reservations - Portages FG: September 12/11 UND #4: Canada undertook to clarify its "short term only" comment in writing to IMC, since Section 28(2) permits specifically that they are to stay in place for as long as required by the permit. **NOT SUBMITTED AND AT JAN 17&18 IMC MEETING DEEMED REDUNDANT**
Crown Reservations - Portages FG: September 12/11 UND #5: The Chairperson will report to the IMC by October 3, 2011 on the Focus Group review of the portage matter, the accomplishments of the Focus Group, and the outstanding consensus respecting a recommendation to resolve the Crown Reservations - Portages referral. **COMPLETE: Verbal report on October 3/11 and written report circulated on November 1/11**
JANUARY 17&18/12 UND #3: IMC Work Plan 1.4 Referral 2007-TLEC-005 (Crown Reservations - Portages): The Parties are to review the completed Referral Protocol circulated by the Chairperson on December 29, 2011 and submit their comments by February 3, 2012, in order to discuss the Referral Protocol and proposed resolution at an IMC meeting on February 8, 2012 at the IMC Office. **CANADA COMMENTED ON JANUARY 26/12; TLEC COMMENTED ON FEBRUARY 1/12, and Manitoba commented on February 3, 2012. PARTIES confirmed that another meeting would not assist in reaching consensus and Chairperson referred to SAC.**

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| 1.5 | BUFFALO POINT 2007-BPFN-001 | Buffalo Point objected to exclusion of a highway control area from its land acquisition on PTH 12. | Chairperson receives formal views of Parties and any additional information the Parties feel is pertinent to consideration of the referral. Upon receipt of information requested by Chairperson, the material is reconciled into a summary document, and it is circulated to IMC seeking consensus. | PARTIES | April 21/11 | Opinions of all Parties and all pertinent material received by Chairperson. COMPLETE |
| | | | Discussion by IMC and decision of Chairperson re if a Discussion Paper or Focus Group might assist in reaching consensus. | CHAIRPERSON | May 15/11 | Draft #2 of the Protocol for the Referral and Review of the IMC completed. COMPLETED ON MAY 15/11 |
| | | | If discussions, and/or Discussion Paper, and/or Focus Group do not lead to consensus, Chairperson proposes interpretation, and proposes resolution. | CHAIRPERSON | July 5/11 | Consensus reached that it reflects the views of each Party. All Party discussions completed and decision by Chairperson on if Discussion Paper or Focus Group would assist in reaching consensus. CHR met with CHIEF THUNDER on July 4/11 and September 15/11 to discuss status to date. |
| | | | If Protocol for the Referral and Review of the IMC augmented with Proposed Interpretation of the MFA and proposed resolution by the Chair, circulated with time frame for final comments. | CHAIRPERSON | September 30/11 CF TO NOVEMBER 30/11 | Protocol for the Referral and Review of the IMC augmented with Proposed Interpretation of the MFA and proposed resolution by the Chair, circulated with time frame for final comments. IMC meeting with MIT on September 27/11 COMPLETE: Referral Protocol finalized and circulated on November 30/11 |
| | | | If Protocol for the Referral and Review of the IMC augmented with Proposed Interpretation of the MFA and proposed resolution by Chairperson does not lead to consensus, the referral is advanced to SAC. | CHAIRPERSON | November 30/11 CF to January 31/11 | Forward the Referral to SAC requesting direction from SAC. |
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MARCH 25/11 UND #7: (IMC Work Plan Task # 3.4) 2007-BPFN-001: The Parties are to provide any additional documents/ information that each Party believes to be relevant to a full consideration of this referral. In addition, the sections entitled "Interpretation of the Relevant Provisions of the MFA" and "Proposed Resolution and Options Considered" are to be submitted by TLEC and Canada, as there is no record of this in the IMC files. The undertaking is due by April 21, 2011 to facilitate an IMC review of the status of this referral at the next IMC meeting on April 28, 2011. **TLEC AND MANITOBA COMPLETE. CANADA CARRY FORWARD TO APRIL 28/11 UND #4**

MARCH 25/11 UND #8: (IMC Work Plan Task # 3.4) 2007-BPFN-001: The Chairperson is to review the information/documents submitted by the Parties and prepare and circulate draft #2 of the IMC Referral in the Form of the Protocol for IMC Referral 2007-BPFN-001 by May 15, 2011. **ON TARGET AS APRIL 28/11 UND #5**

APRIL 28/11 UND #4: IMC Work Plan 1.5 Referral 2007-BPFN-001 (PTH #12 Acquisition): The Parties are to provide any additional documents/ information that each Party believes to be relevant to a full consideration of this referral. In addition, the sections entitled "Interpretation of the Relevant Provisions of the MFA" and "Proposed Resolution and Options Considered" are to be submitted by TLEC and Canada, as there is no record of this in the IMC files. The undertaking is due by May 5, 2011 to facilitate the IMC meeting its target date for production of Draft #2 of the Referral by May 15, 2011. **TLEC AND CANADA COMPLETED BY MAY 5-11. MANITOBA HAD NO ADDITIONAL SUBMISSIONS.**

APRIL 28/11 UND #5: IMC Work Plan 1.5 Referral 2007-BPFN-001 (PTH #12 Acquisition): The Chairperson is to review the information/documents submitted by the Parties and prepare and circulate draft #2 of the IMC Referral in the Form of the Protocol for IMC Referral 2007-BPFN-001 by May 15, 2011. The Parties are to review the draft and provide their respective comments to IMC by June 30/11 to facilitate discussion at the next IMC meeting on July 5, 2011. **CHAIRPERSON COMPLETED DRAFT #2 AND CIRCULATED MAY 16-11. MANITOBA AND TLEC COMMENTED ON MAY 17&27 RESPECTIVELY. CANADA HAD NO ADDITIONAL SUBMISSIONS.**

JULY 5/11 UND #4: IMC Work Plan 1.5 - 2007-BPFN-001 (PTH #12 Acquisition): The Parties undertook to consider the options and questions discussed and forward their comments to the Chairperson as soon as additional information becomes available, in order to facilitate the IMC proposing means to resolve the referral in accordance with the IMC Work Plan target dates. **COMPLETE - NO FURTHER INFORMATION SUBMITTED BY PARTIES.**

JULY 5/11 UND #5: IMC Work Plan 1.5 - 2007-BPFN-001 (PTH #12 Acquisition): TLEC undertook to provide draft language for the IMC's consideration by July 12, 2011, and Manitoba and Canada undertook to review the language and provide comments to IMC by July 19, 2011. **COMPLETED BY TLEC ON JULY 12/2011. MB and CANADA HAD NO COMMENTS.**

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| <p>OCTOBER 3/11 UND # 6: IMC Work Plan 1.5 – 2007-BPFN-001 (PTH #12 Acquisition): The Chairperson will update the Referral Protocol to include the additional information made available by MIT on September 27, 2011 and to include the option whereby MIT and the EFN meet to discuss details of the EFNs proposed development and access management issues and based on that discussion may determine a reduced controlled area size that addresses the interests of each. This revised draft will be circulated to the IMC representatives for comments by November 30, 2011. COMPLETE: REFERRAL PROTOCOL CIRCULATED ON NOVEMBER 30/11.</p> |
| <p>OCTOBER 3/11 UND# 7: IMC Work Plan 1.5 – 2007-BPFN-001 (PTH #12 Acquisition): The Chairperson will convene a meeting with Chief Thunder to meet with IMC and discuss the current status of this referral and options to resolve this matter. COMPLETE: CHIEF invited to Jan 17&18/12 IMC meeting on November 30/11.</p> |
| <p>JANUARY 17&18/12 UND #4: IMC Work Plan 1.5 Referral 2007-BPFN-001 (PTH #12 Acquisition): The Chairperson is to write to BPFN Chief and Council and confirm that IMC has reached consensus on resolution of the issue/matter referred, as described in the Referral Protocol dated November 30, 2011. COMPLETE: CHAIRPERSON LETTER SENT JANUARY 25, 2012.</p> |
| <p>JANUARY 17&18/12 UND #5: IMC Work Plan 1.5 Referral 2007-BPFN-001 (PTH #12 Acquisition): The Chairperson will utilize the findings contained in the IMC analysis of the BPFN PTH #12 referral, to prepare a first draft of an IMC Informational Bulletin relating to acquisitions adjacent highways, and circulate this draft for comments by February 29, 2012. COMPLETE. The CHAIRPERSON circulated 1st draft on February 10. No responses received from any of the Parties. CARRIED FORWARD TO MARCH 15, 2012 UND #4.</p> |
| <p>MARCH 15/12 UND #3: IMC Work Plan 1.5 Referral 2007-BPFN-001 (PTH #12 Acquisition): The Chairperson will contact those First Nations who previously agree to have their experiences with acquisitions adjacent highways referenced in the Referral Protocol, and obtain their written consent to have their experiences cited as examples within the Bulletin. COMPLETE: LETTERS MAILED MARCH 27, 2012.</p> |
| <p>MARCH 15/12 UND #4: IMC Work Plan 1.5 Referral 2007-BPFN-001 (PTH #12 Acquisition): Manitoba and Canada will provide specific comments and proposed word changes by April 16, 2012 to advance the draft Bulletin towards a form that all Parties can support for release. CANADA PROVIDED COMMENTS ON MARCH 26, 2012</p> |

| BUFFALO POINT 1999-BPFN-001 | Buffalo Point disagrees with MB assertion that selection in Birch Point Provincial Park is ineligble. | Chairperson receives formal views of Parties and any additional information the Parties feel is pertinent to consideration of the referral. | PARTIES | April 21/11 | Opinions of all Parties and all pertinent material received by Chairperson. |
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| 1.6 | | Upon receipt of information requested by Chairperson, the material is reconciled into a summary document, and it is circulated to IMC seeking consensus. | CHAIRPERSON | May 15/11 | Draft #2 of the Protocol for the Referral and Review of the IM completed. COMPLETE: CIRCULATED ON MAY 13/11 |
| | | Discussion by IMC and decision of Chairperson re if a Discussion Paper or Focus Group might assist in reaching consensus. | CHAIRPERSON | July 5/11 | Consensus reached that it reflects the views of each Party. COMPLETE All Party discussions completed and decision by Chairperson on if Discussion Paper or Focus Group would assist in reaching consensus. MEETING set with Parks for January 19/11. |
| | | If discussions, and/or Discussion Paper, and/or Focus Group do not lead to consensus, Chairperson proposes interpretation, and proposes resolution. | CHAIRPERSON | September 30/11 | Protocol for the Referral and Review of the IM augmented with Proposed Interpretation of the MFA and proposed resolution by the Chair, circulated with time frame for final comments. |
| | | Protocol for the Referral and Review of the IM augmented with the MFA and proposed resolution by Chairperson does not lead to consensus, the referral is advanced to SAC. | CHAIRPERSON | November 30/11 | Forward the Referral to SAC requesting direction from SAC. |
| MARCH 25/11 UND #9: (IMC Work Plan Task # 3.5) 1099-BPFN-001: | | | | | |
| MARCH 25/11 UND #19: (IMC Work Plan Task # 3.5) 1999-BPFN-001: | | | | | |
| APRIL 28/11 UND #6: IMC Work Plan 1.6 Referral 1999-BPFN-001 (Birch Point Park): | | | | | |
| APRIL 28/11 UND #7: IMC Work Plan 1.6 Referral 1999-BPFN-001 (Birch Point Park): | | | | | |
| JULY 5/11 UND #7: IMC Work Plan 1.6 – 1999-BPFN-001 (Birch Point Park): | | | | | |
| JULY 5/11 UND #8: IMC Work Plan 1.6 – 1999-BPFN-001 (Birch Point Park): | | | | | |
| OCTOBER 3/11 UND #8: IMC Work Plan 1.6 – 1999-BPFN-001 (Birch Point Park): | | | | | |

