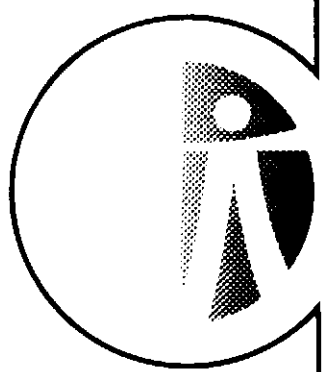

Metis Settlements General Council
Submission to
Royal Commission on
Aboriginal Peoples

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Metis Settlements Governance Legislation

Community Perspectives

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METIS SETTLEMENTS SELF-GOVERNMENT LEGISLATION: COMMUNITY PERSPECTIVES

INTRODUCTION

In November 1990, four pieces of legislation - the ***Metis Settlements Accord Implementation Act***, the ***Metis Settlements Land Protection Act***, the ***Metis Settlements Act***, and the ***Constitution of Alberta Amendment Act, 1990***, were proclaimed in Alberta. The proclamation of these acts introduced a form of aboriginal government that was distinctive for both Alberta and Canada. It ensured that a land base would be secured for Metis communities, the only such land base available outside of the comprehensive claims jurisdictions in the Northwest Territories. It established local self-government for the eight Alberta Metis Settlements, based on popular participation and democratic choice not only in the selection of lawmakers, but in the adoption of laws made on the settlements as well. The legislation also provided for a common representative body, the Metis Settlements General Council, which could address the collective concerns of all of the settlements, and provide a common governing framework for them as well.

Further, the Metis Settlements legislative package created a group of settlement controlled institutions which provide for such common interests as coordinating access to sub-surface resource wealth located on the settlements and dealing with appeals from the membership concerning settlement government decision making in such

potentially contentious areas as land allocation and settlement membership. In addition to these things, the Metis Settlements legislation attempts to provide for a detailed transition process, which would assist not only in the effective assumption by settlement governments of an increasing array of powers, but would also transfer from the provincial government to the settlements sufficient financial resources to allow settlement infrastructure to reach levels comparable to those enjoyed by other rural Alberta communities.

It was a scheme ambitious in intention, but now that three years have elapsed since its introduction, it is appropriate to determine how successful it has been to date. It is also opportune to identify what difficulties might be present within the scheme and what means of avoiding these difficulties might be settled upon by other aboriginal jurisdictions who wish to embark upon a similar journey.

The following paper attempts to provide some responses to these queries. It is based on interviews with Metis settlement councillors, officers of the Metis Settlements General Council, officials responsible for the conduct of the transition process, settlement administrators, and with individuals who assisted in framing the Settlements legislation. The suggestions offered in this paper are tentative in nature but they are reflective of the experience which one group of aboriginal communities has had in moving toward self-government. Although the details may differ, in its

larger outlines the Metis Settlements' experience with self-government is not unrepresentative of the situation which most Canadian aboriginal jurisdictions are facing as they assume greater responsibilities for government. As a result, other jurisdictions may learn useful lessons through observing settlement responses to their process of governance.

PART I

BACKGROUND TO METIS SETTLEMENT LEGISLATION AND THE MAJOR ELEMENTS OF THE 1990 LEGISLATIVE PACKAGE

1. The Establishment of the Metis Settlements and Their Development

The people of Alberta's eight Metis settlements are in a unique situation, for unlike any other Metis people in Canada other than those who are beneficiaries of land claims settlements in the Northwest Territories, the settlement population possesses a land base which has been dedicated to the exclusive use of the Metis. Without such a base, territorial governance of the type provided in the Metis Settlements legislation would not be possible.

The settlements were established in 1938, following the recommendations of the Ewing Commission, which had been appointed by the Alberta government in 1934 to look into "the problems of health, education and general welfare of the Half-breed population of the Province." In 1936, the Commission submitted its report, and recommended the establishment of Metis "colonies," which would consist of lands held by the Crown but set aside for the exclusive use and occupation of associations of Metis people. In the Commissioners' view, the most effective way of dealing with the widespread incidence of poverty, disease, low levels of educational attainment and the marginal employment capabilities of large portions of the Metis population was to establish some type of farm colony on which Metis people could make the transition from the aboriginal economy to occupations which, while they were based

on the land, offered the possibility of a better economic future in contemporary Alberta.[1]

The provincial government accepted the recommendations of the Ewing Commission and enacted the ***Metis Population Betterment Act***, which received Royal Assent on November 22, 1938. Under this legislation, provision was made for the establishment of Metis settlement areas and by 1939 twelve settlements had been established across northern Alberta. At the end of the same year, settlement associations been established on eight of the settlements and had adopted a common constitution and bylaws for the government of the settlements.[2]

The original Metis Betterment legislation of 1938 was subsequently amended to make more detailed provision for the governance of the settlements. The consequence of these amendments was to create a system of settlement government not markedly dissimilar from that which prevailed on Indian reserves under the terms of the ***Indian Act*** in force at the time. Most aspects of settlement life, and particularly the use and allocation of settlement land and resources, was provided for

[1] The discussion of the history of the Metis settlements (or "colonies" as they were originally called) in this paper is derived from F.V. Martin "Federal and Provincial Responsibility in the Metis Settlements of Alberta" in David Hawkes (ed.), *Aboriginal Peoples and Government: Exploring Federal and Provincial Roles* (Ottawa: Carleton University Press, 1989); T.C. Pocklington, *The Government and Politics of the Alberta Metis Settlements* (Regina: Canadian Plains Research Centre, 1991). See as well Metis Association of Alberta, et al. *Metis Land Rights in Alberta: A Political History* (Edmonton: Metis Association of Alberta, 1981), 187-214; Alberta Federation of Metis Settlement Associations, *Metisism: A Canadian Identity* (Edmonton: Alberta Federation of Metis Settlement Associations, 1982).

