

FIRST NATIONS CONFEDERACY INC.

EXECUTIVE REPORT

Submitted To:

Indian and Northern Affairs Canada
Province of Manitoba
Royal Commission on Aboriginal Peoples

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ORIGIN

First Nations Confederacy Inc. originally derived from the Manitoba Indian Brotherhood Inc. which was formed in 1969. The Manitoba Indian Brotherhood Inc. originally had the membership of all the Bands in Manitoba.

Together, the Bands developed a publication entitled "Wahbung-Our Tomorrows". The intent of "Wahbung" and of the Manitoba Indian Brotherhood Inc. was stated as follows:

"The four Indian Tribes of Manitoba - the Cree, Ojibway, Chipewyan and Sioux - by united effort through the Manitoba Indian Brotherhood, present to the Canadian people through their government our position on policies necessary to achieve a just and honourable and mutually satisfactory relationship between the people of Canada and the Indian people of Manitoba.

It is sad that in this enlightened age in this democratic country, a people necessarily must declare themselves. But we, the Indian Tribes from all the Indian Bands in Manitoba, hope that there will follow an understanding and commitment by everyone so that there will be a better future for all in the land we all love.

We approach the non-Indian people of Canada as men of honour speaking to another honourable people. We hereby declare our confidence in the integrity and goodwill of the majority of the people of Canada. The integrity and goodwill of their representatives have been tried in the past and found badly wanting, and we live today with the results. But until proven otherwise, we trust that this is a new age in which the Canadian public will clearly encourage and support their political representatives in working with us to achieve an honourable relationship with the original people of this land.

Canada will not long maintain a position of respect in the councils of the world so long as her citizens live in degradation and despair.

She will not long maintain that position of respect so long as she attempts to force changes upon her first citizens irrelevant to the situations in which we find ourselves.

We are prepared to work with the Government of Canada, the government that represents the people of Canada. But we are no longer prepared to be manipulated by it, however enlightened and well intentioned that manipulation might be.

The history and past policies regarding the Indian people cannot and must not be ignored, for their effects are with us all in the present Indian fact. To deny the past and to refuse to recognize its implications, is to distort the present; to distort the present is to take risks with the future that are blatantly irresponsible.

Consultation and negotiations with Indian people are finally underway. As co-signers of the International Declaration of Human Rights, Canadians can do no less:

Article 1

1. All peoples have the right of self-determination. By virtue of the right they freely determine their political status and freely pursue their economic, social and cultural development.

2. The peoples may, for their own needs, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

The States Parties to the Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the United Nations Charter.

Appendix 2, Universal
Declaration of Human
Rights.

"Without justice there can be no freedom, and without freedom there can be no peace. To the Canadian public and to their government, this proposal for changes in policy is directed."

The mandate of the Manitoba Indian Brotherhood Inc. was most eloquently explained in "Wahbung's Message of the Grand Chief" who was then Chief Dave Courchene:

"We, the first people of this land now called Manitoba, are a people of indomitable will to survive, to survive as a people, proud, strong and creative.

During the centuries in which we lived on this land, we faced many times of struggle, for the land is not always kind, and our people like any other people had to find ways to adapt to a changing environment.

These last one hundred years have been the time of most difficult struggle, but they have not broken our spirit nor altered our love for this land nor our attachment and commitment to it. We have survived as a people.

Our attachment means that we must also commit ourselves to help develop healthy societies for all the peoples who live upon this land. But we will not be able to contribute unless we have the means first to develop a healthy society for ourselves. Since the signing of the Treaties one hundred years ago, we have been constantly

and consistently prevented from doing so.

Three fundamental facts underlie this paper and are reflected in all aspects of it.

First, we are determined to remain a strong and proud and identifiable group of people.

Second, we refuse to have our lives directed by others who do not and who cannot know our ways.

Third, we are a 20th-century people, not a colourful folkloric remnant. We are capable and competent and perfectly able to assess today's conditions and develop ways of adjusting positively and successfully to them.

Other Canadians must recognize those three facts.

We ask you for assistance for the good of all Canada and as a moral obligation resulting from injustice in the past, but such assistance must be based upon this understanding. If this can be done, we shall continue to commit ourselves to a spirit of cooperation.

Only thus can hope be bright that there might come a tomorrow when, the descendants of the settlers or our lands, can say to the world, look, we came and were welcomed, and then we brought much despair; but we are also men of honour and integrity and we set to work in co-operation, we listened and we learned, we gave our

support, and today, we live in harmony with the first people of this land who now call us, brothers.

We hope that tomorrow will come."

MANDATE

"A century of government administration and government and church control increasingly restricted the social and physical mobility of Indian people. The effects of living in an atmosphere of state dependency, where virtually all decisions relating to your life and your future are made by others, has brought about a situation where the psychological barriers to change are such that it will require a conscious effort on the part of Indian people to effect change in a manner consistent with their own objectives. From a life of productivity and harmony with nature the Indian has been forced to marginal economic activity, with all its uncertainties and tragedies.

In developing new methods of response and community involvement it is imperative that we, both Indian and Government, recognize that economic, social and educational development are synonymous and thus must be dealt with as a "total" approach rather than in parts. The practise of program development in segments, in isolation as between its parts, inhibits if not precludes, effective utilization of all resources in the concentrated effort required to support economic, social and educational advancement.

In order that we can effect change in our own right, it will be necessary to develop a whole new process of community orientation and development. The single dependency factor of Indian people upon the state cannot continue, nor do we want to develop a community structure that narrows the opportunities of the individual through the transferral of dependencies under another single agency approach.

It is generally recognized that the strength of society rests with the inter-dependency of people, one upon the other, and the development of the community of interest that exists between all people to pursue progress and a better way of life. For the Indian (people) this will mean a conscious effort to develop inter-relationships that have for a century been inhibited by continued state control.

To effect such a change will require the development within the community of a broad range of organizations devoted to and concerned with the advancement of (the Indian) people. These would include local governments, school boards, community clubs and recreation organizations, plus the evolution of spontaneous organizations. They would effect change through the voluntary nature of activities which spring from the Indian community.

The transition from paternalism to community self-sufficiency may be long and will require significant support from the state, however, we would emphasize that state support should not be such that the government continues to do for us, that which we want to

do for ourselves.

We would emphasize for the purpose of clarity and to avoid any misunderstanding that the Indian Tribes of Manitoba are committed to the belief that our rights, both Aboriginal and Treaty, emanate from our sovereignty as a nation of people. Our relationships with the state have their roots in negotiation between two sovereign peoples.

There can be no delegation of authority or responsibility by the federal state to the Province without our consent. There can be no deviation or alteration in this relationship without mutual consent. The Indian people enjoy "special status" conferred by recognition of our historic title that cannot be impaired, altered or compromised by federal-provincial collusion or consent.

We regard this relationship as sacred and inviolate."

The Treaties of one hundred years ago were entered into with high hopes that they would ensure forever harmonious relationships between the European settler and Aboriginal owners of this land. They did not have this effect. During the past 100 years the Indian has been a constitutional oddity in that having signed a Treaty with the Crown that provided the very basis for the existence of this province we have by that same act been denied our provincial rights as provincial citizens and have been looked upon by successive governments of this province as wards of the federal state. Provincial Government after Provincial Government have

denied their responsibilities to the Indians of Manitoba, have coldly and calculatedly turned their backs on the reality of the Indian fact and have allowed a significant sector of our collective society to live in poverty and deprivation while white society pursued progress and prosperity unconcerned for the fate of the Indian people.

During recent years, with the organization of Indian people and through an increasingly effective voice, the Indian people of this province and indeed of all of Canada have demonstrated that they will no longer be passive observers of the advancement of all society for the benefit of all. We make this statement with dedication and purpose for we will no longer be foreigners in our own land for our roots are deeply imbedded in this soil and we will no longer be physically or socially dispossessed.

We are pleased to note and publicly recognize that this government, this Provincial Government has been the first to actively recognize that as a Provincial Government they do have responsibilities to the native population and have in both words and deeds made some commitment to the advancement of native people.

It is essential that we build upon new relationships to strengthen our society. We must recognize our mutual concern and develop a basis for mutual commitment to develop a process for social change. The continued denial of the Indian people of Manitoba is denial of all society for there can be no truly just community if one man's progress is made at the expense of another

man's degradation.

We would emphasize our unique bond with the Federal Government. This relationship with the Federal state is inviolate, based on solemn Treaties and historic precedence. Obligations of the Federal Government cannot be delegated, compromised or impinged upon by the province - that relationship and those obligations we hold sacred."

STRUCTURE

In August of 1980 the structure of the Manitoba Indian Brotherhood Inc. was re-organized and its name was changed to Four Nations Confederacy Inc. in order to give government a stronger impression of our intent, that "old rights must be attested to - (and) old rights made right". The mandate and philosophy of Four Nations Confederacy Inc. remained the same as that of the Manitoba Indian Brotherhood Inc.

In 1981 the northern Bands withdrew their membership from Four Nations Confederacy Inc. and formed their own political organization known as Manitoba Keewatinowi Okimakanak.