MARCH 15/12 UND #5: IMC Work Plan 1.6 Referral 1999-BPFN-001 (Birch Point Park): Manitoba is to provide a copy of the Crown Lands Registry entry respecting BPFN's interest in Birch Point Park by March 31, 2012 for review by the IMC. **COMPLETE. CROWN LAND REGISTRY EXCERPT PROVIDED APRIL 4/12.**

MARCH 15/12 UND #6: IMC Work Plan 1.6 Referral 1999-BPFN-001 (Birch Point Park): The Chairperson is to add his proposed interpretation of the relevant MFA provisions, and a proposed resolution to the draft Referral Protocol and circulate the update to the IMC for review by June 30, 2012. **ONGOING**

| 1.7 | NISCHAWAYASIBIK 1999-NCN-003 | NCN disagreed with Canada on Date of Execution of NCN TEA | Chairperson receives formal views of Parties and any additional information the Parties feel is pertinent to consideration of the referral Upon receipt of information requested by Chairperson, the material is reconciled into a summary document, and it is circulated to IMC seeking consensus. Discussion by IMC and decision of Chairperson re if a Discussion Paper or Focus Group might assist in reaching consensus. | PARTIES | April 21/11 | Opinions of all Parties and all pertinent material received by Chairperson. COMPLETE |
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| | | | Chairperson re if a Discussion Paper, and/or Focus Group do not lead to consensus, Chairperson proposes interpretation, and proposes resolution. If Protocol for the Referral and Review of the IM augmented with Proposed Interpretation of the MFA and proposed resolution by Chairperson does not lead to consensus, the referral is advanced to SAC. | CHAIRPERSON | May 15/11 | Draft #2 of the Protocol for the Referral and Review of the IM completed, and consensus reached that it reflects the views of each Party. COMPLETED and circulated on May 13/11. |
| | | | | CHAIRPERSON | July 5/11 | All Party discussions completed and decision by Chairperson on if COMPLETE |
| | | | | CHAIRPERSON | September 30/11 | Protocol for the Referral and Review of the IM augmented with Proposed Interpretation of the MFA by Chairperson and proposed resolution and circulated with time frame for final comments. CHR letter to NCN on September 21/11. Legal opinion pending discussion with NCN Council. |
| | | | | CHAIRPERSON | November 30/11 | Forward the Referral to SAC requesting direction from SAC. |
| | | MARCH 25/11 UND #11: (IMC Work Plan # 3.6) 1999-NCN-003: Canada is to follow through on their July, 2010 letter to NCN and convene a meeting to determine if NCN considers this matter resolved or not, and provide IMC with a copy of this communication and any reply received from NCN by April 21, 2011 to facilitate discussion at the IMC meeting on April 28, 2011. CANADA CARRY FORWARD TO APRIL 28/11 UND #8 | | | | |
| | | MARCH 25/11 UND #12: (IMC Work Plan Task # 3.6) 1999-NCN-003: The Parties are to provide any additional documents/ information that each Party believes to be relevant to a full consideration of this referral. In addition, the sections entitled "Interpretation of the Relevant Provisions of the MFA" and "Proposed Resolution and Options Considered" are to be submitted by TLEC and Manitoba as there is no record of this in the IMC files. The undertaking is due by April 21, 2011 to facilitate an IMC review of the status of this referral at the next IMC meeting on April 28, 2011. MANITOBA AND TLEC COMPLETE. CANADA CARRY FORWARD TO APRIL 28/11 UND #9 | | | | |
| | | MARCH 25/11 UND #13: (IMC Work Plan Task # 3.6) 1999-NCN-003: The Chairperson is to review the information/documents submitted by the Parties and prepare and circulate draft #2 of the IMC Referral in the Form of the Protocol for IMC Referral 1999-NCN-003 by May 15, 2011. ON TARGET AS APRIL 28/11 UND #10 | | | | |
| | | APRIL 28/11 UND #8: IMC Work Plan 1.7 Referral 1999-NCN-003 (TEA Effective Date): Canada is to follow through on their July, 20/10 letter to NCN, and contact NCN Councilor Darcy Linklater to determine if NCN considers this matter resolved or not, and advise IMC by May 5, 2011. CANADA DID NOT COMPLETE IT'S UND. | | | | |
| | | APRIL 28/11 UND #9: IMC Work Plan 1.7 Referral 1999-NCN-003 (TEA Effective Date): The sections of the Referral in the form of the Protocol entitled "Interpretation of the Relevant Provisions of the MFA" and "Proposed Resolution and Options Considered" are to be submitted by Canada by May 5, 2011 to facilitate the IMC meeting its target date for production of Draft #2 of the Referral by May 15, 2011. COMPLETE: CANADA CIRCULATED ON MAY 5/11. | | | | |
| | | APRIL 28/11 UND #10: IMC Work Plan 1.7 Referral 1999-NCN-003 (TEA Effective Date): The Chairperson is to review the information/documents submitted by the Parties and prepare and circulate draft #2 of the IMC Referral in the Form of the Protocol for IMC Referral 1999-NCN-003 by May 15, 2011. The Parties are to review the draft and provide their respective comments to IMC by June 30/11 to facilitate discussion at the next IMC meeting on July 5, 2011. CHAIRPERSON COMPLETED DRAFT #2 AND CIRCULATED MAY 13-11. MANITOBA AND TLEC COMMENTED ON MAY 16&25 RESPECTIVELY. CANADA HAD NO ADDITIONAL SUBMISSIONS. | | | | |
| | | MARCH 15/12 UND #7: IMC Work Plan 1.7 Referral 1999-NCN-003 (TEA Effective Date): The Chairperson is to write to the NCN Chief and Council and determine how NCN would like to proceed with this referral, and circulate a copy of this letter to the IMC representatives by April 16, 2012. COMPLETE. LETTER MAILED MARCH 29, 2012. | | | | |

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| <p>1.8</p> <p>BROKENHEAD 2003-BON-001</p> | <p>Surplus Federal land Brokenhead selected Kapyong "Strategic Disposal".</p> | <p>IMC placed this referral in abeyance given the ongoing litigation, and this situation needs to be monitored.</p> | <p>CHAIRPERSON</p> | <p>On Going</p> | <p>IMC to make a decision on action after considering results of the litigation, and possible appeals. SEPT 8/11 BON reactivated. SEPT 9/11 CHR requested facts and documents from Party reps. OCTOBER 3/11 CHR REQUEST formalized into UND #9 OCT 12/11 CHR letter to Maurice Law requesting info November 10/11 Reminder to reps November 24/11 CHR briefed SAC. December 16/11 Maurice Law request for IMC meeting summaries. December 16/11 CHR request for comments and reminder to Party reps. December 23/11 Manitoba submitted view that IM not directly related to Manitoba.</p> |
| <p>OCTOBER 3/11 UND#9: IMC Work Plan 1.8 2003-BON-001 (Kapyong - Surplus Federal Crown Land): The Party representatives are to assemble the facts and documents that each considers to be relevant to a full consideration of BON's 2003-BON-001 referral and submit them to IMC by October 31, 2011. In addition the Party representatives are to provide comments on what additional information each representative feels IMC requires of BON as soon as possible, in order for IMC to respond to Maurice Law's question in this regard. CARRIED FORWARD TO JANUARY 17&18, 2012 UND #6</p> | | | | | |
| <p>JANUARY 17&18/12 UND #6: IMC Work Plan 1.8 2003-BON-001 (Kapyong - Surplus Federal Crown Land): The Party representatives are to assemble the facts and documents that each considers to be relevant to a full consideration of BON's 2003-BON-001 referral and submit them to IMC by February 7, 2012. In addition the Party representatives are to provide comments on what additional information each representative feels IMC requires of BON as soon as possible, in order for IMC to respond to Maurice Law's question in this regard. MANITOBA COMMENTED ON FEBRUARY 7, 2012 WITHOUT DOCUMENTS. TLEC COMMENTED ON FEBRUARY 6, 2012 WITH A PKG OF DOCUMENTS, AND CANADA DID NOT COMMENT. THIS CARRIED FORWARD TO MARCH 15, 2012 UND #8.</p> | | | | | |
| <p>MARCH 15/12 UND #8: IMC Work Plan 1.8 2003-BON-001 (Kapyong - Surplus Federal Crown Land): Canada is to assemble the facts and documents that it considers to be relevant to a full consideration of BON's 2003-BON-001 referral and submit them to IMC by April 16, 2012. In addition Canada is to provide comments on what additional information each representative feels IMC requires of BON as soon as possible, in order for IMC to respond to Maurice Law's question in this regard. CANADA SUBMITTED LETTER ON APRIL 5/12 STATING THEY "DO NOT BELIEVE IT IS A CURRENT REFERRAL"</p> | | | | | |
| <p>MANITOBA 2006-Manitoba-001</p> | <p>Bombonbee alleged Manitoba materially failed to comply with a fundamental term or condition of the MFA regarding registration of the Kneese Lake Lodge Selection on the Crown Land Registry, and because Manitoba permitted several registrations to be made against the lease encumbering the selection. Manitoba referred the IM on February 3, 2006.</p> | <p>Parties to respond to Chairperson's January 11/11 assessment of MFA provisions and how IMC should proceed with respect to this referral. Chairperson to advise BCN of MFA analysis and how IMC is to proceed. Discuss options to proceeding with binding arbitration with BCN. (One option is possibly a referral on IM at heart of material failure allegation?) Upon confirmation by BCN, proceed to binding arbitration, or in accordance with BCN decision. If BCN replaces allegation with referral on IM at heart of material failure allegation, accept and request the formal views of the Parties to the BCN referral.</p> | <p>PARTIES: CHAIRPERSON CHAIRPERSON CHAIRPERSON BCNPARTIES</p> | <p>April 21/11 May 30/11 CF awaiting consensus/comments. July 31/11 February 28/12 February 28/12</p> | <p>Consensus by Parties on MFA assessment and how IMC should proceed. TLEC disagreed on July 5/11. Chairperson to send letter to BCN detailing results of IMC analysis of MFA and consensus on how matter is to proceed. COMPLETE CHR wrote BCN on August 8/11. Decision reached by BCN Chief and Council. CHR met with BCN on August 8/11 and October 28/11. BCN has concerns with costs of binding arbitration. BCN to look at opportunities to purchase TPL. Upon BCN confirmation, initiation and conclusion of Binding Arbitration process, as more particularly described in proposed IMC letter to BCN, or act in accordance with the BCN decision. Protocol for the Referral and Review of the IM completed, and consensus reached that it reflects the views of each Party.</p> |
| <p>1.9</p> <p>MARCH 25/11 UND #15: (IMC Work Plan # 3.8) 2006-Manitoba-001 The Parties are to provide any additional documents/ information that each Party believes to be relevant to a full consideration of this referral. The undertaking is due by April 21, 2011 to facilitate an IMC review of the status of this referral at the next IMC meeting on April 28, 2011. NO PARTY SUBMITTED. CHAIR PLACED ON HOLD PENDING RECEIPT OF MARCH 25 UND #14 CF COMMENTS</p> | | | | | |