[2] These details, and those in the following paragraphs concerning the historical development of the settlements, are derived from Martin, *op. cit.*

by regulation made by the provincial government through Orders in Council. The local settlement councils, called settlement boards, were charged with minor local government responsibilities carried out under close provincial supervision. Although these boards, consisting of five members, were originally chosen by popular election, amendments were made to the ***Metis Betterment Act*** in 1952 which were intended to limit even this degree of popular control. Under these amendments the chairmen of the boards were to be the local settlement supervisors, who were officials of the Metis Rehabilitation (later Settlements) Branch, a provincial department charged with responsibility for the settlements. Of the four settlement members who constituted the remainder of the membership of the boards, only two were to be popularly elected by the members of the settlements as a whole, while the remaining two were to be appointed by the Minister responsible for Metis settlement affairs. Although for various reasons these provisions were never enforced, and settlement members continued to elect all five members of their local boards, the intention of the province with regard to settlement governance was clear - the affairs of the settlements were to be placed under the firm control of the provincial government agency responsible for the settlements, with little ultimate accountability to the population.

There was a myriad of ways in which this policy found expression in the day to day administration of the settlements. As noted above, the government exercised enormous regulatory authority over most areas of settlement activity, and the local government of the settlements was essentially under the control of the local officer of the Metis Rehabilitation or Settlements Branch, who played a role in many ways

analogous to the one played by Indian agents on Indian reserves at the time.

Self-government (or the relative lack of it) was not the only aspect of settlement life which had saliency within the first twenty years of the establishment of the settlements. Perhaps even more important were the growth of settlement populations, the creation of infrastructure and the development of local settlement economies.

All of these things developed slowly and in the face of considerable difficulty. With regard to basic economic security for the settlements, there emerged two major problems. The first was that there was no ultimate security for the settlement land base. The original settlements were established by Orders-in-Council and remained provincial crown land, designated for use as Metis settlements. The possibility always existed that such designation could be terminated by Order-in-Council, thereby eliminating a settlement. This did happen in the case of four of the original settlements, one of which, Wolf Lake, had a large number of Metis families residing on it when it was abolished in 1960.

The other difficulty lay in the fact that although settlements could benefit from the use made of surface resources on settlement lands, the benefits obtained from the use of sub-surface resources remained in the hands of the province. With the development of oil and gas activity on many of the settlements in the 1960's, substantial revenues were being generated but these did not accrue to the settlements.

As a result, the settlements were largely dependent upon provincial grants for their operations, as well as for development of an infrastructure and any type of economic opportunity.

In addition to the economic difficulties which the lack of complete land ownership caused to the settlements, there were political and cultural difficulties resulting from the truncated control which the settlements possessed over their land base. Settlement members, like other Metis people, placed a high value on the land on which they lived, and believed in their right to possess that land fully and completely. The fact that the province relied upon every means in its possession to deny settlement occupants that right created both widespread resentment and a determination to secure full control by settlement members over **all** settlement lands, no matter how long this might take.

By the early 1970's, the system of generalized dependency on government had begun to generate concern amongst some elements of the settlement population. The abolition of the Wolf Lake settlement, and the outflow of oil and gas revenues which resulted from a continuing lack of full land ownership, caused a number of settlement members to consider that collective action to advance common settlement interests might be necessary if this situation was to be changed.

In 1975, sufficient consensus had been established on this issue to lead to the foundation of the Alberta Federation of Metis Settlement Associations (A.F.M.S.A.),

a body which was designed to coordinate settlement efforts on a number of fronts and to articulate common settlement concerns. The governing board of the Federation consisted of the elected chairperson of each settlement council, in addition to four executive members elected at large. From the date of its establishment, the Federation coordinated settlement efforts to secure the land base, increase the resources available to the settlements, and strengthen settlement autonomy.

By the late 1970's, a number of steps had been taken to achieve these objectives. With regard to obtaining complete control of the settlement land base and ensuring settlement control of resources located under settlement land, settlement leaders in 1968 launched a legal action asserting that the revenues from the sale of oil and gas under settlement land properly belonged to the settlements and not to the province. Although the original statement of claim in this proceeding was dismissed on technical grounds, the settlement leadership continued to press their demands in this area and in the 1970's began two further legal proceedings which asserted the settlements' right to control **all** of their land, including the sub-surface resources which it contained. In connection with greater local control over settlement government, the role played by settlement administrators under the direction of the locally elected boards began to expand significantly with the assumption of more and more local government duties.

Major difficulties attended these developments, however. The statutory framework within which settlement government was being conducted was widely

r...g...z... ... ...ro..., ...vi.g b... ...ti.lly unchanged since 1940. The natural resources litigation did not proceed quickly and created considerable distrust between the settlements and the provincial government, and this in turn made working relationships increasingly difficult.

By the early 1980's, all parties recognized that significant change would have to be effected. A Joint Committee appointed by the settlements and the provincial government was mandated to review the provisions of the ***Metis Betterment Act*** and to suggest ways in which political and socio-economic development could be facilitated on the settlements. In 1984, the Committee recommended that a completely new legislative framework be provided for the settlements.[3]

Contemporary with these developments was the patriation of the Canadian constitution and the constitutional amendment process of the early 1980's. Once the "existing aboriginal and treaty rights" of the treaty and aboriginal peoples of Canada had been given constitutional protection, and the Metis had received constitutional acknowledgement of their status as one of these peoples, the position of Metis people on the settlements was subtly strengthened. It now appeared conceivable that there might be a basis for constitutional entitlement to things which members of the settlements up to that point had enjoyed only on the basis of a statutory grant.