In October of 1982 the Four Nations Confederacy Inc. changed its name to First Nations Confederacy Inc. The organization still retained the original mandate and philosophy of the Manitoba Indian Brotherhood Inc. However, membership had declined to 26 member Bands, and the number of employees had declined from over 30 in 1980 to 20 by 1983.

Membership further declined in October of 1985 when the Bands of the Southeast Resource Development Council withdrew, followed by the Bands of the Dakota Ojibway Tribal Council in July of 1987, leaving First Nations Confederacy Inc. with 13 member Bands.

A year later, in August of 1988, the Assembly of Manitoba Chiefs was established by all the Bands of Manitoba to represent the Bands on matters of common concern. The Assembly of Manitoba

Chiefs has made significant progress on a number of political issues and has been able to expand its operation to include Staff Advisors in Child Welfare, Economic Development, Education, Health, Housing and Inter-Governmental Affairs.

ROYAL COMMISSION ON ABORIGINAL PEOPLES

First Nations Confederacy Inc. has been involved with the Royal Commission on Aboriginal Peoples since December of 1991. First Nations Confederacy Inc. made an initial presentation to the Royal Commission on Aboriginal Peoples in April of 1992.

In order to continue participating in this process, First Nations Confederacy Inc. submitted a funding proposal in July of 1992 for the Intervenor Participation Program of the Royal Commission on Aboriginal Peoples.

Our rationale was:

To ensure that all First Nations Confederacy Inc. Bands, and Band members are aware of the Royal Commission on Aboriginal Peoples, and to ensure that everyone is given the opportunity to express his/her concerns and/or views.

To promote better communication and understanding between the non-Aboriginal community and the Aboriginal community.

To provide a forum of Indigenous Peoples to present what they consider to be solutions to the issues that directly affect the Indigenous community.

Our goal was:

To hold meetings with First Nations Confederacy Inc. Bands at the community level.

Our original funding proposal was in two phases, with Phase I commencing on April 1 of 1992 to March 31 of 1993, and with Phase II commencing April 1 of 1993 to March 31 of 1994. Our proposed budget for Phase I was in the amount of \$155,000. Less than 20% of our budget was approved and it now only encompassed a 10 month time

period from November of 1992 to August of 1993.

A substantial amount of work had taken place prior to this time period for which expenses could not be recovered. More specifically, a position paper on housing had been developed. The main points of the position paper are reflected in the following portion of this report.

HOUSING

Statement of Principles

The Chiefs of First Nations Confederacy Inc. took the opportunity to speak in one united voice on the issue of on-reserve housing in response to Indian and Northern Affairs Canada's "Laying the Foundations of a New On-Reserve Housing Program".

The Chiefs of First Nations Confederacy Inc. unilaterally rejected the proposals of the Federal Government. "Cost-sharing" schemes are unacceptable to First Nations.

The Chiefs of First Nations Confederacy Inc. consider housing to be a Treaty right. All Treaties relate to the general health and well-being of the Treaty people. Shelter is essential to the health and well-being of any group of people. Therefore, housing is an indisputable Treaty right. The Federal Government's Sacred Treaty obligations to the Treaty First Nations must be honoured.

The Treaty First Nations will monitor Federal Government policies related to on-reserve housing to ensure that such policies comply with the spirit and intent of the Treaties. The Treaty

First Nations believe that Treaty rights are portable. Therefore, housing should be available on or off-reserve to Treaty First Nation citizens.

Treaties did not extinguish the inherent right to Self-Government. The development, implementation, and administration of housing programs is within the jurisdiction of First Nations Self-Government.

Each First Nation has its own community plan and knows its housing requirements. Housing funds should be allocated in accordance with actual housing needs. First Nations will no longer accept partial funding advances which create delays in construction and which contribute to First Nations having to absorb interest and carrying charges with suppliers, contractors, and financial institutions.

The allocation of housing funds for First Nations should be a process which includes the First Nations in the decision-making process. Years ago, the Manitoba First Nation Chiefs met and discussed the regional housing allocation relative to the units available to the needs of the First Nations. The end result was considered to be fair and equitable.

In 1984 Indian and Northern Affairs Canada was allocated additional funds nationally in order to address the shortage of housing in First Nation communities. This allocation was termed "backlog" housing funding. However, no funds were identified on

contribution arrangements specifically for infrastructure requirements. Additional housing units constructed in 1984 created a strain on the existing infrastructure systems.

In cases where there were insufficient funds for infrastructure requirements, First Nations had to borrow funds against future years' housing allocations in order to provide the necessary infrastructure.

With the passage of Bill C-31, demands for on-reserve housing increased. More land is required to accommodate these demands. Existing infrastructure systems are strained. Current Bill C-31 housing infrastructure allocations cover the cost of hook-ups to existing infrastructure, but no additional funds are provided to upgrade the infrastructure systems to meet the increased service demand. The added expense of Bill C-31 housing infrastructure prevents First Nations from providing infrastructure equally to all First Nation Band member's units.

Infrastructure deficits relating to the time frame when Indian and Northern Affairs, Manitoba Region, did not provide \$5,000. per unit, as other regions provided, must be reviewed in order to assess the full amount owed to the Manitoba First Nations.

This raises the following questions which must be reviewed:

When Indian and Northern Affairs Canada, Headquarters, transfers funds to Manitoba Region, what authority does Manitoba's Regional Director General have in withholding funds in specific areas, such as the infrastructure funding component of the housing allocation?

Will Indian and Northern Affairs Canada be held

accountable to reimburse the Manitoba First Nations for funds which were withheld by Manitoba's Regional Director General?

Who will be held accountable for these decisions?

The Manitoba First Nations have Tribal Council Administration Programs which include Housing Inspector/Advisor Programs. The Manitoba First Nations have the capacity to take control of the First Nation Housing Programs. All First Nation Housing Programs, both on and off-reserve, must be transferred directly to the Manitoba First Nations. First Nation housing funding requirements must flow directly from Treasury Board to the Manitoba First Nations.

On-Reserve Housing Requirements

First Nations Confederacy Inc. provided the following on-reserve housing requirements information for inclusion in the Assembly of First Nations Position Paper on Housing.

This information is based on the average actual cost of constructing one 24' x 38' housing unit on-reserve. The total cost per unit includes related infrastructure.

The average costs are:

24' x 38' unit, crawlspace, foundation	\$55,000.
24' x 38' = 912 square feet	
$\$55,000 \div 912 = \60.30 per square foot	
24' x 38' unit, with basement	\$62,000.
24' x 38' = 912 square feet	
$\$62,000 \div 912 = \67.98 per square foot	

The Canada Mortgage and Housing Corporation, Winnipeg Office, provided the following information for April of 1992 average construction costs for a modest home in the City of Winnipeg:

average size - 1,667 square feet
average cost - \$132,416
 $\$132,416 \div 1,667 = \79.43 per square foot

First Nations housing falls significantly below "average" Canadian housing costs.

For reference, a copy of the entire position paper is attached which reflects detailed individual on-reserve housing requirements and issues/concerns.

TAXATION

First Nations, prior to contact with foreign nations, governed their peoples and lands. From earliest contact, First Nations have consistently asserted their independent and separate existence from any tax external governments impose on their citizens. The Royal Proclamation of 1763, the numbered Treaties, the Jay Treaty, named Treaties and Treaty Council meetings all reflect the immunity of First Nations from any external tax regime.

First Nations have never surrendered nor relinquished our Aboriginal or Treaty rights to autonomous fiscal jurisdiction and to immunity from taxation by other governments. Our Aboriginal and Treaty rights are also recognized and affirmed in Section 35 of the Constitution. The unique place of Indian peoples within Canadian Society is reflected in the Constitutional recognition and affirmation of their Aboriginal and Treaty rights, and in their special historic relationship with the Crown.

The Government of Canada states that it is committed to renewing and strengthening this special relationship with the First Nations. In recent years, the government and First Nations have been working towards agreement on constitutional, policy, and legislative changes to support the objective of Indian Self-Government. At the same time, the Royal Commission on Aboriginal Peoples is examining a broad range of issues affecting Aboriginal Peoples, including ways of implementing Self-Government.

In December of 1990 the Minister of Finance announced that the Federal Government was initiating a review of Indian Taxation. This review is being conducted by the Indian Taxation Policy Group of the Department of Finance.

The purpose of the Indian Taxation Policy Review is to develop a federal policy on a new tax relationship with First Nations in the context of Self-Government, one that defines the tax powers of Indian Governments and, where applicable, provides clearer rules for exemption from non-Indian Government taxation.

In one form or another, a tax exemption in respect of Indian property on reserves has existed since before Confederation. In all of its forms, the exemption has been closely linked to the occupation of Indian lands by Indians. The effect of this exemption is to provide a wide-ranging statutory immunity from non-Indian Government taxation for the property of Indians and Bands where that property is situated on a reserve.