APRIL 28/11 UND #11: IMC Work Plan 1.9 Referral 2006-Manitoba-001 (Material Failure): TLEC and Canada are to provide written comments on the Chairperson's January 11, 2011 analysis on the MFA provisions relating to the BCN allegation of material failure and subsequent referral by Manitoba by May 5, 2011, to facilitate the IMC meeting its target date for advising BCN of the MFA analysis and how IMC is to proceed by May 30, 2011. **CANADA RESPONDED TO CHAIRPERSON'S ANALYSIS ON MAY 6/11. TLEC SUBMITTED INFO PACKAGE ON MAY 16/11 AND TLEC VIEWS ON KNEE LAKE LODGE LEASE ON MAY 26/11. TLEC DID NOT PROVIDE WRITTEN COMMENTS ON CHAIRPERSON'S ANALYSIS, BUT DISAGREED VERBALLY AT MEETING.**

| Work Plan Responsibility # 2.0: Monitoring MFA Implementation and Taking Action when appropriate/necessary to Facilitate Implementation of the MFA | | | | | | |
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| # | MONITORING TOPIC | FOCUS OF CONCERN | REQUIRED ACTIONS BY IMC | IMC LEAD | DUE DATE | TARGET RESULTS BY MARCH 31, 2012 |
| 2.1 | <p>STRATEGIC PLANNING:</p> <p>The Parties are engaged in 3 Party Strategic Planning to aid each Party in implementing its responsibilities under the MFA.</p> | <p>Parties need to fulfil their Strategic Planning undertakings by due dates to facilitate the success of the Strategic Planning Process.</p> <p>IMC to monitor if Parties are on track with respect to development and implementation of the 3 Party Annual Plan.</p> | <p>Chair to participate in Strategic Planning meetings and monitor performance of Parties re completing undertakings as per commitments. Make periodic recommendations respecting Strategic Planning considerations that may not have been fully considered, and Strategic Planning effectiveness.</p> <p>Monitor to ensure that 2011/12 Annual Plan is adopted by the 3 Parties, provided to SAC, and circulated to the EFNS.</p> <p>Promote and facilitate the 2012/13 Annual Plan preparation by the Parties during March / 12, ensure it is provided to SAC, and circulated to the EFNS by March 31/12.</p> | <p>CHAIRPERSON</p> <p>CHAIRPERSON</p> <p>CHAIRPERSON</p> | <p>June 30/11, September 30/11 December 31/11 February 28/12</p> <p>May 15/11</p> <p>March 31/12</p> | <p>Monitor the performance of the Parties with respect to adopting an Annual Plan, implementing the Annual Plan, and responding to recommendations provided by the Chair for facilitating the effectiveness of the Strategic Planning process.</p> <p>Parties complete their Strategic Planning undertakings in accordance with their commitments to each other.</p> <p>Annual Plan completed by Parties and circulated to EFNs with confirmation of milestone targets for each EFN priority parcel at minimum. COMPLETE: CIRCULATED ON OCT 6/11.</p> <p>2012/2013 Annual Plan developed by the Parties and circulated to SAC and the EFNS by March 31/ 12.</p> |
| <p>APRIL 28/11 UND # 12: IMC Work Plan 2.1 Strategic Planning: The Chairperson is to prepare a draft monitoring report on the performance of the Parties with respect to adopting an Annual Plan, implementing the Annual Plan, and responding to recommendations of the Chairperson intended to facilitate and improve the effectiveness of the Strategic Planning process, by May 31/11, and circulate the report to the representatives for comments and feedback. The representatives are to provide their feedback by June 15/11 in order that the final revisions can be made and the report released by the IMC Work Plan target date of June 30, 2011. COMPLETED ON JUNE 30/11.</p> | | | | | | |

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| <p>TPI RESOLUTION: Third Party Interests (TPI) require resolution before selected land can be converted to reserve.</p> | <p>Numerous unresolved TPIs are hindering the progress of selected/acquired land moving towards reserve status.</p> <p>The Parties are addressing this within and as part of the Strategic Planning process. IMC is to monitor the Parties progress, and facilitate the resolution of TPIs</p> | <p>The Parties are to review the list of TPIs and encumbrances affecting parcels and analyze and determine consensual options to resolve issues specific to each parcel. IMC is to monitor the performance of the Parties.</p> <p>IMC is to monitor if the Parties have written to each EFN and advised of consensual options to resolve each TPI and encumbrance.</p> <p>IMC to analyze and determine why IMC feels each TPI/encumbrance is not being resolved as per the recommended consensual options, and prepare recommendations to resolve identified issues, beginning with EFN priority parcels.</p> | <p>CHAIRPERSON</p> | <p>June 30/11 CF</p> | <p>IMC is to report on if the three Parties have reached agreement on consensual options to resolve the specific TPIs and encumbrances affecting Dashboard #7 and the EFN priority parcels, as per the Annual Plan of the Parties. NOT COMPLETED.</p> |
| <p>2.2</p> | | | <p>CHAIRPERSON</p> | <p>July 31/11 CF</p> | <p>IMC to report on if Parties have contacted the EFNs with a summary of consensual options for TPI and encumbrance resolution on each parcel. NOT COMPLETED; DISCUSSED AT IMC MEETINGS OF JULY 5 & OCT 3/11</p> |
| | | | <p>CHAIRPERSON</p> | <p>November 1/11 CF</p> | <p>Recommendations to the Parties on an action plan to advance resolution of TPIs and encumbrances. THERE ARE NO CONSENSUAL OPTIONS WHICH IS A PRE REQUISITE</p> |
| | | | <p>CHAIRPERSON</p> | <p>November 30/11</p> | <p>Monitor and analyze the success of the Parties with reaching their Annual Plan milestone goals set in relation to TPI resolution (data from the September 30/11 Tracking Chart update) and comparison to milestone targets.</p> |
| | | | <p>CHAIRPERSON</p> | <p>May 15/12</p> | <p>Final 2011/12 report on the success of the Parties in reaching their Annual Plan milestone goals set in relation to TPI resolution (data from the March 31/12 Tracking Chart update and/or TRELES report)</p> |

MARCH 25/11 UND #4: (IMC Work Plan # 1.4) Third Party Interests: At the next Strategic Planning meeting scheduled for April 14&15, 2011; the Parties are to ensure a sub set of parcels is confirmed for specific TPI resolution during this fiscal year, and provide an update to IMC on April 28, 2011. **COMPLETE: REPORTED ON VERBALLY ON APRIL 28-11.**

MARCH 25/11 UND #5: (IMC Work Plan # 1.4) TLEC is to provide Manitoba and Canada with records of discussions held with third party interest holders prior to or at the Strategic Planning session scheduled for April 14 & 15, 2011 to facilitate Manitoba and Canada assisting the EFNs and TLEC with the development of consensual options to resolve specific third party interests on specific parcels, as part of the Strategic Planning initiative. **CARRY FORWARD- BECAME APRIL 28-11 UND #13.**

APRIL 28/11 UND # 13: IMC Work Plan 2.2 TPI Resolution: TLEC is to provide the IMC, Manitoba, and Canada with records of discussions held with third party interest holders by May 6/11 to facilitate Manitoba and Canada assisting the EFNs and TLEC with the development of consensual options to resolve specific third party interests on Dashboard #7 and the EFN Priority Parcels, as part of the Strategic Planning initiative, and the 2011-2012 Annual Plan. **COMPLETE: TLEC PROVIDED THIS INFORMATION ON MAY 4/11.**

JANUARY 17&18/12 UND #7: IMC Work Plan 2.2 (TPI Resolution): The Parties are to discuss the development of consensual options for resolving each TPI on each parcel, and how best to share these consensual options with the EFNs to assist them with informed decision making at their next Strategic Planning meeting on February 14, 2012, as per the IMC recommendation on TPIs included in the 2010-2011 Annual Report, and report back to IMC on March 6, 2012. **COMPLETE. DISCUSSED AT STRATEGIC PLANNING MEETING BUT CONSENSUAL OPTIONS NOT DEVELOPED.**