However, this possibility never became central to the settlements' struggle for

[3] See Martin, *ibid.*

legislative change in the 1980's. Following the failure of the 1985 First Minister's Conference to effect a further constitutional definition of aboriginal and treaty rights, the Government of Alberta indicated it was prepared to offer protection for the settlement land base if certain conditions - such as the adoption by the settlements of fair and democratic procedures for granting of membership and land allocation - were met.[4]

This offer, and the Joint Committee recommendations that a new statutory framework be provided which could better express contemporary settlement realities, combined to provide the impetus for establishing a completely new settlement regime. The Government of Alberta and the settlements, acting through the AFMSA, entered into negotiations and on July 1, 1989, signed the Alberta-Metis Settlements Accord. This agreement, which was intended to advance the *"aspirations of the Metis Settlers to secure a land base for future generations, to gain local autonomy in their own affairs, and to achieve economic self-sufficiency,"* provided the context within which four pieces of legislation were developed to provide a new framework for settlement activities. On November 1, 1990, the ***Metis Settlements Accord Implementation Act***, S.A. 1990, c.M-14.5, the ***Metis Settlements Land Protection Act***, S.A. 1990, c.M-14.8, the ***Metis Settlements Act***, S.A. 1990, c.M-14.3, and the ***Constitution of Alberta Amendment Act, 1990***, S.A. 1990, c.C-22.2 were proclaimed, establishing a new basis upon which the collective life of the Metis settlements would be conducted.

[4] *Ibid.*

2. The Metis Settlements Legislation of 1990: 5 Themes

The legislation proclaimed in 1990 contains many elements, but there are five areas of profound significance for the settlements, which have provided the focus of enquiry for this paper. Each of these will be briefly summarized below and will be analyzed more intensively in Part II of this paper, where the reaction of settlement councillors and others involved in the Metis settlement government process will be presented.

A. Metis Government

A variety of institutions for settlement governance were created by the new legislation. Under the ***Metis Settlements Act*** each of the eight settlements is established as a corporation and is governed by a council of 5 members, elected by the entire membership for terms of three years. These terms are staggered, however, so that there are annual elections at which at least one councillor is elected every year. The chairperson of the council is elected by the councillors from amongst the five members of council, and this position is potentially open to change every year as well.[5]

The by-law making powers of the councils are extensive and concern the regulation of such matters as the health, safety and welfare of settlement residents, public order and safety on the settlements, fire protection, nuisances and pests, animals, refuse disposal, public health, and land-use planning and development. The

[5] *Metis Settlements Act*, ss 2, 9, 10, 18, 19, 20.

councils may also make by-laws implementing policies which are made by the General Council for all of the settlements, by authority given to the General Council under the ***Metis Settlements Act***. Especially significant areas in this latter category are the regulation of hunting, trapping, gathering or fishing in settlements areas, land use on those portions of settlement land which have not been allocated to individuals, and the use of the timber resource on the settlements. (These powers are detailed in Schedule I of the ***Metis Settlements Act***, attached as Appendix 1 to this paper.)

To become effective, all by-laws must be given three readings by the settlement council, and after second reading, every proposed by-law must be presented at a public meeting at which at least fifteen settlement members must be in attendance. If a majority of these members vote against the proposed by-law, it is defeated[6]. There is a further provision in the ***Act*** which allows settlement members to petition the settlement council to make a by-law concerning any matter which is within the by-law making authority of the council.[7]

The ***Metis Settlements Act*** also makes provision for the establishment of a Metis Settlements General Council, which serves as the representative body of the all the settlements, representing their common interests. It is established as a corporation under the ***Act*** and holds the fee-simple title to all the land contained in the

[6] *Ibid.*, ss 52, 53, 54, 55.

[7] *Ibid.*, ss 57, 58

settlements.[8]

The General Council is constituted by the forty settlement councillors from all eight settlements and a four-member executive elected by the councillors. It must however be noted that in all General Council decision-making, including the election of the executive, each settlement council casts but one vote. Settlement councillors thus vote as one entity, representing the views of their **settlement** in General Council proceedings.[9]

The chief governing responsibility of General Council is the making of policies concerning a broad range of matters, all of which affect the common interest of the eight settlements. Included among these are policies regarding the distribution of transition funds made available annually by the province to the settlements, the allocation of interests in land and other matters concerning land-holding in the settlements, the levying of taxes in the settlements, and the conduct by the settlements of commercial activities. (These powers are described in ss. 222-223 of the ***Metis Settlements Act***, which are attached as Appendix 2 to this paper.)

In most major policy areas, policies must be adopted unanimously. As noted above each settlement has one vote on the General Council, and unanimity in decision-making creates a need for considerable consensus building before any

[8] *Ibid.*, s.214.

[9] *Ibid.*, ss 216, 219.

decision can be reached.[10]

The new Metis settlement legislative scheme did not result in any resolution of the issue of control of sub-surface resources located on the settlements. The lawsuit concerning this issue, though stayed when the Alberta-Metis Settlements Accord was signed in 1989, has not been abandoned. It is important to note that the issue of control of sub-surface resources remains an outstanding one between the settlements and the province.

However, the new legislation does provide for a formal role for each settlement in allowing access to settlement lands for sub-surface resource development, and provides for compensation to the settlements with regard to such development. Sub-surface resources remain in the hands of the province, but the settlements now co-manage aspects of the development of these resources and obtain some benefits from such development. The terms of this management regime are set out in the ***Co-Management Agreement***, which is Schedule 2 to the ***Metis Settlements Act*** (and which is attached as Appendix 3 to this paper).

The institutional mechanisms through which this co-management are effected are the Metis Settlements Access Committees, one of which exists for each settlement. These committees make recommendations to the Alberta Minister of Energy concerning the terms and conditions which are to be imposed on every operator who

[10] *Ibid*, ss 219, 222.

wishes to develop sub-surface resources located on the settlements. Included among these terms and conditions is the amount of royalty to be paid to the settlements. The settlements are also able to allow or deny access to settlement lands, thereby ensuring control over the development of parcels of settlement land which are posted for oil and gas development by the provincial Minister of Energy.