The Indian Act provides that, notwithstanding any federal or provincial law, no tax shall be payable in respect of the interest of an Indian in reserve or surrendered land and in respect of the personal property of an Indian or Band which is situated on a reserve. Where property is purchased by the Crown with Indian moneys or moneys appropriated by Parliament for the use and benefit of Indians or Bands, or is given to Indians or Bands under a Treaty or agreement, the property is deemed to be always situated on a reserve.

The exemption has several unique characteristics. It predates most contemporary forms of taxation, and its generic wording applies equally to all forms of taxation in respect of Indian property on reserves. And, reflecting the special status of Indians, it relies on the personal characteristics of individuals - their status as Indians; and, the particular geographic location of their property within Canada - reserves. The exemption applies both to Indians who have signed Treaties with the Crown and those who have not.

The Income Tax Act does not specifically refer to Indian Band Councils or corporations owned by them. However, Revenue Canada Taxation considers Band Councils to be exempt where they have passed at least two by-laws under the authority of particular sections of the Indian Act. In addition, the property of Indian Bands which is situated on reserves is exempt from federal and provincial tax by virtue of the Indian Act.

The Supreme Court of Canada has held that in relation to the Indian Act exemption, "personal property" includes income for the purposes of income taxation. However, attaching a geographical location to personal property for the purpose of applying the exemption has raised difficulties, particularly in the context of income. This is largely because income has no physical manifestation, but is in effect a debt owed by the payer to the recipient. (Under the Income Tax Act a tax is levied on the taxable income of every person resident in Canada, but neither the

Income Tax Act nor the Indian Act provide a mechanism for determining where that income is physically located.)

First Nations Confederacy Inc. continued the work commenced by the Manitoba Indian Brotherhood Inc. which was incorporated in 1969 as a result of the policy of the Department of Indian and Northern Affairs Canada and other Federal Government departments that fund on-reserve activities. These departments required a corporate entity to receive funds, as individual Indians or Bands were not permitted to receive funding.

Both the Manitoba Indian Brotherhood Inc. and the First Nations Confederacy Inc. were incorporated as non-profit organizations in order to be eligible to receive funding to promote economic and employment activity on the reserves for which they were intended to benefit. These funds were Indian money or moneys appropriated by Parliament for the use and benefit of Indians or Bands.

Over the years First Nations Confederacy Inc. has re-organized its affairs on the basis of previous court interpretations and in order to comply with Revenue Canada's regulations respecting income tax exemption. For many years the Treaty Indian employees of First Nations Confederacy Inc. were considered exempt from employment income taxation.

Then, in January of 1992, each individual past and present Treaty Indian employee was advised by Revenue Canada that they no

longer considered First Nations Confederacy Inc. as being resident on-reserve, and therefore, their employment income was now taxable. To date, Revenue Canada has refused to meet with First Nations Confederacy Inc., and has refused to provide the reasons behind their decision.

As a result of Revenue Canada's decision, Revenue Canada went ahead and reassessed the Treaty Indian employees tax on their employment income for the 1990, 1991, and 1992 taxation years.

Numerous meetings and consultations with legal counsel took place, at the expense of First Nations Confederacy Inc. Both human and financial resources were requested from Indian and Northern Affairs Canada in their role as our trustee. Only limited human resources were provided.

Assistance was also requested from our national organization, the Assembly of First Nations, and from the provincial organization, the Assembly of Manitoba Chiefs. Ten months later, in October of 1992, the Assembly of Manitoba Chiefs began take a lead role on behalf of the agencies and organizations already affected by Revenue Canada's decision, and those who could be potentially affected.

The Assembly of First Nations formed an Assembly of First Nations Taxation Planning Committee which first met in December of 1992.

The objectives of this committee are:

1. To reach a common understanding with Revenue Canada on the following matters until more conclusive jurisdictional arrangements have been made with First Nations:
 - the interpretation of the Williams case and the application of section 87 of the Indian Act to employment income;
 - the issue of the Goods and Services Tax and its implications in relation to First Nations' citizens, institutions and businesses; and
 - the issue of customs and duties and its implications on First Nations, First Nations' citizens and First Nations institutions.
2. To reach agreement with the Government of Canada, through discussions with the Department of Finance, on:
 - the extent of taxation jurisdiction exercisable by First Nations;
 - the mechanisms through which First Nations will exercise their taxation jurisdiction; and
 - a process for First Nations to enter into conventions on taxation with the Government of Canada.

Later, in December of 1992, Revenue Canada unilaterally introduced federal policy changes on the application of section 87 of the Indian Act respecting tax exemption as a result of the Supreme Court of Canada's decision in Glenn Williams v. The Queen. As a result of the Williams decision, the salary of an Indian will no longer be exempt merely because it is paid by an employer situated on a reserve.

Revenue Canada recognizes that some Indian individuals and organizations, who have arranged their affairs on the basis of previous court interpretations, may be negatively affected by the application of the Williams decision. Consequently, the government will introduce a remission order to provide a reasonable period of

transition.

This remission order, which will be effective until December 31, 1993, will remit tax on salaries and wages received by an Indian from an employer situated on a reserve where such salaries and wages would have been tax exempt prior to the Williams decision.

The Assembly of First Nations Taxation Planning Committee issued a statement to the Government of Canada in February of 1993 that Revenue Canada's interpretation of the Williams decision is without foundation and does not reflect the principles expressed by the Supreme Court in Nowegijick and Williams.

The committee took the following positions on taxation issues:

1. First Nations are immune from all forms of Canadian taxation, based on Aboriginal and Treaty rights.
2. Section 35 of the Constitution Act, 1982 protects Aboriginal and Treaty rights, including the immunity from taxation.
3. Section 87 of the Indian Act and the Nowegijick case do not create the right of tax immunity, but merely recognize the existing right in particular situations.
4. The Williams case does not in any way overrule the Nowegijick case. On the contrary, it affirms the Nowegijick decision and extends the application of immunity to the very particular situation of Unemployment Insurance. In fact, the Court in Williams, stated specifically that it was not an appropriate case to establish rules of situs for employment income and that it was not doing so.

5. Not only is the December 29 (1992) Directive not justified on a proper reading of Williams, but it also represents a unilateral policy change in a matter directly affecting Aboriginal and Treaty rights. Therefore, the actions of the Crown violate the legal duty to consult Aboriginal Peoples which is an aspect of the special relationship affirmed in the Sparrow case. Further, it clearly brings the honour of the Crown into disrepute.
6. The committee's view is that the matter should be properly addressed in a political negotiation on a nation-to-nation basis. No policy change should be implemented nor any change made to continuation of existing remission orders until that negotiation is complete. Accordingly, the proposal to terminate existing remission orders is not acceptable.

The committee further stated that a new era of First Nations and Canadian Government relations is unfolding, an era based on mutual respect and understanding. Until there has been proper consultation with First Nations, it is inappropriate for Canada to make unilateral changes impacting the entire area of fiscal relations between First Nation Governments and Canada. It was their view that the December 29 (1992) directive is in conflict with the consultation anticipated by the Department of Finance's current proposals.

Given the importance of this issue to First Nations, if the matter is not negotiated honourably on a nation-to-nation basis, it will seriously harm the overall relationship between First Nations and Canada.

In March of 1993, at an Assembly of First Nations Special Chiefs' Assembly, the committee was mandated to carry out discussions with the Government of Canada aimed at:

- Reaching agreements with Revenue Canada on the application of the Section 87 Indian Act exemption to First Nations, First Nations citizens and First Nations institutions pending broader jurisdictional taxation arrangements for First Nations; and
- Reaching agreement with the Department of Finance on a process to arrive at a tax convention to address First Nations jurisdiction over taxation.

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FIRST NATIONS' LAND CHARTERED ACT

The proposed First Nations' Chartered Land Act was developed and presented to the Federal Government by seven Chiefs from across Canada. The Federal Government refers to this Act as a "Chiefs" initiative, and that this legislation is "optional". This optional legislation would enable First Nations to choose between remaining under the land administration sections of the Indian Act, or to opt into this new land management regime which would transfer responsibility of land management to First Nations.

These seven Chiefs established the First Nations' Lands Board consisting of the following members:

Chief Robert Louie (Chairman)	Westbank First Nation	B.C.
Chief George Guerin	Musqueam First Nation	B.C.
Chief Strater Crowfoot	Siksika First Nation	AB.
Chief Austin Bear	John Smith First Nation	SK.
Chief Francis Flett	Opaskwayak Cree F.N.	MB.
Chief Gerald Beaucage	Nipissing First Nation	ON.
Chief Daniel Kiskokomon	Walpole Island F.N.	ON.
Commissioner Philip Goulais	Indian Commission of ON.	ON.

Although the Chiefs' efforts resulted in the First Nations' Chartered Land Act, their original work was focused specifically on section 53 and/or 60 of the Indian Act authority. Five of the seven First Nation communities represented by the Chiefs presently exercise delegated land administration authority from the Minister under sections 53 and/or 60.

In 1988 the Westbank First Nation filed a suit against the Minister for unilaterally revoking section 60 authority. The case was settled out of court and included an agreement that the Federal

Government and the nine First Nations across Canada with delegated Ministerial authority would jointly review the funding level and policy set by the department.