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| <p>EEN PRIORITY PARCELS:</p> <p>Steady advancement of EFN priority parcels towards reserve status.</p> | <p>The Parties are committed to setting and reaching annual milestone targets with respect to advancing EFN Priorities through the land transfer process.</p> <p>The Parties are to develop these targets within and as part of the Strategic Planning process, and include these targets in the Annual Plan.</p> <p>IMC is to monitor the Parties progress and facilitate the achievement of the milestone targets.</p> | <p>IMC will monitor the achievement of the milestones set by the Parties for EFN Priority parcels within their Annual Plan, and determine if the IMC can assist and facilitate the Parties reaching their common goals.</p> <p>When it appears that the Parties are having difficulty in reaching their milestone targets with respect to the EFN Priority Parcels, make recommendations to facilitate the Parties reaching their milestone goals.</p> | <p>CHAIRPERSON</p> | <p>November 30/11 CF to January 31/11 after next tracking chart release on December 31/11</p> <p>December 31/11</p> <p>May 15/12</p> | <p>IMC completes monitoring analysis of Parties success in attaining milestone targets set by the Parties for the EFN priority parcels within their Annual Plan. (data from the September 30/11 Tracking Chart update) ANNUAL PLAN CIRCULATED OCTOBER 6/11; THERE IS LIMITED INFORMATION AVAILABLE TO MONITOR THIS.GENERAL INFO PROVIDED AT DEC 7/11 SL PLANNING MEETING.</p> <p>Based on its monitoring analysis, IMC may make recommendations to the Parties and EFNs to facilitate achieving the milestones confirmed by Parties within their 3 Party Annual Plan.</p> <p>Final 2011/12 report on the success of the Parties in reaching their Annual Plan milestone goals set in relation to EFN Priority parcels (data from the March 31/12 Tracking Chart update and/or TRELES report)</p> |
| <p>2.3</p> | <p>MARCH 25/11 UND #6: (IMC Work Plan # 1.5) EFN Priorities: All Parties will ensure that the EFN Priority parcels are discussed at the next Strategic Planning agenda on April 14 & 15 and integrated into the Annual Plan of the Parties, which is to be developed at that meeting, and discuss how the TPIs and encumbrances on the EFN priority parcels are to be addressed, in order that a reasonable number of land transfer steps (milestones) for the EFN priority parcels can be identified for accomplishment during the 2011-2012 fiscal year, and provide an update to IMC on April 28, 2011. COMPLETE: REPORTED ON VERBALLY ON APRIL 28-11.</p> | | | | |
| <p>2.4</p> | <p>LAND TRANSFER PROCESS:</p> <p>Three Party adoption and recommended by SAC of a Land Transfer and Reserve Creation Process Manual to ensure there was consensus on a common Land Transfer Process</p> | <p>Monitoring and facilitating the Parties completing their Acquisition Tracking Charts and circulating them to the EFNs biannually.</p> <p>Monitoring and facilitating the Parties updating their Selection Tracking Charts and circulating them to the EFNs biannually.</p> <p>IMC to monitor the progress accomplished between each iteration of the tracking charts to determine the achievements of the Parties with respect to meeting their milestone objectives and MFA implementation</p> | <p>CHAIRPERSON</p> <p>CHAIRPERSON</p> <p>CHAIRPERSON</p> | <p>May 1/11 CF TO OCTOBER 6/11 November 1/11 DECEMBER 31/11 at DEC 7/11 S.P Mtg. May 1/11 CF to OCT 6/11 November 1/11 CF to DEC 31/11 November 30/11 CF to Jan 31/12 May 15/12</p> | <p>Three Party Compliance with the SAC adopted land transfer process, and regular biannual circulation of the complimentary Tracking Charts to the EFNs to ensure the EFNs are aware of, advancement of their parcels through the process, progress made towards the milestone goals set by the Parties, next steps in the process, and primary responsibility.</p> |
| <p>2.5</p> | <p>HYDRO EASEMENT PROCESS:</p> <p>The MFA sets out requirement for a 'Hydro Easement' to be granted, when land is selected along a developed waterway.</p> | <p>Monitor to ensure consensus is maintained on the proposed process for determining 'Hydro Easements', and facilitate this with recommendations when required.</p> <p>Review concerns with process as they arise, and facilitate issue resolution with analysis and recommendations.</p> <p>Monitor and review to ensure H/E process meshes seamlessly with overall LTRCPM process.</p> | <p>CHAIRPERSON</p> <p>CHAIRPERSON</p> <p>CHAIRPERSON</p> | <p>On Going</p> <p>On Going</p> <p>On Going</p> | <p>Consensus maintained on the process for determining 'Hydro Easements' and consistent implementation of the process. ELDRA have been determined for all eligible Selections (except one) confirmed at Jan 17&18/12 IMC meeting.</p> <p>Consensus maintained on the process for determining 'Hydro Easements' and the process is being consistently implemented. TLEC commented on January 13, 2012 that it proposes refinements to this process and accepted undertaking to redline existing process to identify precise refinements proposed.</p> <p>Consensus on how the H/E process meshes with the overall LTRCPM land transfer process.</p> |

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| <p>JANUARY 17&18/12 UND # 8: IMC Work Plan 2.5 Hydro Easement Process: TLEC will red line the "Hydro Easement Line Determination Process" to clearly illustrate their proposed refinements, and circulate this red lined document to Manitoba and Canada by February 1, 2012 for review and comment. COMPLETE. TLEC SUBMITTED ON FEBRUARY 10, 2012.</p> <p>JANUARY 17&18/12 UND #9: IMC Work Plan 2.5 Hydro Easement Process: Upon receipt of TLEC's proposed refinements to the "Hydro Easement Line Determination Process", Canada and Manitoba will review the proposed refinements and provide comments in advance of the next IMC meeting, which is scheduled for March 6, 2012. CANADA AND MANITOBA DID NOT RESPOND. CARRIED FORWARD TO MARCH 115, 2012 UND #11.</p> <p>MARCH 15/12 UND #11: IMC Work Plan 2.5 Hydro Easement Process: Canada and Manitoba will review the proposed refinements to the "Hydro Easement Line Determination Process" submitted by TLEC on February 10, 2012 and provide comments by March 26, 2012. MANITOBA COMPLETED AND SUBMITTED COMMENTS ON APRIL 16/12. CANADA CARRIED FORWARD TO APRIL 17/12 UND #4</p> | | | | | |
| <p>2.6</p> | <p>INFORMATION MANAGEMENT: Effective Management and Use of Information</p> | <p>Effective information management systems are in place to track the progress of EFN parcels through the land transfer process.</p> <p>Adherence of the information management systems to the SAC adopted Land Transfer and Resource Creation Process Manual</p> <p>A clear identification of issues affecting progress of the Parcels through the process.</p> | <p>CHAIRPERSON</p> | <p>Quarterly</p> | <p>An effective information management system(s) is in use by the Parties to the MFA. ANNUAL PLAN CIRCULATED TO EFNS ON OCT 6/11</p> |
| <p>2.7</p> | <p>CROWN LAND SELECTIONS: Many EFNs have not completed their Crown Land Selections in order for lands to be converted to reserve.</p> | <p>Monitor the adequacy of the information being tracked, and if additional information is identified as required by the Parties, assess the situation and consider recommendations on how this might be achieved.</p> <p>Monitor and assess the effective use of the Land Transfer and Resource Creation Process Manual and complementary Tracking Charts by all three Parties on a quarterly basis.</p> <p>Monitor the resolution/remaining issues affecting the progress of the parcels, and summarize this in the IMC Land Selection/Acquisition Monitoring Charts for quarterly circulation to the Parties.</p> | <p>CHAIRPERSON</p> | <p>May 1/11 November 1/11 June 30/11 September 30/11 December 31/11 March 31/11</p> | <p>Adherence to the LTRCPM process steps and complementary Tracking Charts by all Parties when tracking progress and communicating with the EFNs.</p> <p>IMC Land Selection/Acquisition Monitoring Charts CIRCULATED ON AUGUST 9/11, OCTOBER 17/11, and January 16, 2012.</p> |
| <p>APRIL 28/11 UND # 14: IMC Work Plan 2.6 Information Management: The Chairperson is to draft the information management monitoring report, and circulate it to the representatives for comments, which comments will need to be returned by June 15/11 in order for final revisions to be made and the report released in accordance with our Work Plan target date of June 30/11. In addition, the Chairperson is to monitor the resolution/remaining issues affecting the progress of the parcels, and summarize this in the IMC Land Selection/Acquisition Monitoring Charts for circulation to the Parties by June 30/11. COMPLETE: CHR CIRCULATED ACQUISITION MONITORING CHART ON JUNE 29/11 AND REPORT ON JUNE 30/11.</p> | | | | | |
| <p>JANUARY 17&18/12 UND #10: IMC Work Plan 2.6 Information Management: The representatives of the Parties on IMC will discuss and encourage the use of the Selection and Acquisition tracking charts amongst their staff when discussing the status of selections and acquisitions with the EFNs at the next Strategic Planning meeting, scheduled for February 14, 2012, to address this information management concern. COMPLETE. PARTIES PROVIDED VERBAL REPORT ON MARCH 15, 2012.</p> | | | | | |
| <p>2.7</p> | <p>Ten EFNs have still to complete their Crown Land Selections. (NOTE: IMC extended timeframe for BLFN and NFN in recognition of unresolved sovereignty matter)</p> | <p>IMC letter to EFNs requesting "Land Selection Plan" and completion of template for each parcel.</p> <p>Formally request the Parties to assist the EFNs with completion of the Crown Land Selection templates and plan at Parcel Review Meetings.</p> <p>Completed templates/ land selection plan submitted by EFNs to IMC for review and circulation to Parties.</p> <p>IMC Review and feedback to EFNs on submitted templates and land selection plans.</p> <p>Request EFNs to confirm land selections by BCR in accordance with the MFA.</p> | <p>CHAIRPERSON</p> | <p>April 30/11 April 30/11 September 1/11 September 30/11 September 30/11</p> | <p>Letter and template mailed to 8 EFNs with outstanding Crown Land selections. (BLFN and NFN have longer selection periods) COMPLETE</p> <p>Formal request for Parties to assist the eight EFNs in completing their land selection plans and templates for additional selections. COMPLETE</p> <p>Plans are in place to address how and when 8 EFNs intend to complete their Crown Land Selections. NONE SUBMITTED TO DATE.</p> <p>Feedback to EFNs - PARTIES CONTINUE TO MONITOR AND OFFER ASSISTANCE AT PARCEL REVIEW MEETINGS. NOTE THAT MAJORITY OF OUTSTANDING SELECTIONS ARE BY JEFNS (Mathias Colomb = 34,315; BLFN = 38,167; and NFN = 37,483 AND BLFN and NFN have open ended extensions due to outstanding LIS matter.</p> <p>Letter to EFNs requesting confirmation of additional Crown land selections as per MFA.</p> |

| | EFNs | February 28/12 | Additional Crown Land Selections confirmed by BCR. |
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| <p>MARCH 25/11 UND # 3: (IMC Work Plan #1.2) Complete Crown Land Selections: The Chairperson is to revise the draft letter, develop a template to capture the information that IMC would like to see for each planned selection, and circulate it to the IMC representatives by April 8, 2011. The Parties are to review the draft letters and template and provide comments by April 21, 2011 to facilitate the letters being mailed by April 28, 2011. COMPLETE: CHAIRPERSON CIRCULATED DRAFT, RECEIVED COMMENTS, AND MAILED FINAL LETTER ON APRIL 27-11.</p> | | | |