Amongst the most contentious public issues on each of the settlements are admission of people to settlement membership[11] and the allocation of interests in settlement lands.[12] Decisions in these areas are made by individual settlement councils, but the ***Metis Settlements Act*** establishes a mechanism through which settlement council decisions in this area can be reviewed and set aside. This is the Metis Settlements Appeal Tribunal, consisting of not less than seven persons, of whom three are appointed by General Council and three by the member of the Alberta

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[11] The requirements for settlement membership are set out in s.74 of the *Metis Settlements Act*. All of those people who had been settlement members under the previous *Metis Betterment Act* automatically became members of the settlements under the *Metis Settlements Act*. This is provided for in the Transitional Membership Regulation, Alta Reg. 337/90. With regard to obtaining membership in a settlement subsequent to the passage of the 1990 legislation s.74(1) of the *Metis Settlements Act* states:

> *"A person may apply to a settlement council for membership in a settlement only if*
>
> *(a) the applicant is a Metis and at least 18 years old, and*
> *(b) the applicant*
> *(i) has previously been a settlement member or a member of a settlement association under the former act, or*
> *(ii) has lived in Alberta for the 5 years immediately preceding the date of the application.*

It should be noted that *"Metis"* is defined in s.1(j) of the *Metis Settlements Act* as meaning *"a person of aboriginal ancestry who identifies with Metis history or culture."*

There are further statutory provisions establishing criteria to which settlement councils must advert when making membership decisions (see *Metis Settlements Act*, ss.77-80). As is discussed in this paper, there is an automatic right of appeal to the Metis Settlements Appeal Tribunal from all settlement council membership decisions.

[12] For a discussion of this subject, see the text and footnotes at footnote 16 below.

cabinet responsible for the Metis Settlements legislation. The Tribunal Chairman is appointed by the Minister, but from a list of nominees provided by the General Council. At least two of the Tribunal members appointed by the Minister must not be settlement members, but the remaining members of the Tribunal are from the settlements.[13]

The ***Metis Settlements Act*** gives the Appeal Tribunal authority to hear appeals from all settlement council decisions concerning land and membership. The Tribunal may also be seized with other functions which may be assigned to it under General Council policy. Further, the Tribunal may decide disputes other than those relating to land and membership which may arise between settlement members and others providing that all the parties concerned agree that the Tribunal should be seized with the matter. In consequence, the potential mediatory role of the Tribunal is very great, should people avail themselves of all possible opportunities for making use of it.[14] The Tribunal issues written decisions, which may be, under the legislation, appealed to the Alberta Court of Appeal.[15] The Tribunal receives its funding directly from the provincial Treasury Department, which ensures its freedom from any type of direct political control.

Under the ***Metis Settlements Land Protection Act***, the fee simple title to all

[13] The structure and powers of the Tribunal are described in Part 7 of the *Metis Settlements Act*.

[14] The jurisdiction of the Tribunal is outlined ss.188-193 of the *Metis Settlements Act*.

[15] See ss.204-209 of the *Metis Settlements Act*.

Metis settlement land is vested in the General Council. Lesser interests may be created in settlement land if the General Council provides for this through the exercise of its policy-making powers. The General Council has so provided[16] and in consequence the Metis Settlements Land Registry has been established. This agency records all allocations of interest granted in settlement lands, and functions very much like any provincial land registry in Canada.[17] Decisions of the Registrar can be appealed to the Metis Settlements Appeal Tribunal.[18]

B. Protection of the Land Base

As was discussed above, security of the settlement land base was one of the crucial components of the Metis Settlements legislative package, and is regarded by all observers as one of the most important achievements of the legislation. The ***Metis Settlements Land Protection Act*** and the ***Constitution of Alberta Amendment Act, 1990***, are the statutory means through which this protection has been accomplished, although the need for ultimately protecting the land base through constitutional entrenchment has long been recognized by the settlements and was attempted in the Charlottetown Accord in 1992.

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[16] See Metis Settlements General Council Land Policy, *Alberta Gazette*, v.88, no.14 (July 31, 1992).

[17] The Metis Settlements Land Policy, and the Metis Settlements Land Registry, represent some of the most important innovations established as a result of the Settlements legislation. The policy allows for the creation of multiple interests in settlement lands, ranging from Metis title (which has some of the incidents of fee simple ownership) to leases.

The Metis Settlements Land Registry has replaced the provincial land registry as the agency which registers or records all interests in settlement lands. For a comprehensive discussion of the provisions of the Land Policy and the operation of the Registry, see Catherine Bell, *"Alberta's Metis Settlements Legislation: An Overview of Ownership and Management of Settlement Lands* (unpublished mss. in possession of Professor Bell). See as well material prepared by the Registry, especially *"A Guide to Land & Membership Decisions for Metis Settlement Councillors"*.

[18] Land Registry Regulation, Alta. Reg. 361/91, s.45.

The ***Metis Settlements Land Protection Act*** ratifies and confirms the letters patent granting the lands in the settlements in fee simple to the General Council.[19] It also states that the fee simple estate in the settlement lands can only be alienated with the consent of the Crown, the General Council, and a majority of all members of the settlement in which is located the land it is proposed to alienate. As well, the Act provides that settlement lands may not be mortgaged, charged or given as security.[20]

The ***Constitution of Alberta Amendment Act, 1990*** provides further protection for settlement land. The ***Act*** states that the fee simple estate in settlement lands (which is always held by the General Council) may not be expropriated by the Crown in right of Alberta or by any other person. It further provides that the fee simple estate is exempt from seizure and sale under court order, writ of execution or any other proceeding, and establishes as well that the provincial legislature may not amend or repeal the ***Metis Settlements Land Protection Act***, alter or revoke the grant of settlement lands in fee simple to the General Council, or dissolve the General Council or constitute it with persons who are not settlement members without the agreement of the General Council. Finally, the ***Constitution of Alberta Amendment Act, 1990***, states that any amendment or repeal of the ***Act*** may be passed by the legislature of Alberta **only** after a plebiscite is held on each of the settlements in which a **majority**

[19] See *Metis Settlements Land Protection Act*, s.2

[20] *Ibid.*, ss 4, 5

of the members of each settlement vote in favour of the amendment.[21]

In the absence of a constitutional amendment, these provisions represented as strong a guarantee as could be obtained of the inalienability of the settlement land base. The settlements are thus ensured that there can be no diminution of the land they collectively hold unless there is substantial agreement concerning such a procedure amongst the settlement membership.