After 18 months of review by the Chiefs during 1988 and 1989, the Federal Government accepted the Chiefs' proposal for a new funding formula for First Nations operating with delegated Ministerial authority under the Indian Act. The new formula significantly enhanced the funding level for land administration.

The Chiefs then reviewed the department's policy on which delegated land authority was based. After 18 months of analysis during 1989 and 1990, the Chiefs decided not to continue operating under the land administration sections of the Indian Act because of its paternalism, ambiguity, and inconsistency.

As a result, beginning in January of 1991, the Chiefs began to consider the components for a new optional legislative basis to manage reserve lands. In December of 1991 the Chiefs met with the Minister and identified 30 components as the basis for the new optional First Nations' Chartered Land Act. The Minister agreed to support the Chiefs' initiative.

Throughout 1992 the Chiefs developed the technical wording to describe the 30 components in legislation. In December of 1992 the Chiefs' draft of the new optional First Nations' Chartered Land Act was formally submitted to the Minister.

The Minister agreed to present the proposed new optional legislation to Cabinet in April of 1993. If Cabinet supports the new optional First Nations' Chartered Land Act, the Minister will present the bill to Parliament for first reading in June of 1993.

If the First Nations' Chartered Land Act is passed by Parliament it will dramatically change the nature of negotiations between First Nations and Canada.

Some of the legal implications of consenting to the First Nations' Chartered Land Act would include:

1. The First Nations' Chartered Land Act devolves Federal fiduciary obligations from Canada to First Nation Governments in the area of land management. Rather than Canada holding the position of legal fiduciary on behalf of the Crown for First Nation citizens and their reserve land, the First Nations' Chartered Land Act places the legal fiduciary responsibility on the shoulders of First Nation Governments.

The decision of the World Court in the Western Sahara case, affirmed that the devolution of fiduciary obligations could be achieved by the consent of the First Nations, or upon the attainment of their self-determination. First Nations should consider whether the First Nations' Chartered Land Act provides sufficient benefits to consent to the devolution of Federal fiduciary obligations in the area of land management.

Finally, the First Nations' Chartered Land Act is not a stand alone initiative, but is part of a larger scheme, advanced initially through the Lands, Revenues, and Trusts Process to devolve other Federal fiduciary obligations in areas of taxation, and through initiatives of local self-government agreements. While the First Nations' Chartered Land Act permits First Nations to opt in or out of the Act, First Nations may, through their involvement in local self-government or taxation initiatives practically lock their Band and their lands into the whole devolution initiative, without carefully choosing to do so from the start.

2. Under the First Nations' Chartered Land Act, title to reserved lands (and possibly other territorial lands reserved under a land claims agreement) is changed. Lands are called "chartered lands". The legal title to those lands is no longer held for the use and benefit of the members; nor are the lands reserved or traditional lands. The lands are to be called "charter lands", the legal title remains with Her Majesty in Right of Canada, but the lands are subject to First Nations Land Charters.

A Court will likely not define Chartered lands in the same way as the communal Aboriginal title has been defined. Whereas, at this time, the Aboriginal title is defined by the Court as sui genesis, to be defined by reference to culture and history, under the First Nations' Chartered Land Act, chartered lands will be defined by reference to the First Nations Land Charter. Whereas, at this time, reserve land is held in trust for the use and benefit of all members, under the First Nations' Chartered Land Act, the use and benefit will be defined by reference to the First Nations Land Charter. Nor can we anticipate whether all First Nations Land Charters will be developed to continue the benefit in the land to First Nations citizens. This will be the subject of the First Nations Land Charter.

In summary, First Nations ownership of reserved lands will pass from a communal title, held in trust for the benefit of First Nations citizens by Canada, to a title called "chartered lands", which are held and defined pursuant to the enactment of a Charter which must be consistent with Federal law.

3. The jurisdiction of First Nations to define a First Nations Land Charter consistent with Aboriginal law is limited by the First Nations' Chartered Land Act, and the Bands and Tribunals established under the Act. All Land Charters must be consistent with the First Nations' Chartered Land Act (Federal jurisdiction) and First Nations land boards established under the Act, and First Nation appeal tribunals also established under the Act, have been assigned power to ensure, among other things, that Land Charters are consistent with this Federal legislation. Neither the First Nations Land Board (whose members are nominated by First Nations, but appointed by Canada) nor the

Appeal Tribunal will necessarily be controlled by First Nation members, and definitely will be staffed by persons who will be empowered to make decisions about First Nations, and their lands.

The First Nations' Chartered Land Act can be amended by Canada without First Nations' consent, although such amendments must involve consultation with the Chiefs of the Bands whose land is under the First Nations' Chartered Land Act.

4. The Treaty obligations of the Crown are changed by this Act. Treaty First Nations opting into the First Nations' Chartered Land Act are suspending the Crown's obligations under Treaty to manage and administer reserve lands. Further, many First Nations understood that no reserved land could be taken by the Crown except with their expressed consent. Under the First Nations' Chartered Land Act, Parliament or Provincial legislatures may expropriate chartered land for purposes of a national emergency. Further, Canada may acquire a compulsory "licence of use" of chartered land without the agreement of a First Nation if a number of specific conditions are met. Finally, reserved lands were established as a Treaty term to benefit the descendants of the Treaty and no one else. The Indian Acts have already created conflict in this area. The First Nations' Chartered Land Act will undoubtedly create even greater conflict as there is no requirement that First Nations' Chartered Land Act Charters must be consistent with Treaty rights.
5. For First Nations with or without Treaty, the expropriation provisions and the compulsory "licence of use" clause derogate from existing section 35 protection. There is a strong legal argument that since the passage of section 35, reserved lands can only be taken with the consent of the First Nations involved or by Constitutional amendment. The First Nations' Chartered Land Act would likely be construed as providing the necessary "consent".
6. First Nations operating under a land charter will receive "appropriate funding on a long term basis". The First Nations Land Boards will be given power to deal with disputes regarding the level of funding for the First Nation involved.

This funding arrangement raises a number of questions:

1. Will the government fund those First Nations who agree to the First Nations' Chartered Land Act, in a manner which favours Bands co-operating with this new system?
2. Will the First Nations Lands Board become the focus for attack by First Nations (instead of government) for the government's failure to provide adequate funding?
3. Will the funding continue when Canada deems that the "long term" has ended?
4. Will First Nations be required to become economically self-sufficient in managing their chartered lands?
5. To this end, will First Nations be expected to tax their members, and other chartered land users in order to achieve economic self-sufficiency?
6. Perhaps the most serious unanswered question regarding the financing of First Nations under the First Nations' Chartered Land Act is the question of liability. It is likely that Canada will argue that the fiduciary obligations have shifted to the First Nation Governments for decisions which are made under the First Nations' Chartered Land Act, and challenged by a Band member or third party. In the case of a successful claim for breach of fiduciary obligations, who will pay for the judgements?
7. The First Nations' Chartered Land Act protects existing rights, interests and obligations with respect to reserved land; although the Government of Canada will be liable for acts or omissions that occurred before the adoption of a land charter. Unless this clause is carefully worded, it may have the effect of perfecting the title of those third parties presently using reserved land illegally; while leaving Canada liable to pay damages if Canada is responsible for third parties being on reserve land through some act or omission by them. Many claims presently before the Office of Native Claims seek third party removal or renegotiation if their title to reserve land has been granted by Canada in error. These claims may become damage claims alone.

8. First Nation citizens lose direct legal benefit and title to their lands. First Nations are given power under the Act to control "chartered lands". Among other things they can:
- a) Grant interests in land;
 - b) Grant rights of use or occupancy;
 - c) Adopt land laws in respect of the land;
 - d) Require land for the collective use and benefit of the community;
 - e) Collect, deposit, manage and spend all revenues and proceeds received from rights and interest in the land.

These are wide powers which effectively divest First Nation citizens of any independent right to use or occupy land, accept as that right has been granted or recognized by the Charter.

RESOURCES

Due to a very extensive investigation into the operations of the Department of Indian and Northern Affairs Canada for which expenses could not be recovered, First Nations Confederacy Inc. incurred a deficit of over <\$227,000> as at March 31, 1987, along with a debt repayable to Health and Welfare Canada for almost \$149,000.

In order to address this huge deficit, First Nations Confederacy Inc. was forced to lay off 13 employees in 1987, leaving a staff of only 7 people to continue to carry out its broad mandate. Through extremely stringent financial restraint First Nations Confederacy Inc. was able to reduce its deficit over the following three fiscal years by almost \$200,000.

However, the Federal Government, through the Department of the Secretary of State, began cutting the Core funding provided to First Nations Confederacy Inc. In the 1989/90 fiscal year Core funding was cut by 15%, in the 1990/91 fiscal year it was cut by 75%, and in 1991/92 no Core funding was provided by the Federal Government although responsibility had already been transferred to the Department of Indian and Northern Affairs Canada.

When Indian and Northern Affairs Canada did implement Core funding in the 1992/93 fiscal year only 60% of our request was provided. The department had hoped to develop an equitable formula prior to the next fiscal year in order to rectify the current inequities. The response from the department for the 1993/94

fiscal year was to further reduce our Core funding by another 10%.