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| <p>ACQUISITION RATES: Schedule B EFNs are entitled to acquire Other Land for conversion to reserve.</p> | <p>The time period for acquisition of Other Land is nearing completion without all possible acres having been purchased by the Schedule "B" EFNs.</p> | <p>Facilitate Resolution: Assemble information submitted by EFNs to IMC in response to IMC's letter of January 28/11 requesting identification of barriers to acquiring Other Land by Schedule B EFNs, and submit analysis and recommendations to the Parties.</p> | <p>CHAIRPERSON</p> | <p>May 31/11</p> | <p>Letter to Parties summarizing the findings of IMC as set out by the EFNs which responded to IMC's January 28/11 request for clarification COMPLETED MAY 30/11.</p> |
| | | <p>With respect to confirmed Acquisitions: identification of "next steps and barriers and issues to be resolved" in order to advance all acquisition parcels. The Parties are to do this through completion and circulation of the Acquisition Tracking Charts to EFNs as part of the Strategic Planning initiative.</p> | <p>PARTIES</p> | <p>May 1/11</p> | <p>"Next steps and barriers and issues to be resolved" to advance all acquisition parcels have been identified and circulated to the EFNs. COMPLETE. Tracking charts circulated on July 15/11.</p> |
| | | <p>IMC to monitor and review the Acquisition Tracking Charts, next steps for each parcel, and milestones targeted for completion by the Parties for each parcel during 2011/2012. To facilitate achieving milestones, IMC will consider recommendations on how best to advance the parcels towards the milestone goal.</p> | <p>CHAIRPERSON</p> | <p>November 1/11</p> | <p>Where deemed appropriate, recommendations are to be submitted to Parties and EFNs on ways and means to resolve issues delaying advancement of acquisitions towards milestone goal of Parties for 2011/2012 CHR attended Schedule "B" forum in BPFN on September 15/11. CHR circulated draft discussion paper on the Acquisition Process to reps on September 30/11. Annual Plan circulated to EFNs on October 6/11. CHR sent final IMC discussion paper to EFNs on November 2/11.</p> |
| | | <p>Analysis by IMC of trends observed through the Acquisition Tracking Chart monitoring process, and report with recommendations to Parties on the results of this analysis of trends respecting the land transfer processing of acquisitions.</p> | <p>CHAIRPERSON</p> | <p>September 30/11</p> | <p>Analysis and recommendations submitted to Parties. COMPLETE: CHR sent final IMC discussion paper to EFNs on November 2/11.</p> |
| | | <p>Review of the next iteration of Tracking Charts (data current to September 30/11, with receipt anticipated by Nov. 1/11) and monitor Parties progress towards meeting milestone goals. Facilitate achieving the milestones with analysis and recommendations.</p> | <p>CHAIRPERSON</p> | <p>November 30/11</p> | <p>Monitor status of achieving milestone goals set by Parties in 3 Party Annual Plan, and facilitate goals with analysis and recommendations in a report to Parties.</p> |

APRIL 28/11 UND # 15: IMC Work Plan 2.8 Acquisition Rates: The Chairperson is to prepare a draft letter to the Parties summarizing the findings of IMC relating to the Schedule "B" EFN's difficulties with acquiring their "Other Land", and recommendations to address these difficulties, and circulate it to the representatives for comments, which comments will need to be returned by May 20/11 in order for final revisions to be made and the letter sent in accordance with the IMC

Work Plan target date of May 31/11. COMPLETE: CHAIRPERSON CIRCULATED DRAFT, CONSIDERED COMMENTS, AND TRANSMITTED FINAL ON MAY 30/11.

APRIL 26/11 UND # 16: IMC Work Plan 2.8 Acquisition Rates: Canada is to submit the long form of Acquisition Tracking Charts to IMC as soon as possible to facilitate the IMC representatives review of these charts to determine if there are common "sticky points" in the land transfer process that would benefit from IMC analysis and recommendations on how best to address the common problem areas in order to advance all acquisition parcels. IMC representatives are to submit their analysis and comments to IMC within 2 weeks of receipt of the long form of Acquisition Tracking Charts from Canada. CANADA RECEIVED FROM TLEC ON APRIL 21/11 BUT NOT CIRCULATED. CARRY FORWARD TO JULY 5/11 UND #10.

JULY/11 UND #10: IMC Work Plan 2.8 - Acquisition Rates: Canada is to submit the completed Acquisition Tracking Charts to IMC as soon as possible to facilitate the IMC representatives review of these charts to determine if there are common "sticky points" in the land transfer process that would benefit from IMC analysis and recommendations on how best to address the common problem areas in order to advance all acquisition parcels. IMC representatives are to submit their analysis and comments to IMC within 2 weeks of receipt of the completed Acquisition Tracking Charts from Canada. CANADA CIRCULATED TRACKING CHARTS ON JULY 15/11. CHR commented on AUGUST 17 and MANITOBA commented on August 25.

OCTOBER 3/11 UND #10: IMC Work Plan 2.8 Acquisition Rates: The Parties are to review the Chairperson's draft discussion paper and recommendations relating to Schedule "B" EFN Land Acquisition confirmations and process times, and provide comments by October 31, 2011. COMPLETE. Comments received on October 6 & 20. Draft #2 circulated on October 24/11, and final discussion paper circulated to EFNs on November 2/11.

OCTOBER 3/11 UND #11: IMC Work Plan 2.8 Acquisition Rates: Canada and Manitoba are to consider submitting a referral to IMC pursuant to MFA Subsection 4.02(3) in order for IMC to consider extensions to the Schedule "B" EFN Land Acquisition periods pursuant to MFA Subsections 4.02(4) and (5), and to advise IMC of their intentions by October 31, 2011. MANITOBA SUBMITTED VIEWS ON DECEMBER 20/11. CARRIED FORWARD TO JANUARY 17/12, 2012 UND #11

JANUARY 17/12 UND #11 IMC Work Plan 2.8 Acquisition Rates: Manitoba and Canada are to meet and discuss submission of a joint referral to IMC pursuant to MFA Subsection 4.02(3) in order for IMC to consider extensions to the Schedule "B" EFN Land Acquisition periods pursuant to MFA Subsections 4.02(4) and (5), and to advise IMC of their intentions by February 1, 2012. NO RESPONSE BY CANADA OR MANITOBA. CARRIED FORWARD AS MARCH 15, 2012 UND #12.

MARCH 15/12 UND #12: IMC Work Plan 2.8 Acquisition Rates: Manitoba and Canada are to meet and discuss submission of a joint referral to IMC pursuant to MFA Subsection 4.02(3) in order for IMC to consider extensions to the Schedule "B" EFN Land Acquisition periods pursuant to MFA Subsections 4.02(4) and (5), and to advise IMC of their intentions by April 12, 2012. CARRIED FORWARD. APRIL 17/12 UND #5

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|---|---|--|--------------------|--|--|
| <p>OUTSTANDING TEAS: There are still 6 EFNs without signed TEAs.</p> | <p>Ensuring that the Parties develop an action plan specific to each EFN without a TEA, to address this situation</p> | <p>Write to Parties and provide a summary of IMC understanding in relation to each EFN without a TEA, and request; copies of the 3 Party Action Plan, and any other EFN issues that may be impeding it proceeding with the TEA that the Party is aware of.</p> | <p>CHAIRPERSON</p> | <p>May 31/11</p> | <p>Letter from IMC to Parties requesting copy of 3 Party Action Plan respecting: a Marcel Colomb FN TEA in 2011/2012, and securing TEAs for the remaining 5 EFNs without signed TEAs. COMPLETE. SENT MAY 30/11</p> |
| <p>2.9</p> | <p>Receipt and review of the 3 Party Action Plan.</p> | <p>Receipt and review of the 3 Party Action Plan.</p> | <p>PARTIES</p> | <p>July 31/11</p> | <p>CHR wrote Parties and requested update on OCTOBER 25/11. Mb replied on December 22/11 and recommended that this topic be added to Strategic Planning agenda on Feb 14/12 for inclusion in 12/13 Work Plan. TLEC replied on January 26/12 and recommended a roundtable and that this be discussed at next IMC meeting on March 6/12.</p> |
| | <p>Monitor implementation of the 3 Party Action Plan</p> | <p>Monitor implementation of the 3 Party Action Plan</p> | <p>CHAIRPERSON</p> | <p>September 30 December 31/11</p> | <p>Comments to Parties on implementation of the 3 Party Action Plan. CF AS 3 PARTY PLAN NOT SUBMITTED.</p> |

APRIL 26/11 UND # 17: IMC Work Plan 2.9 Outstanding TEAs: The Chairperson is to draft a letter to the Parties and provide a summary of what IMC determined during 2010-2011 with respect to why the unsigned EFNs have not moved forward with execution of their TEAs, and request that the Parties develop a 3 Party Action Plan on how the Parties plan to address this matter. The draft letter will be circulated to the representatives for comments, which comments will need to be returned by May 20/11 in order for final revisions to be made and the letter sent in accordance with the IMC Work Plan target date of May 31/11. COMPLETE: CHAIRPERSON CIRCULATED DRAFT, CONSIDERED COMMENTS, and TRANSMITTED FINAL ON MAY 30/11.

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| 2.10 | <p><u>OTHER SPECIFIC ISSUES:</u></p> <p>Other specific issues are occasionally identified that affect MFA Implementation.</p> | <p>Upon identification of specific issues that may be affecting implementation; conduct an analysis of the matter leading to a recommended strategy for facilitating resolution for the Parties.</p> | <p>Reindeer Lake regulation – Effect on BLFN TLE selections. Chairperson is to facilitate the meetings of the Parties convened to reach consensus on how to proceed with resolving this matter.</p> <p>Other: As identified from time to time. IMC will analyze the matter, determine if IMC's involvement is appropriate, the nature of IMC's involvement, and integration of the matter into the IMC Work Plan.</p> | CHAIRPERSON | March 31/12 | <p>Consensus amongst the Parties and BLFN on how to engage Sask Power, and on the accommodation that is required to enable the BLFN TLE selections along Reindeer Lake to advance through the land transfer process.</p> <p>NOV 9/11: ALL PARTY MEETING W SASK and SASKPOWER</p> |
| | | | | CHAIRPERSON | March 31/12 | <p>Specifics dependent upon issue. In general; issue analysis, and development of an IMC consensus on how best to resolve the matter, enable implementation of the MFA, and advance land parcels through the land transfer process.</p> |