C. Benefit from Resource Wealth

As discussed above in sub-section A, the Metis Settlements Accord and the legislation which implemented the Accord did not resolve the settlements long-standing dispute with the government of Alberta concerning the ownership of sub-surface resources. This remains an issue of great importance, because there is a widespread conviction amongst the political leadership of the settlements that only when these resources finally come under settlement control will the settlements possess the fiscal base necessary for creating meaningful self-determination. Further, from the date of the establishment of the settlements, the settlement leadership has had a strong commitment to the principle that Metis people must enjoy complete ownership of their land. Ensuring that this becomes the case remains one of the major public issues being addressed by the settlements today.

Whatever its limitations, the Settlement legislation, through the ***Co-***

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21 *Constitution of Alberta Amendment Act, 1990*, ss 3, 4, 5, 7.

management Agreement and legislative recognition that the settlements have a right to benefit from the surface access which is required for resource development, did provide that the settlements would obtain some benefit from the extraction of sub-surface resources. At the very least, this was a useful first step to take on the road to full resource ownership.

Surface resources such as timber, clay, sand, peat or marl are now under effective settlement control since the settlements collectively, through the General Council, hold fee simple title to settlement lands. The settlements may dispose of these interests as they choose, providing the framework for such disposition is established through the appropriate General Council policy.[22]

The result of the Metis Settlements Accord and the legislative package which gave the Accord statutory expression has been to increase the resource wealth available to the settlements, but there remains a considerable distance to be travelled in relation to this matter. As it is perceived on the settlements, the fundamental reality is that without adequate resources, there cannot be meaningful self-determination. The lack of an adequate resource base remains an outstanding problem for the Metis settlement transition to self-government, and one which shall be discussed in greater detail below.

[22] *Metis Settlements Act* s.222(1)(a), (b). This has been done. See the Metis Settlements General Council Land Policy *supra*, ft.16, ss 2.11, 3.7; Metis Settlements General Council Timber Policy, *Alberta Gazette*, V.87, no.12 (June 29, 1991).

D. Transition Process

When the Alberta-Metis Settlements Accord was under negotiation in the late 1980's, there was a recognition on the part of all parties that the process of developing greater self-determination in the settlements required some set of transitional arrangements. The statutory framework within which the settlements had to conduct their activities prior to 1990 emphasized the dependency of the settlements on the provincial government, and effectively gave that government and its officers the power to determine most of the essential aspects of settlement life.

To move from such dependency to a greater degree of self-determination was recognized as an evolutionary development, and one that would take some time to achieve. To effect this, the Metis legislation of 1990 established a formal transition process, which was intended to last from April 1, 1990 to March 31, 1997.[23] This allocation of time in which to complete transitional arrangements was not derived from any practical experience or from any extended analysis of what the transition needs of the settlements might be, but was instead determined solely in the context of the negotiations leading to the adoption of the Alberta-Metis Settlements Accord and the Settlements legislation.

Under this process financial resources were to be made available for the improvement of physical and administrative infrastructure on the settlements and this

[23] *Metis Settlements Accord Implementation Act*, s.56.

will be discussed in more detail in section E below. However, an equally important part of the process was the creation of a new public agency, the Metis Settlements Transition Commission, to be headed by the Metis Settlements Transition Commissioner. The Commission is separate from government, and is positioned to serve as an interlocutor between settlement administrations and provincial departments and agencies.[24]

The Commissioner is appointed by Order in Council and is accountable to both the member of the Provincial cabinet who has responsibility for the Metis legislation and to the General Council, through an agency known as the Metis Settlements Transition Authority. This body consists of the Commissioner himself and representatives of the Minister and the General Council.[25]

The scope and nature of the transition process as conceptualized in the Metis Settlements legislation is captured by the enumeration of the Commissioner's functions and responsibilities in ss. 12 and 13 of the ***Metis Settlements Accord Implementation Act***, which state:

> *12 The Functions of the commissioner are*
>
> *(a) to ensure that the purposes of this Act are achieved and to initiate,*

[24] *Ibid.*, s.39.

[25] *Ibid.*, ss 39, 40.

organize and administer the development of policies, programs, services and structures to fulfil the purposes of this Act;

(b) to assist the General Council in its administration and in the management of its powers, duties and rights;

(c) to assist settlement councils in their administration and in the management of their powers, duties and rights;

(d) to assist settlement councils and the people of the settlements in meeting eligibility requirements of economic and development programs of the Government;

(e) When appropriate, to co-ordinate, in respect of the settlements, the policies, programs, procedures and services of

(i) departments of Government,

(ii) Government agencies, and

(iii) local authorities having jurisdiction in the settlement areas;

(f) when possible and appropriate, to co-ordinate the policies, programs, procedures and services of the Crown in right of Canada and its agencies;

(g) to give to and receive from the General Council and settlement councils advice on policy, programs, procedures and services;

(h) to administer or supervise the implementation of, or perform any power or duty with respect to, any policy, program, procedure or service assigned to the Commissioner by the Lieutenant Governor in Council, a Minister of the Crown, an agency of the Crown or a local authority;

(i) to evaluate from time to time any of the policies, programs, procedures and services referred to in this section and to evaluate the progress made towards fulfilling the purposes of this Act and to report to the Minister and the General Council as jointly required by them;

(j) to organize and plan the activities of the Commission with a view to its dissolution.