At the same time Core funding was implemented Indian and Northern Affairs Canada also implemented a new regime with respect to consultation funding. Organizations now have to compete for available funds on a project by project basis. In February of 1992 First Nations Confederacy Inc. had submitted a proposal in the amount of \$125,000. It took 7 months for Indian and Northern Affairs Canada to make a decision. Only 40% of our request was funded, and no consideration was given to the work already undertaken while that decision was being made. Government's Agenda Peter to pay Paul i.e. Settling o/s land claims and cutting funding in other areas.

Also in the 1993/94 fiscal year, the Province of Manitoba informed First Nations Confederacy Inc. that they would not be able to provide a grant towards our Core operations. The Province stated that they are determined to control the provincial deficit so that they can maintain their ability to provide essential social services over the longer term.

The Province of Manitoba also indicated that the individual Manitoba Indian Bands now have the opportunity to access new sources of revenue through agreements with the Province on gaming as well as on tobacco and gasoline taxes. The Province suggested that this provides greater capacity for Indian Bands to offer funding support to their central political organizations.

This statement and justification by the Province of Manitoba is completely erroneous. There are 62 Indian Bands in Manitoba and there are only 15 provincial gaming agreements in place which specify that revenue be used for local community requirements and/or services which are either not funded, or only minimally funded.

Further, tobacco and gasoline taxes agreements are not new sources of revenue. These agreements have been put in place in recognition of the fact that Indian Bands are exempt from taxation and were taxed illegally to begin with.

Also, as stated in the Federal Government's Working Draft on Indian Government Taxation:

The recognition of Indian Government Taxation powers should not be seen as an alternative to continued federal funding for Indian people.

Indian Governments currently receive funding from the Federal Government for a number of purposes. Funding is provided to operate the machinery of Indian Government, including the Band Council and related administration. Program funding is provided where Indian Bands have taken over responsibility for the delivery of services that would otherwise be delivered by the Federal Government, for example, education or health care services. Indian individuals, as Canadian citizens, receive individual transfer payments such as Old Age Security benefits. As well, members of First Nations receive certain benefits by virtue of Treaties and Land Claim settlements.

Indian Government taxation should be seen as an avenue for the development of independent revenues. It cannot be viewed as a mechanism for replacing existing funding arrangements for First Nation communities. In many First Nation communities the level of economic activity is such that taxation could, at best, form only a supplementary source of the required revenues for the Indian Government. Even where taxation is seen as appropriate, it will usually generate a stable source of revenue only over the long term.

Where Indian Government taxation is implemented, it will provide additional revenues for the government in question. These revenues should influence the negotiated requirements for funding only when an Indian community has in place an institutional infrastructure and level of service provision that is reasonably equivalent to that in place in surrounding communities. At that point, tax revenues should be taken into account in a manner which retains an incentive to develop tax revenues.

The end results of the Federal Government's decision to reduce funding and of the Provincial Government's decision to eliminate funding to the First Nations Confederacy Inc. will effectively force our doors closed silencing our many years of efforts.

FIRST NATIONS CONFEDERACY INC.

POSITION PAPER

In Response to: Laying the Foundations of a New
On-Reserve Housing Program

The First Nations Confederacy Inc. is comprised of sixteen (16) First Nations Bands in Manitoba. First Nations Confederacy serves two Tribal Councils and three Independent Bands consisting of:

Interlake Reserves Tribal Council

Dauphin River Band
Fairford Band
Lake Manitoba Band

Lake St. Martin Band
Little Saskatchewan Band

West Region Tribal Council

Crane River Band
Ebb & Flow Band
Gambler Band
Keeseekoowenin Band

Pine Creek Band
Rolling River Band
Valley River Band
Waterhen Band

Independent Bands

Fisher River First Nation
Sagkeeng (Fort Alexander) First Nation
Waywayseecappo Band

The First Nations Confederacy Inc. position paper has been divided into three categories:

1. F.N.C. Statement of Principles
2. F.N.C. Housing Requirements
3. F.N.C. On-Reserve Housing Issues/Concerns

FIRST NATIONS CONFEDERACY INC.

STATEMENT of PRINCIPLES

All First Nations Confederacy Inc. Chiefs consider housing to be a Treaty right. All Treaties relate to the general health and well being of Treaty people. Shelter is essential to the health and well being of any group of people. Therefore, housing is an indisputable Treaty right.

Recently developments in the Constitutional reform process of Canada involved the national leader of our largest Aboriginal political organization, National Chief Ovide Mercredi of the Assembly of First Nations. National Chief Mercredi's involvement gave him equal status with Canadian First Ministers. Therefore, the Federal and Provincial Governments shall not develop, revise or implement programs affecting First Nations without their consent.

All First Nations Confederacy Chiefs reject the Federal Government's "melting pot" concept. Canada's Treaty Indigenous people refuse to be categorized as "Aboriginal" along with Non-Treaty, Status, Metis and Inuit people.

Treaty First Nations respect the rights of other Canadian First Nations peoples and wish them success with their separate agendas. However, Treaty First Nations will not permit the Federal Government's to use it's "melting pot" approach to limit the Treaty

Rights to Treaty First Nations. The Federal Government's sacred Treaty obligations to Treaty First Nations must be upheld.

Treaty First Nations will monitor Federal Government policies related to on-reserve housing to ensure that such policies comply with the spirit and intent of Treaties signed with Treaty First Nations.

Treaty First Nations believe that housing is a Treaty Right. Therefore housing should be provided at full cost, not partly funded through subsidies.

Treaty First Nations believe that Treaty rights are portable. Therefore housing should be available on-reserve or off-reserve to Treaty First Nations citizens.

Federal and Provincial governments should provide transfer payments of funds generated from the sale or use of natural resources to First Nations to finance housing for Treaty First Nations.

Treaties signed by First Nations did not extinguish the inherent right to Self-Government of First Nations. The development, implementation, and administration of housing programs is within the jurisdiction of First Nations Self-Government.

First Nations should receive 100% of housing funds up front. First Nations will no longer accept advances of partial funding which causes delays in constructions and cost First Nations large amounts of money in interest and carrying charges with suppliers, contractors, and financial institutions.

Each First Nation has its own community plan and each First Nations community knows its housing requirements. Housing funds should be allocated to each First Nation according to actual housing needs.

Reinstated Bill C-31 returnees require houses. More land is needed to accommodate the additional houses.

Bill C-31 houses strain existing infrastructure systems. Current Bill C-31 housing infrastructure allocations cover the cost of hook-ups to existing infrastructure with no additional funds provided to upgrade infrastructure systems to meet the increased service demand.

The added expense of Bill C-31 housing infrastructure prevents First Nations from providing infrastructure equally to all First Nations Band member units.

Years ago Manitoba First Nations Chiefs met and discussed the regional housing allocation relative to the units available and the needs of First Nations. The end result was considered by all Chiefs to be fair and equitable.

The allocation of housing funding for First Nations should be a process that includes First Nations Chiefs in the decision making process.

In 1984 DIAND was allocated additional funds nationally to address the shortage of housing in First Nations communities. This allocation was termed "backlog" housing funding.

In 1984 no funds were identified on Contribution Arrangements as funding specifically for housing infrastructure purpose.

Additional units constructed in 1984 created a strain on existing infrastructure systems.

In 1984 most First Nations were funded at levels which did not permit the provision of infrastructure for the additional housing units.

In cases where there were insufficient funds for infrastructure First Nations had to borrow money against future years' housing allocations to provide necessary infrastructure.

Infrastructure deficits relating to the time frame when Manitoba Regional Department of Indian Affairs and Northern Development did not provide \$5,000.00 per unit, as other regions provided, should be reviewed to assess the full amount owed to Manitoba First Nations.

This situation raises the following questions:

When DIAND Headquarters transfer funds to Manitoba Region DIAND, what authority does Manitoba's Regional Director General have in withholding funds in specific areas, i.e. infrastructure funding component of housing allocation.

When Manitoba's Regional Director of DIAND holds funds for Manitoba's First Nations, does the Regional Director General have authority to use any funds as Regional "slush" fund?

When will DIAND reimburse Manitoba First Nations for funds withheld by Manitoba's Regional Director General for DIAND?

Are assets purchased for DIAND use for Manitoba First Nations Capital Funds?

Who will be held responsible and accountable for these actions?

All First Nations housing programs, on-reserve and off-reserve, must be transferred directly to Manitoba First Nations.

Manitoba First Nations, F.N.C., have Tribal Council Administration Programs which include Housing Inspector/Advisor Programs. Manitoba First Nations have the capacity to take control of First Nations housing programs immediately.

First Nations housing funding arrangements must flow directly from Treasury Board to Manitoba First Nations.

FIRST NATIONS CONFEDERACY INC.

On-Reserve Housing Requirements

The First Nations Confederacy Inc. is pleased to provide housing requirements information for the Assembly of First Nations Position Paper on housing.