| Work Plan Responsibility # 3.0 : Reporting | | | | | | |
|--|---------------------------|---|--|-------------|--|--|
| # | REPORTING TOPIC | FOCUS | REQUIRED ACTIONS BY IMC | IMC LEAD | DUE DATE | TARGET RESULTS BY MARCH 31/12 |
| 3.0 | EFFECTIVE IMC OPERATIONS: | <p>Efficient and effective implementation of the IMC Work Plan.</p> <p>To structure the required actions by IMC on each Work Plan topic by fiscal year quarter.</p> <p>To meet to review progress accomplished during that quarter, and to discuss the topic in light of the completion of the work plan sub components, and information to date.</p> <p>Confirmed meeting summaries will summarize the progress made by IMC towards the year end targeted results, and serve as a self assessment on the extent to which the Annual IMC Work Plan has been achieved.</p> <p>To circulate those IMC meeting summary reports on Work Plan progress to the Parties for their information, and to report on the extent to which the Annual IMC Work Plan has been achieved.</p> <p>To convene other meetings as required to focus discussion on specific topics included within the IMC Work Plan.</p> | <p>2011-2012 Work Plan meeting: April 11/11 Initial meeting; April 28, 2011. Meeting summary circulated by May 26, 2011.</p> <p>July 5, 2011 meeting to review progress made during first quarter. Meeting summary confirmed by July 29, 2011.</p> <p>Oct. 4, 2011 meeting to discuss progress made during second quarter. Meeting summary confirmed by Nov 1, 2011.</p> <p>January 17, 2012 meeting to discuss progress made during third quarter. Meeting summary confirmed by February 7, 2012.</p> <p>March 6, 2012 meeting to discuss progress made during the final quarter, and overall during the fiscal year. Meeting summary confirmed by March 31, 2012.</p> <p>March 20, 2012 Meeting to discuss achievements of IMC with respect to Work Plan and develop 2012/2013 IMC Work Plan.</p> <p>Reviews will be conducted every six months and will include self evaluation by the Chairperson and evaluation by the IMC members.</p> <p>The evaluation will assess the extent to which the Annual IMC Work Plan has been achieved.</p> <p>The Chairperson and the IMC will also assess the Work Plan structure, content, and context, and when appropriate make recommendations to improve the IMC effectiveness and efficiency.</p> | CHAIRPERSON | <p>April 15/11</p> <p>On or about the dates referenced.</p> <p>March 31/12</p> | <p>Confirmed 2011-2012 IMC Work Plan</p> <p>IMC meets Work Plan Target Results by Due Dates.</p> <p>Confirmed meeting summaries summarize the IMC's progress towards the year end targeted results, and serve as a self assessment on the extent to which the Annual IMC Work Plan has been achieved. The April 28/11 meeting summary was confirmed and circulated on May 12/11. The July 5/11 IMC meeting summary was confirmed and circulated on July 15/11. The October 4/11 IMC meeting was confirmed and circulated on October 20/11. The January 17 & 18, 2012 IMC meeting summary was confirmed and circulated on February 1, 2012.</p> <p>In addition, an additional IMC meeting was convened with MIT to focus discussion on highway controlled areas and facilitate resolution of Referral 2007-BPFN-001. The meeting summary was confirmed and circulated on October 20/11.</p> <p>The undertakings accepted by the Party representatives and the Chairperson at these meetings, are recorded in this "annotated copy of the 2011-2012 IMC Work Plan", and review can assist with the IMC's self assessment and illustrate when these were completed by due dates and when they were carried forward.</p> |
| 3.1 | | <p>The IMC is committed to undertaking an ongoing review of the effectiveness of its activities, including the activities of the Chairperson.</p> | <p>Determine Parties intentions with respect to the IMC office accommodation</p> | CHAIRPERSON | <p>July 29/11</p> <p>November 1/11</p> <p>February 7, 2012</p> <p>March 31, 2012</p> | <p>The IMC meeting summaries are to record the extent to which the Annual IMC Work Plan has been achieved by Quarter, and these will be circulated to the Parties upon confirmation. (Approx. 1 month after quarter and 3 weeks after quarterly meeting) Please refer to notes recorded above.</p> <p>IMC will strive for continually improving effectiveness and completion of the Work Plan by year end.</p> |
| | | <p>IMC Office Lease: Lease is to terminate at 400 St. Mary Avenue on May 31, 2012.</p> | <p>Determine Parties intentions with respect to the IMC office accommodation</p> | CHAIRPERSON | <p>March 31/12</p> | <p>Confirmation to 400 St. Mary Avenue that IMC wishes to either renew the lease or terminate the office lease as of May 31, 2012. Confirmation of IMC office space for June 1, 2012. On November 10/11</p> |

| | | | | arrangements for 2012/2013 and take necessary actions. | | | the IMC representatives asked the Chairperson to research four options for alternate office space and submitted by December 30, 2011. Parties have reviewed report and will recommend to SAC that the IMC office be relocated to TLEC. |
|------------|--|---|--|--|--|--|--|
| | <p>JULY 5 UND #9: IMC Work Plan 3.1 - Effective IMC Operations: The Parties undertook to confirm their intentions with respect to the IMC Office (once the present lease expires on May 31, 2012) by September 30, 2011 in order to provide the landlord with time to begin releasing the space, and to facilitate IMC making arrangements respecting moving the IMC furnishings and files to a new IMC Office. TLEC COMPLETED ON SEPT 16/11 and CANADA COMPLETED ON SEPT 23/11; MANITOBA CARRIED FORWARD AND COMPLETED OCTOBER 19/11</p> <p>JANUARY 17&18/12 UND #12: IMC 2012-2013 Work Plan: The Chairperson is to prepare a draft of the 2012-2013 IMC Work Plan and circulate it to the IMC representatives by February 7, 2012 to facilitate comment and discussion on or before the March 6, 2012 IMC meeting. COMPLETE, CHAIRPERSON CIRCULATED ON FEBRUARY 6, 2012.</p> <p>MARCH 15/12 UND #13: IMC Work Plan 3.1 2012-2013 IMC Work Plan: The Parties are to review the draft work plan submitted to them by the Chairperson on February 6, 2012 and submit comments by March 23, 2012. Dependent upon the nature of the comments, a meeting may be required to reconcile the comments and complete and approve an IMC work Plan by March 31, 2012. TLEC COMMENTED ON MARCH 28/12, CANADA AND MANITOBA CARRIED FORWARD TO APRIL: 17/12 UND #6</p> | | | | | | |
| 3.2 | <p>LAND TRANSFERRED: Land must be transferred to reserve in order for MFA to be fulfilled.</p> | <p>Monitor Three Party Selection and Acquisition Tracking Charts which are to be current to April 1 and October 1 and report on progress in achieving milestone targets set by 3 Parties within their Annual Plan.</p> <p>Tracking quantity and type of land transferred to reserve status.</p> | <p>Report on Parties success in achieving Annual Plan milestones upon receipt of Tracking Charts (data current to September 30/11; receipt anticipated by November 1/11), and at year end. (Date current to April 1/12; receipt anticipated by May 1/12)</p> <p>Report on land transferred to reserve status in accordance with indicators developed by IMC in 2010/2011, including: total acres and parcels, Crown acres and parcels, Other acres and parcels, smaller parcels - less than 1000 acres, large acres and parcels, acres by EFN, priority acres by EFN, parcels by EFN, and priority parcels by EFN.</p> <p>Produce financial (actual revenue/expenditure) statements, and submit to Parties along with Chairperson's Statement of Account on a monthly basis.</p> <p>Operate within the budget level set by SAC, and the line item limits set by IMC.</p> | <p>CHAIRPERSON</p> | <p>November 15/11 In Annual Report at year end.</p> <p>On Going throughout year. March 31/12</p> | <p>Progress of implementing Annual Plan and transferring lands is monitored and compared to milestone goals set by Parties for 2011/2012 and reported on.</p> <p>ANNUAL PLAN CIRCULATED ON OCT 6/11. MONITORING TO BE COMPLETED BY COMPARISON TO NEXT ITERATION OF TRACKING CHARTS, NOW DUE BY DEC 31/11</p> <p>Report on Lands Transferred to reserve status during the 2011/2012 fiscal year, in accordance with indicators developed by IMC, BETWEEN April 1/11 and November 1/11 two RRFN acquisitions totaling 395.78 acres, and 1 NHCN selection of 8.881 acres were set apart as reserve.</p> <p>Acceptable financial reports within approved IMC budget levels produced throughout the fiscal year 2011/2012.</p> <p>FINANCIAL REPORTS SUBMITTED TO PARTY DIRECTORS MONTHLY</p> <p>Annual Report produced by June 30, 2012.</p> | |
| 3.3 | <p>FINANCIAL REPORTING:</p> | <p>Effective financial administration within the approved IMC budget and reporting to the Parties on the actual revenues and expenditures of the IMC Office.</p> | <p>CHAIRPERSON</p> | <p>CHAIRPERSON</p> | <p>Monthly reports by the 15th of subsequent month.</p> | <p>Acceptable financial reports within approved IMC budget levels produced throughout the fiscal year 2011/2012.</p> <p>FINANCIAL REPORTS SUBMITTED TO PARTY DIRECTORS MONTHLY</p> | |
| 3.4 | <p>ANNUAL REPORT:</p> | <p>Annual Report to Parties summarizing MFA implementation, including the recommendations of the IMC and the Chairperson for implementation improvement, and a summary of the issues/Matters in Dispute resolved and outstanding at year end.</p> | <p>Produce IMC Annual Report.</p> | <p>CHAIRPERSON</p> | <p>June 30/12</p> | <p>Annual Report produced by June 30, 2012.</p> | |
| 3.5 | <p>ANNUAL AUDITED FINANCIAL STATEMENTS:</p> | <p>Accountability for IMC finances</p> | <p>Engage auditor to produce Audited Financial Statements.</p> | <p>CHAIRPERSON</p> | <p>June 30/12</p> | <p>Unqualified audited statements produced by June 30, 2012.</p> | |

Appendix F



Bulletin No.3 - Acquisitions Adjacent Roads and Highways



IMPLEMENTATION MONITORING COMMITTEE



BULLETIN NO. 3

ACQUISITIONS ADJACENT ROADS AND HIGHWAYS

APRIL 16, 2012

Introduction:

This is the third Bulletin issued by the Implementation Monitoring Committee ("IMC"). Bulletins are an initiative of the IMC, intended to serve as procedural and operational guidelines for the Parties to the 1997 Manitoba Framework Agreement on Treaty Land Entitlement ("MFA"), and to inform the Entitlement First Nations ("EFNs") of policies or procedures affecting the Reserve creation process.

Bulletins will address a variety of subjects selected by the IMC or as proposed by the EFNs ranging from technical interpretations of the MFA to practical operational guidelines.

This Bulletin deals with the treatment of acquisitions adjacent roads and highways, a subject recently considered by IMC in relation to a Buffalo Point First Nation referral. This bulletin will ensure that the consensus reached by the IMC on this matter is shared, and clarifies this implementation matter for the benefit of the MFA Parties and the EFNs contemplating acquisitions adjacent roads and highways.

Topic:

MFA land acquisitions by Schedule "B" EFNs adjacent roads and highways.

Principles are Guidelines:

Discussion of the Selection or Acquisition of land to be set apart as Reserve under the MFA begins with the recognition that the MFA does not supersede Treaty rights of EFNs. Rather, as stated below, the MFA provides guidelines to assist the Parties to the MFA and the EFNs with the land selection/acquisition process in light of the complexity of doing so today, after more than a century of growth, development and land occupancy within Manitoba.

The MFA could not cover all circumstances to be encountered during implementation, and MFA Subsection 3.01(2) confirms that the Principles provide guidelines applicable to the Selection or Acquisition of land by an Entitlement First Nation. In general, situations that are encountered during MFA implementation should be governed by the MFA provisions, and the provisions should be followed; however some MFA provisions are not absolute, and in these situations the principles/guidelines are to be cooperatively adapted to the circumstances of a particular selection or acquisition by the Parties.

MFA Section 13 is clear that the "controlled areas" as defined in *The Highways Protection Act* are ordinarily excluded from land that is set apart as reserve, but the key point is the right of

exclusion by Manitoba is not absolute. The relevant provisions indicate that circumstances may at times be encountered by the Parties that would support the modification of that part of the ROW which is ordinarily to be excluded. (Note: the right of exclusion and the width of the right of way to be excluded are both qualified by the word "ordinarily").

Relevant MFA Principles:

Principles for land selection and acquisition are found in MFA Sections 3.02 to 3.10 inclusive, as well as other articles of the MFA which are incorporated into these Sections (including MFA Sections 13.01 – 13.07 which relate to selections and acquisitions adjacent roads and highways) by reference.