13(1) Despite anything in the Metis Settlements Act, the Commissioner is responsible for

(a) the collection, management and control of the income and revenue of settlements,

(b) the management and control of all payments by settlements in accordance with a settlement budget by-law, and

(c) all other matters relating to the financial affairs of settlements;

and may issue directives to a settlement about establishing, maintaining or closing accounts

and conditions for operating them.

(2) The Commissioner is not responsible for the preparation of settlement budget by-laws.

(3) The Commissioner remains responsible for the matters described in subsection (1) until the Commissioner transfers authority under section 19.

These are clearly wide-ranging powers, and they show a lively appreciation of the needs which have to be met if aboriginal communities are to move from positions of dependency and chronic underdevelopment to any significant degree of self-determination. The potential difficulty with such a role, particularly one supported by some significant degree of institutionalization (the Transition Commissioner is currently assisted by staff of some sixty-five people), is that it may become a substitute for the agencies of government which it was designed to replace. Traditional patterns of dependency may simply be reinforced. To what extent this has become a danger in the Metis Settlements Transition process will be the subject of further discussion in Part II of this paper.

It should be re-emphasized that the Transition Commission, and the office of the Commissioner, are currently mandated to come to an end on April 1, 1997. At that time the roles which these currently play will be either transferred to the General Council, to individual settlement councils, or in the case of some routine administrative matters, to other provincial departments of government.

E. Allocation of Transitional Funding to Settlements

From their establishment, the settlements have been heavily dependant on government transfers to sustain economic activity and infrastructure. The benefits derived from sub-surface resources remained in the hands of the provincial government, and although the government did hold revenues derived from the exploitation of surface resources on the settlements in a trust fund which was to be used for the settlements' benefit, this did not provide adequate means by which the settlements could reduce their dependency upon government.

Further, the physical infrastructure of the settlements was underdeveloped in comparison with levels maintained elsewhere in rural Alberta. Roads, sewage disposal, drinking water, and housing stock were all in need of significant upgrading before they could offer settlement members the amenities which other rural Albertans enjoyed.

Administrative infrastructure was also underdeveloped. Since settlement administrations under the previous legislation had not had major duties to perform they were generally not capable of immediately assuming the more demanding responsibilities given them under the Metis Settlements legislation. Without the physical capacity to operate government and administer programmes, there was little point in transferring a broader range of powers to the settlements.

In recognition of these infrastructure needs, the Settlements legislation made

public funds available for development purposes. As mandated in the ***Metis Settlements Accord Implementation Act***, twenty-five million dollars would be made available annually for seven years to be shared amongst the settlements in such amounts as they would determine through a General Council policy. Of these funds, the legislation requires that sixty percent on them be spent on capital development in the settlements and forty percent for operations and maintenance purposes, although these proportions can also be changed by policy.[26]

In addition to these funds, a further five million dollars is to be made available annually for seven years *"for the benefit of the settlements and their members."*[27] These payments are currently being held by General Council and are invested on behalf of the settlements and are not being disbursed.

Further, once this initial seven year period is completed, the province has undertaken to pay to the General Council ten million dollars a year for ten years *"for the benefit of the settlements and their members."*[28] In total, the province has pledged three-hundred, ten million dollars over seventeen years to assist in the development of settlement infrastructure - both physical and administrative. It should however be noted that no provision for inflation was built into these sums, so that by year seventeen they will represent substantially less in real dollar values than they did

[26] *Ibid.*, ss 3, 4.

[27] *Ibid.*, s.3(1)(b).

[28] *Ibid.*, s.6.

in 1990.

From the perspective of the settlement leadership, these funds were not to be the sole resource by which settlements could sustain infrastructure development. There was, and is, a conviction on the part of the political leadership of all settlements that many of the funding programmes available to Alberta local governments would be available to them after the settlements legislation was proclaimed. There are also references in the settlements legislation to this effect. Given the general underdevelopment of the settlements in 1990, at least in comparison with other parts of rural Alberta, settlement leaders did not believe that the specially designated transitional and post-transitional funds could be effectively used if they had to both provide developmental resources **and** current operational ones. The transitional and post-transitional funding was intended to be compensatory, and not a once for all discharge of any and all obligations which the province might have towards any governmental jurisdiction located within its borders.

Further, the settlements find support for this view in the comprehensive powers given the Transition Commissioner under those provisions of the ***Accord Implementation Act*** which have been quoted above. Given what appear to be the Commissioner's extensive powers to co-ordinate the policies, programs, procedures and services of departments of Government, government agencies and local authorities having jurisdiction in the settlement areas in order to realize the purposes of the Accord and the ***Accord Implementation Act***, the settlements leadership did not believe

that obtaining on-going transfers from established provincial programmes would be problematic.

This perspective has not been universally shared by officials in government. This disagreement, perhaps sustained in part by ambiguity in the wording of the transitional provisions of the legislation, has been one of the most contentious aspects of the entire transition process. Although efforts are currently being made to resolve these issues, they remain a focus of major difficulty.

PART II

PARTICIPANT EVALUATION OF METIS SETTLEMENTS GOVERNMENT BEING ACCOMPLISHED UNDER THE METIS SETTLEMENTS LEGISLATION

The groups which were surveyed for this project were invited to evaluate the elements of the Metis settlements governance regime which have been described briefly above. There was not usually unanimity of response but there was enough similarity that a representative range of attitudes can be described. This will be done in the balance of this paper. The first theme to be reviewed is the Transition Process.

1. The Transition Process

All of the respondents surveyed for this project were in agreement that a formal transition process of some kind is essential for communities situated as are the Alberta Metis settlements. Not surprisingly, different respondents had different perceptions as to how well the existing Metis Settlements transition process was working in practice.