The information is based on the average actual cost of constructing one 24 X 38 housing unit on-reserve. The total cost per unit includes related infrastructure. The average costs are:

24 X 38 unit crawlspace foundation	\$55,000.00
24 X 38 = 912 Square Feet	
$\$55,000. \div 912 = \60.30 per Square Foot	

24 X 38 Basement	\$62,000.00
24 X 38 = 912 Square Feet	
$\$62,000. \div 912 = 67.98$ per Square Foot	

CMHC Winnipeg provided the following information for April 1992 (current) average construction costs for a modest home in Winnipeg:

Modest Home

Average Size 1667 Square Feet

Average Cost \$132,416.00

$132,416.00 \div 1667 = \$79.43$ per Square Foot

In other words, First Nations Confederacy Inc. housing falls significantly below "other Canadian" housing costs.

Attached are tables which show a breakdown of costs (Appendix "A"). Other figures used relate to upgrading of existing units to National Building Code Requirements. Most existing units were constructed before National Building Codes were applied to on-reserve housing.

The majority of F.N.C. Chiefs state that the subsidy funding levels forced First Nations to use the cheapest quality materials for housing construction and the funds were frequently insufficient to cover infrastructure costs. Therefore to upgrade existing units on-reserve, half the cost of constructing a new unit would be required in most cases.

This cost would be based upon the following:

24 X 38 unit crawlspace foundation	$55,000 \div 2 = 27,500.00$
24 X 38 unit basement	$62,000 \div 2 = 31,000.00$

F.N.C. Chiefs were requested to provide figures from their waiting lists for housing and their requests for home repairs. These figures were broken down into the following categories:

Regular unit crawlspace foundation	X 55,000.00
Regular unit basement	X 62,000.00
Bill C-31 unit crawlspace foundation	X 55,000.00
Bill C-31 basement	X 62,000.00
Existing unit crawlspace foundation	X 27,500.00
Existing unit basement	X 31,000.00

The total funding requirement for F.N.C. communities is:

Regular units on waiting lists	862 X 55,000 =	\$47,410,000.00 (crawlspace)
Regular units on waiting lists	741 X 62,000 =	\$45,942,000.00 (basement)
Bill C-31 units on waiting lists	132 X 55,000 =	\$ 7,260,000.00 (crawlspace)
Bill C-31 units on waiting lists	503 X 62,000 =	\$31,186,000.00 (basement)
Existing units upgrading	591 X 27,500 =	\$16,252,500.00 (crawlspace)
Existing units upgrading	210 X 31,000 =	\$ 6,510,000.00 (basement)
TOTAL	3039	\$154,560,500.00

New Construction

Regular Units	1603	Existing Units	
Bill C-31	<u>635</u>	Upgrading	<u>801</u>
Total	2238	Total	801

Attached is a list which shows the requirements for all sixteen (16) individual F.N.C. communities (Appendix "B"). Current population statistics are also included.

FNC communities 1992/93 INAC capital housing actual funding is:

Interlake Reserves Tribal Council	\$1,770,900.00
West Region Tribal Council	1,708,100.00
Independent FNC Bands	<u>1,817,400.00</u>
TOTAL	<u>\$5,296,400.00</u>

Attached is a table listing the housing funding by Tribal Council and Independent F.N.C. Bands (Appendix "C"). Most First Nations consider their respective funding confidential. Therefore the Band names will not appear on this particular list of actual funds.

APPENDIX "A"

AVERAGE ON-RESERVE HOUSING CONSTRUCTION COSTS

24 X 38 Unit With Crawl Space Foundation

Material (35,000 X 60%)	\$21,000.00
Labour (35,000 X 40%)	14,000.00
Total	\$35,000.00
Crawl Space Foundation	5,000.00
Subtotal	\$40,000.00
Interior Plumbing	3,500.00
Subtotal	\$43,500.00
Septic Tank & Field	5,500.00
Subtotal	\$49,000.00
Roads/Driveways	2,500.00
Subtotal	\$51,500.00
Hydro	500.00
Well	3,000.00
TOTAL	\$55,000.00

24 X 38 = 912 Square Feet

55,000 ÷ 912 = 60.30 per Square Foot

APPENDIX "A"

AVERAGE ON-RESERVE HOUSING CONSTRUCTION COSTS

24 X 38 Unit With Basement

Material (35,000 X 60%)	\$21,000.00
Labour (35,000 X 40%)	14,000.00
Total	\$35,000.00
Basement	12,000.00
Subtotal	\$47,000.00
Interior Plumbing	3,500.00
Subtotal	\$50,500.00
Septic Tank & Field	5,500.00
Subtotal	\$56,000.00
Roads/Driveways	2,500.00
Subtotal	\$58,500.00
Hydro	500.00
Well	3,000.00
TOTAL	\$62,000.00

24 X 38 = 912 Square Feet

62,000 ÷ 912 = 67.98 per Square Foot

APPENDIX "B"

AVERAGE ON-RESERVE HOUSING CONSTRUCTION COST
REQUIREMENTS FOR FIRST NATIONS CONFEDERACY INC. BANDS

INDEPENDENT BANDS

Fisher River Band

Comment: Chief prefers not to label Band members as "Bill C-31"

Total Population	(On & Off Reserve)	2,184
Regular Crawlspace	120 X 55,000 =	\$6,600,000.00
Regular Basement	X 62,000 =	0
Bill C-31 Crawlspace	X 55,000 =	0
Bill C-31 Basement	X 62,000 =	0
Upgrading Crawlspace	X 27,500 =	0
Upgrading Basement	X 31,000 =	0
TOTAL		\$6,600,000.00

New Construction

Regular Units	120	Existing Units	
Bill C-31 Units	<u> </u>	Upgrading	
Total	120	Total	

Fort Alexander/Sagkeeng Band

Total Population	(On & Off Reserve)	1,031
Regular Crawlspace	155 X 55,000 =	\$8,525,000.00
Regular Basement	150 X 62,000 =	9,300,000.00
Bill C-31 Crawlspace	22 X 55,000 =	1,210,000.00
Bill C-31 Basement	22 X 62,000 =	1,364,000.00
Upgrading Crawlspace	72 X 27,500 =	1,980,000.00
Upgrading Basement	23 X 31,000 =	713,000.00
TOTAL		\$23,092,000.00

New Construction

Regular Units	305	Existing Units	
Bill C-31 Units	<u>44</u>	Upgrading	<u>95</u>
Total	349	Total	95

APPENDIX "B"

INDEPENDENT BANDS

Waywayseecappo Band

Total Population	(On & Off Reserve)	<u>1,031</u>
Regular Crawlspace	X 55,000 =	
Regular Basement	120 X 62,000 =	\$7,440,000.00
Bill C-31 Crawlspace	X 55,000 =	
Bill C-31 Basement	10 X 62,000 =	620,000.00
Upgrading Crawlspace	X 27,500 =	
Upgrading Basement	40 X 31,000 =	1,240,000.00
TOTAL		\$9,300,000.00

New Construction

Regular Units

120

Existing Units

Bill C-31 Units

10

Upgrading

40

Total

130

Total

40

APPENDIX "B"

INTERLAKE RESERVES TRIBAL COUNCIL

Dauphin River Band

Total Population	(On & Off Reserve)	<u>153</u>
Regular Crawlspace	8 X 55,000 =	\$440,000.00
Regular Basement		
Bill C-31 Crawlspace	4 X 55,000 =	220,000.00
Bill C-31 Basement		
Upgrading Crawlspace	5 X 27,500 =	137,500.00
Upgrading Basement		
Site Preparation	12 X 1,500 =	18,000.00
(Only Dauphin River includes site preparation)		
TOTAL		\$813,500.00

New Construction

Regular Units 8
 Bill C-31 4
Total 12

Existing Units
 Upgrading 5
Total 5

Fairford Band Comment: Chief would prefer to build larger units.

Total Population	(On & Off Reserve)	<u>1,552</u>
Regular Crawlspace	50 X 55,000 =	\$2,750,000.00
Regular Basement		
Bill C-31 Crawlspace	21 X 55,000 =	1,155,000.00
Bill C-31 Basement		
Upgrading Crawlspace	60 X 27,500 =	1,650,000.00
Upgrading Basement		
TOTAL		\$5,555,000.00

New Construction

Regular Units 50
 Bill C-31 Units 21
Total 71

Existing Units
 Upgrading 60
Total 60

APPENDIX "B"

INTERLAKE RESERVES TRIBAL COUNCIL

Lake Manitoba Band

Regular Crawlspace	418 X \$55,000 =	\$22,990,000.00
Regular Basement		
Bill C-31 Crawlspace	54 X \$55,000 =	\$ 2,970,000.00
Bill C-31 Basement		
Upgrading Crawlspace	68 X \$27,500 =	\$ 1,870,000.00
Upgrading Basement	63 X \$31,000 =	\$ 1,953,000.00
TOTAL		\$29,783,000.00
Total Population	(On & Off Reserve)	1031

New Construction

Regular Units 418
Bill C-31 Units 54
Total 472

Existing Units
Upgrading 131
Total 131

Lake St. Martin Band

Regular Crawlspace		
Regular Basement	26 X \$62,000 =	\$1,612,000.00
Bill C-31 Crawlspace		
Bill C-31 Basement	5 X \$62,000 =	\$ 310,000.00
Upgrading Crawlspace	54 X \$27,500 =	\$1,485,000.00
Upgrading Basement		
TOTAL		\$3,407,000.00
Total Population	(On & Off Reserve)	1365

New Construction

Regular Units 26
Bill C-31 Units 5
Total 31

Existing Units 54
Upgrading —
Total 54

APPENDIX "B"

INTERLAKE RESERVES TRIBAL COUNCIL

Little Saskatchewan Band

Total Population	(On & Off Reserve)	<u>620</u>
Regular Crawlspace	X 55,000 =	
Regular Basement	60 X 62,000 =	\$3,720,000.00
Bill C-31 Crawlspace	X 55,000 =	
Bill C-31 Basement	20 X 62,000 =	1,240,000.00
Upgrading Crawlspace	30 X 27,500 =	825,000.00
Upgrading Basement	X 31,000 =	
TOTAL		\$5,785,000.00

New Construction

Regular Units 60
Bill C-31 Units 20
Total 80

Existing Units
Upgrading 30
Total 30

APPENDIX "B"

WEST REGION TRIBAL COUNCIL

Crane River Band

Comment: There should be an inflationary increase each year for labour and materials.