MFA Section 13.01 states:

" Land Selected or Acquired by an Entitlement First Nation will ordinarily exclude:

- (a) Provincial Trunk Highways;*
- (b) Provincial Roads ...*
- (c) roads other than Provincial Trunk Highways and Provincial Roads which are under the jurisdiction of the Department of Highways and Transportation of Manitoba; (Now known as Manitoba Infrastructure and Transportation or MIT)*
- (d) municipal roads unless the Municipality in which the land is located agrees to the transfer ...*
- (e) Developed Road allowances unless the Municipality in which the land is located agrees to the transfer ...*
- (f) ferry landings,*
- (g) airports operated by Manitoba;*
- (h) land withdrawn from disposition to the extent reasonably required and presently used by the Department of Highways and Transportation for gravel, sand, and borrow to maintain a road of the class referred to in paragraphs (a), (b), and (c) and ferry landings...."*

MFA Section 13.03 states:

" The width of the Road Right of Way for land excluded under Paragraphs 13.01 (a) to (e) inclusive will be of sufficient width to include:

- (a) the road surface;*
- (b) lateral drainage ditches;*
- (c) "controlled areas" as defined in The Highways Protection Act,*
- (d) any power lines, telephone lines or natural gas lines which are located adjacent to the road*

and without limiting the generality of Paragraphs (a) to (d) inclusive, the width of the Road Right of Way will ordinarily be:

- (e) 335 meters (about 1,099 feet) for a divided Provincial Trunk Highway;*
- (f) 140 meters (about 459 feet) for an undivided Provincial Trunk Highway;*
- (g) 130 meters (about 427 feet) for an undivided Provincial Road and other roads under the jurisdiction of the Department of Highways and Transportation;..."*

In summary, land selected or acquired by an EFN will ordinarily exclude Provincial Trunk Highways, Provincial Roads, and other roads under the jurisdiction of Manitoba Infrastructure and Transportation (MIT).

Excluded rights of way are to be of sufficient width to include the road surface, lateral ditches, "controlled areas" as defined in *The Highways Protection Act*, and utility lines. Ordinarily the width of the right of way to be excluded will be:

- 335 meters for a divided Provincial Trunk Highway,
- 140 meters for an undivided Provincial Trunk Highway, and
- 130 meters for an undivided Provincial Road,

The Highways Protection Act:

The "controlled areas", as defined in *The Highways Protection Act*, are ordinarily part of the right of way to be excluded from acquisitions before they are set apart as reserve land, and therefore *The Highways Protection Act* needs to be reviewed to understand the definition of "controlled areas".

The Highways Protection Act is divided into four main parts. Part I is entitled Limited Access Highways; Part II is entitled Freeways, Part III is entitled Controlled Areas, and Part IV is entitled General.

The Highways Protection Act also defines key words and phrases, which are relevant to this discussion, as follows:

"controlled area" means the area between the limited access highway or freeway and the control line in relation thereto.

This means in part that controlled areas are not found along every road, but rather only "limited access highways" or "freeways".

"limited access highway" means a highway or a part of a highway that has been designated as, or is, a limited access highway under Part I. (of *The Highways Protection Act*)

"freeway" means a highway or a part of a highway designated as a freeway under Part II. (of *The Highways Protection Act*)

Subsection 2(2) confirms the broad application of *The Highways Protection Act*, as follows,

"Every owner, lessee, tenant, and other occupant of, and every person exercising any licence or right in or to, land that is situated within a controlled area, or that is contiguous or adjacent to a limited access highway, freeway, or provincial trunk highway, is subject to the Act, and, in the construction of structures on the land, the construction and location of entrances to and exits from the highway and the use of structures, land, entrances and exits, shall comply with this Act and the regulations."

This means in part that as soon as an EFN acquires property adjacent to a limited access highway or freeway, *The Highways Protection Act* applies to its acquired property.

The purposes of *The Highways Protection Act* are found in Section 2(1).

"The purposes of this Act are:

- a) *to control the location, construction and use of entrances to and exits from certain highways,*
- b) *to control the use made of land that is contiguous or adjacent to, or lies near certain highways; and*
- c) *control the erection of structures along certain highways.*

with the objects of protecting the interests of the public in the highways, promoting the safety of persons using the highways, and generally furthering the amenities of travel on the highways."

In Part I, entitled Limited Access Highways, it is confirmed in Subsection 6(2) that the Highway Traffic Board may by regulation designate a highway, or a part thereof, other than a freeway, as a limited access highway, in accordance with a procedure described in Subsection 6(3). Subsection 6(4) confirms that a provincial trunk highway is a limited access highway, unless the Highway Traffic Board specifically declares by regulation that it is not.

Subsection 5(1) confirms that no person shall construct, relocate, or substantially alter an entrance to, or an exit from, a limited access highway unless he holds a valid permit for the purpose. For this reason, an EFN wishing to add or relocate an entrance to, or exit from, the limited access highway must get a permit to do so. Subsection 7(1) confirms that Part I of *The Highways Protection Act* does not affect any entrance to, or exit from, a limited access highway that was in existence at the time when the highway became a limited access highway, subject to subsection 7(2).

Subsection 7(2) confirms that an entrance to, or an exit from, a limited access highway may be closed by the traffic board, but if this is done alternate means of access to and from the highway are to be constructed, and in addition, subject to subsection 7(6), compensation may be paid to the owner, as follows:

*"Where the traffic board recommends that an existing entrance to, or exit from a limited access highway be closed and other means of access to and from the highway be provided, the traffic authority, without the consent of the owner, or the lessee of, or other person having an interest in, the land to or from which the entrance or exit leads, may close the entrance to, or exit from, the highway; and, if it does so, it shall construct such other means of access to and from the highway as to it seems reasonable and, in addition, subject to subsection (6) shall pay such compensation as may be determined under *The Expropriation Act* to the owner and lessee of, and any other person who has an interest in, the land."*

Since Subsection 7(2) is subject to Subsection 7(6), it is important to understand that Subsection 7(6) confirms that if a service road is constructed to replace an entrance to, or exit from, the land, no compensation for loss of access shall be paid. Subsection 7(6) states,

"Where the entrance to, or an exit from, a limited access highway is closed under subsection (2), and the other means of access to and from the highway constructed under subsection (2) is a service road that has an exit from, and an entrance to, that limited access highway, no compensation for loss of access shall be paid or is payable

to the owner of any land or interest in the land from which access to the service road is available.”

This means that if MIT approaches an EFN to purchase the “controlled area” portion of its acquisition, and in this “controlled area” there are existing entrances to, and exits from, the limited access highway which will be closed and no longer available to the EFN, that compensation for this is due unless these entrances to, and exits from, the limited access highway are replaced with a service road. This is confirmed in subsection 7(3), which states;

“Subject to subsection (6), the traffic authority may enter into an agreement with the owner of any lands or an interest in lands whose ownership, rights, or privileges, are affected by action taken under subsection (2) for compensating him for loss or inconvenience suffered by him, or for damage to his property, by reason of that action.”

Presumed Objective of MFA Principle contained in Subsection 13.03:

The presumed objective of the MFA principle contained in MFA Section 13.03, (whereby the width of road ROW for land excluded under MFA Paragraph 13.01(c) will be sufficiently wide to include “controlled areas” as defined in *The Highways Protection Act*), is to ensure the purposes and objectives of *The Highways Protection Act* can be achieved. *The Highways Protection Act* does not apply on reserve land, and therefore excluding that portion of the land acquisition from becoming reserve land ensures that *The Highways Protection Act* continues to apply on the “controlled area” portion of the acquisition.

The presumption is that Manitoba negotiated the MFA Section 13.01 – 13.03 provisions as principles to serve as guidelines during MFA implementation to ensure that *The Highways Protection Act* purposes and objectives would ordinarily be preserved after the land acquisition is set apart as reserve.

The purposes of *The Highways Protection Act* do not include the control of land adjacent to a highway for the purpose of acquiring land for a highway expansion or twinning, and the objectives underlying the application of “controlled areas” to private property do not expressly include the acquisition of land for future highway upgrading projects. While the private property owner’s land is already affected by the provisions of *The Highways Protection Act*, (In that there are restrictions on the future uses of the land and on the erection and construction of structures on the land within the “controlled area”) a separate and distinct process needs to be engaged for MIT to purchase (or expropriate) land from private property owners to enable future highway expansion or twinning projects. As a result Manitoba does not need to have a plan in place for future highway upgrading projects to accompany its request for the “controlled area” to be included within the highway right of way and not set apart as reserve along with the balance of a First Nation acquisition. That being said, it is clear that if Manitoba purchases that portion of a First Nation acquisition that is defined as a “controlled area”, future highway expansion or twinning will be facilitated through provincial ownership.

The Highways Protection Act also controls entrances to and exits from limited access highways, which includes Provincial Trunk Highways, unless the traffic board specifically declares, by regulation, that it is not a limited access highway. Subsection 5(1) states,

“No person shall construct, relocate or substantially alter an entrance to a limited access highway from any road or driveway or from any adjoining land, or construct, relocate or

substantially alter an exit from a limited access highway to any other road or driveway or to any adjoining land, unless he holds a valid and subsisting permit for the purpose."

This subsection of *The Highways Protection Act* confirms that MIT does not need to acquire the "controlled area" portion of an EFN acquisition to control the location of future entrances to or exits from a limited access highway. MIT already controls this on recently acquired EFN land, as well as on existing reserve land, that is adjacent a limited access highway or freeway.

It is important for the EFNs to understand that if MIT purchases the "controlled area" from the EFN, the existing entrances to, and exits from, the limited access highway are effectively closed, unless provisions to retain them are negotiated and confirmed. In this case, the provisions of Section 7 of *The Highways Protection Act* come into play and the EFN should, unless a service road is constructed, be compensated for loss or inconvenience suffered by the EFN, or for damage to its property, by reason of action taken that closed the entrances to, and exits from, the limited access highway.

For this reason it is important that the EFN and MIT discuss the future access points required by the EFN at the time that the EFN and MIT discuss the width of the right of way to be excluded, and the effect that this will have on existing entrances to, and exits from, the limited access highway.

"Controlled area" as defined in *The Highways Protection Act*:

As discussed above, *The Highways Protection Act* defines "controlled area" as the area between a limited access highway or freeway and the control line in relation thereto.

The Highways Protection Act defines "control line" as a line that is parallel to the centre line of the limited access highway or freeway and 125 feet (38.1 meters) distant from the edge of the right of way unless the Highway Traffic Board has specifically established control lines.

In those cases in respect of which the Highway Traffic Board has specifically established control lines, *The Highways Protection Act* defines control lines as,

"a line that is parallel to the centre line thereof and such distance from the edge of the right-of-way thereof as the traffic board may have designated, or a line that forms the circumference, or part of the circumference of a circle with the centre at the point of intersection of the centre line of a limited access highway or freeway and another highway and a radius of such length as the traffic board may have designated."

The Highways Protection Act is clear that a variety of widths of "controlled areas" are in place to achieve the purposes and objectives of *The Highways Protection Act*.