With regard to **planning for the transition process prior to the enactment of the legislation**, a number of respondents commented that there had been insufficient settlement involvement in the process. The suggestion was made that settlement communities should have been more extensively consulted with regard to the nature of the transition regime which was to be implemented and the function it

was to serve. Some respondents suggested that rather than institute a transition process as presently structured there should have been progressively greater shifts of authority from provincial agencies to settlement administrations over time under the previous legislation, so that the settlements would move more gradually into the assumption of greater powers.

However, this was not a common view. Some respondents articulated what many others appeared to assume: that the success of a governance process can only be assessed once the process is under way. Because it must represent a significant departure from previous patterns of dependency, many respondents maintained that any successful transition process had to break decisively with the agencies which had been responsible for the conduct of the communities' affairs under previous governance regimes. Failure to do this would risk the maintenance of old patterns of dependency, which have profound institutional force, regardless of any statutory provision for greater degrees of self-determination.

Generally, respondents were supportive of the type of transition process which was established by the Metis Settlements legislation with regard to its support for the **institutions of settlement governance**, although a number of observers felt that there was initially too much potential for conflict between the Transition Commission and the Metis Settlements General Council. There are several factors which provide an explanation for the potential conflict. Firstly, the legislated relationship between the two institutions was a new and unique one. There exists no similar arrangement in

Canada and as such there is no existing experience which could have guided the process. Secondly, some time was required to identify and establish roles which were distinct; duplication of services and issues management was of some concern. Both institutions have recently appointed a co-ordinating committee composed of their most senior officers to help ensure the adoption of a cooperative approach and the development of a common agenda.

Two aspects of the transition process as mandated by the legislation were criticized by almost all respondents. These were the provisions that i) all settlement by-laws passed in the first three years after the proclamation of the legislation had to be prepared in consultation with the Minister responsible for the Settlements legislation and had to be approved by him, and ii) the provision that General Council policies are now and, as long as the current form of the legislation is in force always will be, subject to Ministerial veto. There is a general consensus that these provisions are both unnecessary and undercut the principle objectives of the legislation.

The existence of such provisions does point to one of the factors which some respondents maintained was responsible for giving current shape to the transition process, and this was the unwillingness of government to place sufficient trust in the settlements to allow them to immediately manage their own financial or legislative affairs. If such attitudes exist it may be that a transition process of the kind mandated in the Metis Settlements legislation may be necessary, not only to offer the type of positive support to aboriginal governments which the process purports to do but also

to provide hesitant governments with sufficient reassurance so that they will not dismiss aboriginal governance proposals out of hand.

With regard to the **period of time** allowed in the legislation for the transitional process, it was generally felt that seven years was too short. Many respondents observed that time is always lost at the beginning of a transition process, as new and unfamiliar institutions begin functioning and a whole range of new roles are created. Transition periods should have provisions made for this reality and should be of sufficient length to allow aboriginal governments the opportunity to progressively assume responsibility in all major areas of governmental decision making.

There was on the part of many respondents a much more critical response in connection with the issue of **transitional funding**. Settlement councillors, settlement administrators and officers of the General Council who were interviewed maintained that the funding levels provided in the legislation were insufficient, in light of the fact that no provision was made for inflation and that many other provincial programmes were inaccessible to the settlements because it was maintained that settlement needs in these area had been satisfied through the provision of transition funds. Programme areas frequently mentioned in this regard were agriculture, water and sewage systems, medical care and especially transportation. There has been a long-standing dispute with regard to funding for settlement roads, with the provincial Department of Transportation maintaining that transition funds should now be used for this purpose.

The whole issue of ongoing access by the settlements to programme funding is an extremely important one, and one which has created great difficulty in the transition process. This is an issue which should be clearly addressed in any transition programme, because leaving it unresolved is certain to guarantee problems in the future. From the perspective of the settlements, the transition funding provided to them under the legislation was designed to enable them to reach levels of development comparable to those reached in other Alberta rural jurisdictions, and which have been attained with the use of provincial resources which had not, as a matter of policy, been generally available to the settlements under the previous legislation. To expect that this **"catch-up"** money should also be devoted to current physical infrastructure needs strikes all settlement spokespersons as extremely unfair, and a major weakness in the transition process.

There were, nonetheless, positive responses from settlement spokespersons concerning some infrastructure aspects of the transition process. Even though transition funds might be limited, it was felt they had made possible some real advances, particularly in the dramatic improvement in settlement housing stock. A number of settlement respondents also commented positively on the support for administrative infrastructure which the transition process has provided, making possible as it has the establishment of reasonably staffed settlement administrations, which have in most cases been built up to a level where they can capably deliver settlement government programmes.

Attempts are now being made by all agencies involved with the transition process to deal with perceived weaknesses. A joint settlement-provincial government review of the fiscal aspects of transition is currently being conducted to determine whether the funding levels established in the legislation are adequate. This review will also address the issue of inflationary protection for the fiscal transition package. Negotiations between various provincial agencies and the settlements are under way to work out funding arrangements in programme areas such as transportation. Finally, as was noted above, institutional arrangements have been made to co-ordinate the operations of the Transition Commission and General Council. Transitional arrangements always pose difficulties, but the process mandated by the Metis Settlements legislation has initiated the development of aboriginal governance and has given participants sufficient experience so that they can now begin to repair some of the more obvious defects of the system.

2. Settlement Governance

There were four principal areas of inquiry with regard to settlement governance:

A) the functioning of the settlement councils;

B) responsiveness of settlement councils to community concerns;

C) the by-law making powers of settlement councils and the exercise of these powers; and

D) the adequacy of the resource base of the settlements.

These will be discussed in turn.

A. The Functioning of Settlement Councils

Settlement councils lie at the heart of the governance component of the Metis Settlements legislative package. Democratically elected by the settlement membership, the councils are the principal agency through which the political will of the settlements is expressed.