Total Population	(On & Off Reserve)	445
Regular Crawlspace	X 55,000 =	
Regular Basement	20 X 62,000 =	\$1,240,000.00
Bill C-31 Crawlspace	X 55,000 =	
Bill C-31 Basement	26 X 62,000 =	1,612,000.00
Upgrading Crawlspace	58 X 27,500 =	1,595,000.00
Upgrading Basement	X 31,000 =	
TOTAL		\$4,447,000.00

New Construction

Regular Units	20	Existing Units	
Bill C-31	<u>26</u>	Upgrading	<u>58</u>
Total	46	Total	58

Ebb & Flow Band

Regular Crawlspace		
Regular Basement	75 X \$62,000 =	\$4,650,000.00
Bill C-31 Crawlspace		
Bill C-31 Basement		
Upgrading Crawlspace	20 X \$27,500 =	\$ 550,000.00
Upgrading Basement	10 X \$31,000 =	\$ 310,000.00
TOTAL		\$5,510,000.00
Total Population	(On & Off Reserve)	1237

New Construction

Regular Units	75	Existing Units	30
Bill C-31 Units	<u>—</u>	Upgrading	<u>—</u>
Total	75	Total	30

APPENDIX "B"

WEST REGION TRIBAL COUNCIL

Gamblers Band

Total Population	(On & Off Reserve)	98
Regular Crawlspace	20 X 55,000 =	\$1,100,000.00
Regular Basement	X 62,000 =	
Bill C-31 Crawlspace	20 X 55,000 =	1,100,000.00
Bill C-31 Basement	X 62,000 =	
Upgrading Crawlspace	7 X 27,500 =	192,500.00
Upgrading Basement	X 31,000 =	
TOTAL		\$2,392,500.00

New Construction

Regular Units	20	Existing Units	
Bill C-31	<u>20</u>	Upgrading	<u>7</u>
Total	40	Total	7

Keeseekoowenin Band

Regular Crawlspace	31 X \$55,000 =	\$1,705,000.00
Regular Basement	30 X \$62,000 =	\$1,860,000.00
Bill C-31 Crawlspace	0	0
Bill C-31 Basement	0	0
Upgrading Crawlspace	41 X \$27,500 =	\$1,127,500.00
Upgrading Basement	0	0
TOTAL		\$4,692,500.00
Total Population	(On & Off Reserve)	655

New Construction

Regular Units	61	Existing Units	
Bill C-31 Units	<u>—</u>	Upgrading	<u>41</u>
Total	61	Total	41

APPENDIX "B"

WEST REGION TRIBAL COUNCIL

Pine Creek Band

Regular Crawlspace		
Regular Basement	200 X \$62,000 =	\$12,400,000.00
Bill C-31 Crawlspace		
Bill C-31 Basement	365 X \$62,000 =	\$22,630,000.00
Upgrading Crawlspace	73 X \$27,500 =	\$ 2,007,500.00
Upgrading Basement		
TOTAL		\$37,037,500.00
Total Population	(On & Off Reserve)	1385

New Construction

Regular Units	200	Existing Units	73
Bill C-31 Units	<u>365</u>	Upgrading	
Total	565	Total	<u>73</u>

Rolling River Band

Total Population	(On & Off Reserve)	<u>554</u>
Regular Crawlspace	X 55,000 =	
Regular Basement	45 X 62,000 =	\$2,790,000.00
Bill C-31 Crawlspace	X 55,000 =	
Bill C-31 Basement	50 X 62,000 =	3,100,000.00
Upgrading Crawlspace	X 27,500 =	
Upgrading Basement	20 X 31,000 =	620,000.00
TOTAL		\$6,510,000.00

New Construction

Regular Units	45	Existing Units	
Bill C-31 Units	<u>50</u>	Upgrading	<u>20</u>
Total	95	Total	20

APPENDIX "B"

WEST REGION TRIBAL COUNCIL

Valley River Band

Total Population	(On & Off Reserve)	843
Regular Crawlspace	15 X 55,000 =	\$825,000.00
Regular Basement	15 X 62,000 =	930,000.00
Bill C-31 Crawlspace	5 X 55,000 =	275,000.00
Bill C-31 Basement	5 X 62,000 =	310,000.00
Upgrading Crawlspace	20 X 27,500 =	550,000.00
Upgrading Basement	20 X 31,000 =	620,000.00
TOTAL		\$3,510,000.00

New Construction

Regular Units	30	Existing Units	
Bill C-31 Units	<u>10</u>	Upgrading	<u>40</u>
Total	40	Total	40

Waterhen Band

Regular Crawlspace	45 X \$55,000 =	\$2,475,000.00
Regular Basement		
Bill C-31 Crawlspace	10 X \$55,000 =	\$ 550,000.00
Bill C-31 Basement		
Upgrading Crawlspace	63 X \$27,500 =	\$1,732,500.00
Upgrading Basement	34 X \$31,000 =	\$1,054,000.00
TOTAL		\$6,081,500.00
Total Population	(On & Off Reserve)	745

New Construction

Regular Units	45	Existing Units	97
Bill C-31 Units	<u>10</u>	Upgrading	<u> </u>
Total	55	Total	97

APPENDIX "C"

INAC CAPITAL ACTUAL HOUSING FUNDING 1992/93

(Most First Nations consider their allocations confidential, therefore Band names are not listed.)

Interlake Reserves Tribal Council

HOUSING	INFRA - STRUCTURE	C-31 HOUSING	C-31 INFRA - STRUCTURE	HOUSING DEBT RETIRE - MENT
\$ 40,000.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 8,000.
257,000.00	96,000.00	121,800.00	20,000.00	48,000.
222,000.00	16,300.00	86,200.00	15,000.00	35,600.
220,000.00	65,000.00	152,200.00	25,000.00	74,000.
40,000.00	0.00	60,900.00	10,000.00	157,700.
\$779,000.00	\$177,300.00	\$421,100.00	\$70,000.00	\$323,500.

I.R.T.C. TOTAL \$1,770,900.00

West Region Tribal Council

HOUSING	INFRA - STRUCTURE	C-31 HOUSING	C-31 INFRA - STRUCTURE	HOUSING DEBT RETIRE - MENT
\$ 75,900.	\$ 0.00	\$ 30,500.00	\$ 5,000.00	\$ 43,100.00
263,700.	25,100.00	0.00	0.00	0.00
27,100.	0.00	30,500.00	5,000.00	0.00
159,900.	0.00	57,500.00	10,000.00	42,700.00
224,300.	0.00	133,800.00	20,000.00	0.00
116,200.	39,200.00	0.00	0.00	0.00
192,800.	0.00	28,800.00	5,000.00	0.00
0.	0.00	60,900.00	10,000.00	101,100.00
\$1,059,900.	\$64,300.00	\$342,000.00	\$55,000.00	\$186,900.00

W.R.T.C. TOTAL \$1,708,100.00

APPENDIX "C"

Independent F.N.C. Bands

HOUSING	INFRA - STRUCTURE	C-31 HOUSING	C-31 INFRA - STRUCTURE	HOUSING DEBT RETIRE - MENT
\$ 297,300.00	\$130,100.00	\$287,200.00	\$50,000.00	\$ 0.00
620,000.00	0.00	201,100.00	35,000.00	0.00
<u>161,200.00</u>	<u>0.00</u>	<u>30,500.00</u>	<u>5,000.00</u>	<u>0.00</u>
\$1,078,500.00	\$130,100.00	\$518,800.00	\$90,000.00	\$ 0.00

INDEPENDENT BANDS TOTAL \$1,817,400.00

**F.N.C. BANDS ACTUAL FUNDING
TOTAL \$5,296,400.00**

FIRST NATIONS CONFEDERACY INC.
ON-RESERVE HOUSING ISSUES/CONCERNS

First Nations Confederacy, Tribal Council Housing Advisors and Independent Band Councils were given the opportunity to address on-Reserve housing issues and concerns.