Subsection 15(2) enables the Highway Traffic Board to establish control lines or remove them altogether by regulation.

Subsection 15(4) of *The Highways Protection Act* sets out the maximum distance for control lines, (as 250 feet from the edge of the right of way) and also sets out the maximum circumference of "controlled area" circles at highway intersections (as 1,500 feet from the point of intersection of the centre lines of the highways).

In summary, not all control lines are the same distance from the edge of the right of way, and therefore "controlled areas" are also of variable size. Presumably then, *The Highways Protection Act* purposes and objectives can be achieved with various set backs for the control line and various sizes of controlled areas, dependent upon the specifics of the situation.

Size of the "controlled area" affecting acquisitions:

Since the purpose of *The Highways Protection Act* (from Subsection 2(1)) is in part to control the use made of land that is contiguous or adjacent to the highway and to control the erection of structures along certain highways; it is important that private landowners know where the control lines are in relation to their private land holdings, in order to be in compliance with *The Highways Protection Act*.

One means of ensuring that private landowners know where the control lines are located on their private property, and what portion of their private land is located within a "controlled area" is to consult *The Highways Protection Act*. *The Highways Protection Act* references a controlled area of 125 feet (38.1 meters), unless the Highway Traffic Board has specifically made it larger or smaller by regulation. The Highway Traffic Board can then confirm if the controlled area on a property is 125 feet in width, or if it has been made larger or smaller by regulation.

The set back for the control line requested of an EFN by MIT should match the setbacks referenced above, and if they do not, the EFN should request the Traffic Board regulation by which the controlled area was specifically made larger on the property acquired by the EFN. If Manitoba intends to request that a controlled area larger than 125 feet (38.1 meters) be excluded from the future reserve, Manitoba should accompany that request with evidence that the Highway Traffic Board specifically made the controlled area wider by regulation.

A second means of determining where the control lines are located on private property is to consult the maps entitled, "Control Lines and Control Circles Established under The Highways Protection Act", which are schedule "A" of Regulation 569/88 R filed December 19, 1988, and which are filed in the Planning, Design and Land Surveys Branch of the Department of Highways and Transportation. (now known as MIT) The TLEC has a complete set of these maps in house for reference by the EFNs.

Subsection 18(2.1) of *The Highways Protection Act* confirms that,

"In a regulation under this section, a limited access highway or a control line is sufficiently described if its location is indicated on a map adopted or incorporated by reference in the regulation."

Options:

With respect to an EFN acquisition, the MFA principles/guidelines are clear that the PTH right of way is to be excluded from the acquisition. The issue relates to the width of the controlled area/right of way that is sufficient to achieve the purposes and objectives of *The Highways Protection Act* at a specific location. The "controlled areas", as defined within *The Highways Protection Act* are found in variable widths from location to location throughout Manitoba. The question for the parties is how the qualifying phrase "ordinarily" should be applied when

determining the width of the ROW Manitoba is seeking to exclude from the Reserve to be set apart in each given set of facts and circumstances.

There are three main options to address the MFA principles that are applicable to an acquisition adjacent a limited access highway. These three options are for an EFN to;

- 1) Determine the existing control line location and sell the "controlled area" portion of the acquisition to MIT at fair market value,
- 2) Determine the existing control line location and hold the "controlled area" portion as private "fee simple" land and have the balance of its acquisition set apart as reserve, or
- 3) Meet with MIT to discuss details of the EFN's proposed development and access management issues, and through that discussion seek agreement on; highway access points, use of the land adjacent the highway, and the size of a controlled area/right of way that addresses the interests of each party at this location.

With respect to Option #3 above, there are different possible outcomes for similar situations dependent upon the specific circumstances. In order for Manitoba to agree with a smaller controlled area/ highway ROW size it needs to understand the EFN's development intentions, if any. This EFN development plan discussion will also facilitate discussion on the existing and future highway access points that will be required, which is an important issue for both MIT and EFNs.

There are advantages and disadvantages to each of the three options:

Option #1: Determine the existing control line location and sell the "controlled area" portion of the acquisition to MIT at fair market value. Note: If this action leads to closure of existing entrances to, and exits from, the limited access highway, the EFN is also eligible for compensation in accordance with Section 7 of *The Highways Protection Act*.

Advantages:

- This is advantageous to MIT. MIT achieves ownership and decision making on all future land uses within the "controlled area".
- MIT controls future highway access as it purchases the existing highway access points and frontage from the EFN.
- MIT owns the land should Manitoba in the future wish to expand or improve the highway and additional land is required for this.

Disadvantages:

- This is disadvantageous to the EFN. The EFN's existing driveways and other developments in the controlled area are purchased from the EFN and closed. Unless the continued existence of the highway entrances and future access points is confirmed at the time of the sale to MIT, new entrances to and exits from the highway are restricted and only available by way of application for a permit from the traffic board.
- MIT can use the land for itself, lease it, or sell it; and those uses may or may not be compatible with the intended EFN development.
- A large setback (125 feet or 38.1 meters) is not available for future development, and while this land had development restrictions previously, it also had acceptable/authorized land uses previously that are no longer available.

Safety issues:

- The simple act of purchasing the "controlled area" does not address safety issues identified by Manitoba or the EFN. MIT may or may not have confirmed plans for highway improvements and therefore its acquisition of the "controlled area" may or may not address identified safety issues.
- In so much as the sale of the "controlled area" to Manitoba results in closure of all existing access onto the highway, it can be assumed that the safety of the highway has been increased through decreasing the access points.

Option #2: Determine the existing control line location and hold the "controlled area" portion as private "fee simple" land and have the balance of the EFN's acquisition set apart as reserve

Advantages:

- The EFN retains its; existing highway access points (grandfathered), developments if any are located in the controlled area (grandfathered), and developable land with the same land use restrictions as at present. The land is still available for internal service roads, parking, signage, landscaping and to meet green space development requirements.
- Maintaining EFN ownership maintains EFN control of the future use of the "controlled area" and in this way the EFN can ensure that the future use is compatible with the EFN's future development plans.
- Option #2 is neutral for Manitoba as *The Highways Protection Act* continues to apply on the fee simple land holding of the EFN, and the purposes and objectives of *The Highways Protection Act* are maintained.

Disadvantages:

- It is not reserve land, and is taxable.
- The land use and development restrictions that were in place when the land was acquired, continue over a 125 feet width (ordinarily) along the highway.
- If new access points are required for purposes of an EFN development, this option does not address this.
- If Manitoba was seeking to close entrances to, and exits from, the limited access highway through purchase of the controlled area, this option does not address this.

Safety Issues:

- Option #2 does not address safety issues identified by either the EFN or MIT.

Option #3: MIT and the EFN meet to discuss details of any future development intended by the EFN and related access management issues, and through that discussion reach agreement on; highway access points, use of the land adjacent the highway, and the size of a controlled area/right of way that addresses the interests of each party.

Advantages:

- This option has the potential to:
 - a) Reach a resolution that is advantageous to both Parties depending on the outcome of the discussions,

- b) Address the issue of future access points as well as the retention or relocation of existing access points, which is a topic important to both the EFN and MIT.
- c) Address safety issues specific to the site which are important to the EFN and MIT.
- d) Maintain the purpose and objectives of *The Highways Protection Act*, while ensuring that the economic viability of the EFN acquisition is not negatively impacted.
- e) Maintain the EFN's existing developments (grandfathered) which are located in the controlled area, if any.

Summary:

A negotiated resolution can secure the purposes and objectives of *The Highways Protection Act*, (which are presumed to be the objective of the MFA principle/guidelines found in MFA Sections 13.01–13.03), while accommodating and facilitating EFN opportunities for economic development. It can also address the access and safety matters not addressed by Options #1 and #2. The negotiated resolution is dependent upon the specific circumstances of each acquisition.

Reviewing examples of reserves set apart adjacent highways illustrates and confirms that while a "controlled area" is ordinarily 125 feet (38.1 meters) in width, variable widths that are specifically enabled within *The Highways Protection Act*, are possible depending on the circumstances with each EFN acquisition.

Closing Comments:

In general, the MFA Schedule B EFNs have only acquired a small percentage of their MFA "Other Land" to date. It is likely therefore that many future acquisitions will be located along provincial roads and highways. If EFNs acquire land adjacent to limited access highways, (which usually includes Provincial Trunk Highways) or freeways, the frontage will most often be a "controlled area", which is subject to land use and development restrictions via the provisions of *The Highways Protection Act*.

Ordinarily, the portion of the acquisition that is subject to the existing "controlled area" as defined in *The Highways Protection Act* is 125 feet (38.1 meters) wide and will be excluded from the land to be set apart as reserve.

Understanding the purpose and objectives of *The Highways Protection Act* and the use of the "controlled areas" to achieve the purposes and objectives of that Act, could lead the Parties into discussions on how best to achieve the purpose and objectives while being mindful of the EFN's development aspirations associated with their acquired property.

If EFNs discuss their proposed development plans with MIT and MIT is equally open about its future development intentions with respect to the "controlled area" portion of the EFN acquisition it is interested in purchasing; the possibility of the two Parties working cooperatively together and reaching a negotiated resolution is increased. These open discussions will naturally include highway access management and safety issues, and from that discussion and dependent on the circumstances, an outcome might be reached whereby arrangements on access management are agreed to and the depth of the controlled area reduced. This negotiated resolution can

achieve the purpose and objectives of *The Highways Protection Act*, and accommodate the EFN's development plans.

Access points are very important to both the EFN and MIT and confirmation of the continued existence and location of existing access points will facilitate a negotiated resolution. Confirming the number of access points the EFN requires for its proposed development plan, and if the existing authorized highway access points are sufficient may address MIT concerns with highway safety. If MIT and the EFN negotiate an agreement on access management, the size of the controlled area can sometimes be reduced in depth. In order for MIT to agree with a smaller controlled area/ highway ROW size it needs to understand the EFN's development intentions, and access requirements.

Recommendations for EFN/MIT discussions:

It is recommended that given the sensitivity of an EFN to a Manitoba request to purchase a portion of its acquired land (that the EFN has just purchased for purposes of it being set apart in partial fulfillment of its outstanding TLE); that the second option for the EFN, (to retain private title to the controlled area), also be confirmed as an option at the first meeting between the EFN and MIT.

It is recommended that Manitoba explain at the first parcel review meeting why in the specific circumstances associated with each acquisition that it needs to exclude the ROW to the extent proposed.

It is recommended that Manitoba confirm at the first meeting that it is not offering to purchase the "controlled area" for purposes of highway expansion or twinning, and that MIT has no confirmed plans to do so.

It is recommended that MIT and the EFN discuss details of the EFNs proposed development and related access management and safety issues, and through that discussion seek agreement on; future highway access points, use of the land adjacent the highway, and the size of a controlled area/highway right of way that reflects the specific circumstances while addressing the legitimate interests of Manitoba to maintain highways and the legitimate economic development interests of the EFN.

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