Interlake Tribal Council

Representing: Dauphin River Band, Fairford Band, Lake Manitoba Band, Lake St. Martin Band, Little Saskatchewan Band.

On-Reserve Subsidy Housing Program

- biggest housing problem is lack of funds
- hard to buy quality material with funding shortfall
- freeze on capital budgets, no increase in years
- projections - no funds to plan for future years
- overcrowding in homes is a problem, not enough units
- high cost of maintaining Band units, especially when not budgeted for
- Government should have cleared up on-reserve housing backlog before giving housing to Bill C-31 returnees
- all units should have water & sewer
- aluminum/vinyl siding cracks from cold winter
- rent is a problem as housing is considered a Treaty right
- off-reserve housing should be available (portable) Treaty right

- Younger families need homes
- Other housing needs: single young men, single parent families, seniors, families usually given priority and other housing needs are not met
- I.N.A.C. consider 85% completion as completed housing, houses should be 100% completed and 100% funded

Canada Mortgage and Housing Corporation Programs

- some C.M.H.C. houses need repairs, no budget for repairs, no budget for repairs, 63 units need windows, doors
- Residential Rehabilitation Assistance Program (R.R.A.P.) doesn't really address needs, more like band-aid than a solution (F.N.C. housing report identifies high cost of repairing older units)
- CMHC programs require equity up front which reduces housing funds for Bands
- defaulted loans affect funding
- water is a problem in some areas
- water delivery is needed, cisterns and holding tanks also
- ground water contamination
- 2 x 4 construction in older homes; higher heating costs
- on the plus side, CMHC writes their own cheques and isn't as slow as INAC

West Region Tribal Council

Representing: Crane River, Ebb & Flow, Gambler Band,
Keeseekowenin, Pine Creek, Rolling River, Valley
River, Waterhen Band

On-Reserve Housing Program

- 1981 National Building Code minimum standards were implemented On-Reserve
- NBC minimum standards cannot be met with \$28,715.00 per unit
- INAC capital funds should be released directly to Tribal Council or Independent Bands. INAC should not withhold Capital even if capital funds are identified as housing equity for CMHC loans
- Bands should receive capital as early as possible in the fiscal year in order to bank it and gain interest whenever possible
- INAC should accept bank statements as proof that Bands are withholding their own capital funds as housing loan equity
- ERP is a #*! program; reserves don't cause pollution, industry does
- if there are environmental problems they are caused by the Federal Government's failure to provide adequate funds for water and sewer systems, and solid waste disposal systems

Residential Rehabilitation Assistance Program - RRAP

- RRAP costs Bands too much money
- CMHC guidelines are very strict
- INAC's paperwork is a problem; INAC should be a funding source only. INAC should not handle policies

Public Works Canada

- Tribal Councils have their own inspectors, PWC staff aren't needed
- PWC should not be funded by INAC, PWC should be taken out of housing programs
- PWC engineers will not give their seal to Band blueprints & plans, PWC is useless
- Tribal Councils, private enterprise: engineers, electricians, plumbers could replace PWC

Two Year Programs/Double Subsidy

- decent houses can't be built for \$28,715.00
- two year programs mean that Bands are using double subsidies per unit
- double subsidies are identified in the Band's capital plan as housing deficits
- INAC approves these capital plans which show housing deficits, therefore INAC and the Federal Government know that double subsidies are required to build an adequate house on-reserve

Canada Mortgage & Housing Corporation (CMHC) Housing

- INAC decides who qualifies for CMHC housing
- INAC decides to withhold capital as equity, not the Bands
- Bands would like to use off-reserve business ventures for equity when Band capital funds are not available; INAC tells Bands they cannot "borrow money for equity", CMHC housing is all borrowed money anyway
- when Bands have off-reserve assets to use as security for CMHC the housing project should be considered as economic development not just INAC/CMHC housing, Bands need more flexibility
- inspections are no problem
- WRTC gives statement of completion only to INAC
- no reports filed with PWC
- Band's Financial Management officers get copies of statements of completion
- audits are built into programs
- First Nations should have bondable agencies (Tribal Councils, etc.)
- housing has improved, carpentry have improved, tradesmen have improved
- overall project management has shown some improvement
- political leaders have better understanding of issues

Canada Mortgage & Housing Corporation (CMHC) Problems

- more INAC paperwork
- more tightening up (guidelines)
- Section 95 RRAP should be discontinued with the funds going directly to on-reserve housing
- RRAP allocation is based on Band's number of houses including CMHC units; this is not a fair RRAP allocation system
- CMHC Section 59 (new) houses can't be RRAPed and they should not be included in lists of Band housing stock for RRAP allocation

Fisher River First Nation, Independent Band

On-Reserve Subsidy Housing Program

- projections for future housing needs are not planned for, not budgeted for
- Bill C-31 funding ends in 1993
- allocation for housing is too small
- not enough units, not enough funds
- housing standards are okay on Fisher River housing
- work is done by local carpenters
- houses built in flood plain area
- 12% of land is suitable for building on, land along rivers & highway
- 18% of land is flood plain
- 70% of land is muskeg
- additional funds were needed to move flooded houses onto new

foundations/basements

- funds are a problem in purchasing good quality material
- more land required now for Bill C-31 housing
- ground water contamination from additional septic fields
- more wells, more risk of ground water contamination
- need for central water & sewer systems
- shortage of land for townsite development

Other Types of Housing

- one 8-plex; social development families
- 1 personal care home - 32 bed maximum
- considering more multiple unit house, demand exists but no funding

Canada Mortgage & Housing Corporation

- CMHC housing creates debt
- repairs to CMHC homes for replacement reserve should be recognized universally; it's recognized in Ontario but not in Manitoba
- rent creates problem since housing is considered a Treaty Right
- RRAP creates debt for Bands as well

Sagkeeng (Fort Alexander Band) First Nation, Independent Band
On Reserve Subsidy Housing Program

- subsidy on-reserve house plans submitted to INAC for approval
- capital housing funds are released when INAC approves house plans
- subsidy houses are then constructed according to INAC approved plans
- when deficiencies occur INAC does not provide extra funds to correct problems although INAC approves the house plans
- Public Works Canada will not put their seal of plans
- in 1982 15 houses were built according to INAC approved plans:
 - vapor barrier was used KB board under joists; condensation collected, flooring rotted, rotting flooring seeps into drywall, drywall has to be replaced
 - insulation soaks up moisture from rotting flooring causing studs to rot and blacken
 - rotted studs show through drywall, drywall has to be replaced
 - rotting flooring has been replaced twice in these 15 units built according to plans INAC approved in 1982
- INAC should be responsible in deficiencies in housing construction since they approve subsidy on-reserve house plan
- in 1985 Band housing deficit occurred as a result of a supplier negotiating with INAC without consulting the Band
- there are lots of other problems that result from lack of funds for quality material and construction

Waywayseecappo First Nation, Independent Band

On-Reserve Subsidy, Housing Program

- funding major problem
- water delivery to all houses
- some subsidy houses still use barrels for water storage
- some houses have 500 gallon tanks
- only well on-reserve serves school only
- INAC funding for water based on:
 - 20 gallons per person per day
 - (4 flushes per toilet use 20 gallon)
- based has switched 500 gallon tanks to 1000 gallon tanks at the Band's own expense
- septic fields not big enough, always have problems
- ground water contamination is a possibility, not many wells used for drinking water, but wildlife may be affected
- subsidy housing repairs (maintenance) not funded
- capital funds used mainly for CMHC housing equity
- repairs, mainly plumbing and/or septic fields are costly
- maintenance training should be provided for homeowners

Canada Mortgage & Housing Corporation (CMHC) Housing

- 7 CMHC houses have septic holding tanks - not septic fields; need 2 or 3 pump-outs per week, very expensive system
- in order to make CMHC project viable it is always costed out too low

- when CMHC project is actually operating the project is not viable
- no funds left to administer CMHC programs after repairs on CMHC houses are made
- rents are a problem, housing is a Treaty Right
- Social Development rents keep people on welfare; better housing than working people is not a incentive to work when employment is available
- CMHC will not let Bands consolidate loans; this increase paperwork - separate billings for each unit, and increase the operating costs in administration
- replacement reserve; hard to access for repairs-although funded by Band through project - CMHC must approve expenditures
- CMHC/Band housing project operating agreement can't be amended after it is signed, CMHC will not accept un-foreseen costs of project
- CMHC's purpose seems to be just to keep their subsidy lower
- CMHC won't allow Bands to consolidate project audits; expensive
- CMHC 25-years mortgages - houses won't last that long
- CMHC working homeowners pay own utilities/repairs
- Social Development pays utilities/repairs for Social Development clients

Subsidy Housing Program Management (unfunded)

- maintenance - windows/doors/doorknobs, expensive, unfunded
- most housing construction contracted out on CMHC units
- scattered units, not townsite development
- mostly CMHC units built, not subsidy
- 19 units RRAPed (1992)