As was noted above in Part I.2.A of this paper, there are 5 settlement councillors on each settlement, elected in staggered terms for a three-year period. Since annual elections are mandated by the ***Metis Settlements Act***, there is an election for at least one councillor's position every year.[29]

The chairman of each settlement council is elected from amongst the membership of the council by the council members, and the position must be filled annually, after each settlement election. Incumbents may be re-elected.[30]

There have been some criticisms of this system of elections on two counts. It has been argued that uniform terms of office would be preferable to staggered terms because it would enable candidates to seek office as teams, with consistent political

[29] *Metis Settlements Act*, s.12.

[30] *Ibid.*, s.10.

programs to place before the electorate. It was also suggested by some respondents that with the frequency of settlement elections, councillors do not have sufficient time to familiarize themselves with issues of significance in the long-term administration of the settlements.

Further, it was maintained by some respondents that settlement chairpersons should not be chosen by the votes of their peers, but should be chosen through popular election by all settlement members. This would have the effect of transforming the office from that of one settlement councillor among equals to that of elected head of the settlement.

Neither of these views was widely shared amongst our respondents. The use of staggered electoral terms is a long standing one on the settlements, and is almost uniformly supported. Arguments made in its favour refer not only to the traditional nature of the practice, but also to its democratic quality. Given the fact that at least one member of the council must seek election every year, it is generally felt that this ensures that the council as a whole will be more responsive to the wishes of the electorate than might be the case with uniformly fixed terms.

A further consideration raised in support of staggered terms is that it usually ensures a mix of experienced and neophyte councillors. With the use of such a system, it was maintained that the situation will never arise where the entire membership of a council lacks experience in public office.

Similar satisfaction was expressed with the method of selecting settlement chairmen. It was generally felt that the councillors were the appropriate people to select chairmen since it was councillors who worked with the chairperson most closely and who were best able to evaluate the effectiveness of that person's performance, thereby ensuring that the most capable people were chosen for that office.

B. Responsiveness to Community Concerns

Settlement councils are not only law-making bodies for the settlements. Amongst other powers, they also determine membership in the settlements as well as the allocation of interests in settlement land. Their power to do this is not unconstrained, since the ***Metis Settlements Act*** establishes basic criteria for settlement membership and the Metis Settlements Land Policy, made by the General Council pursuant to its power under the ***Metis Settlements Act***, sets out detailed criteria according to which various types of interests in land may be granted. Further, it is with regard to these two issues that an appeal exists as of right under the ***Metis Settlements Act*** from the decision of the council to the Metis Settlements Appeal Tribunal.

Nonetheless, these are matters full of potential difficultly for settlement councils as they are for all aboriginal governments. Those settlement councillors who dealt with the issue of responsiveness of settlement councils to settlement membership concerns felt that generally their councils were doing an adequate job in dealing with

these issues. If appeals to the Metis Settlements Appeal Tribunal can be regarded as indicative, settlement members or aspiring members may generally be in agreement with this, since to date there have only been some fourteen appeals to the Appeal Tribunal concerning these issues.

The political consequences which potentially may flow from making land and membership decisions are often significant, especially in communities with small populations and extensive family interrelationships such as the settlements (Paddle Prairie, the largest of the settlements, has a population of some one thousand people). For this reason, placing such decision-making in the hands of elected officials is often hazardous. Nonetheless, it is difficult to see what alternative there is.

In the end, aboriginal communities must be able to decide who may join them and how community land should be used. Whatever the difficulties in having this done by settlement councils, in the end they are democratically accountable, and must be responsive to community views. This accountability, when combined with the appeal mechanisms from council decisions which the legislation provides, ultimately offers protection against arbitrariness and unfairness.

With regard to community concerns other than those relating to land and membership issues, our respondents generally felt that the many mechanisms in the legislation, from community involvement in by-law making to the frequency of elections, ensured that councils did attend to membership concerns. All respondents

placed a high priority upon so attending, and the relatively small cohesive nature of the settlement populations does much to ensure that settlement councils will not become too remote from the preoccupations of the membership.

C. By-law Making Process

The extensive by-law making authority of the settlements has been discussed above in Part I.2.A. Some settlements have exercised these powers quite widely, but most have not. Other than budget by-laws, which each settlement must approve annually in order to be able to operate, a number of settlements have not as yet extensively used their by-law making powers.

For some, this reflects disapproval of the transition provisions that the Minister responsible for the Metis legislation must be consulted about and approve of the terms of every settlement by-law made in the three years following the proclamation of the legislation. For others, it may reflect uncertainty as to how to set about the actual process of law-making, something which was not within the experience of settlement councils under the previous legislation.

There are other difficulties attendant upon the by-law making process, some of which were explicitly mentioned by respondents. Enforcement is a major difficulty. With the exception of two settlements which have a special constables programme, there are no by-law enforcement mechanisms on the settlements. Further, the R.C.M.P. are still very unfamiliar with the settlement legislation and have to date

not been involved with the enforcement of such by-laws as do exist.

There is a further aspect of the by-law making process which may act as a retardant in utilizing it. Under the terms of the ***Metis Settlements Act***, all settlement by-laws must be approved at a membership meeting of at least 15 members.[31] This effectively means that there must be a plebiscite on every by-law which it is proposed to make. There are no other governments in Canada whose legislative authority is subjected to this type of popular control. This is especially noteworthy in relation to the by-laws which authorize annual settlement budgets. Under the terms of this requirement, the settlement councils must subject their annual financial operating plan to the settlement membership for approval.

Might this degree of popular participation impose a brake on by-law making? Might councils be reluctant to trigger such a process for every provision concerning a governance decision that they might wish to make? No respondent raised this point explicitly; rather some maintained the requirement that approval of by-laws might be accomplished at settlement meetings which contained only 15 people was insufficiently democratic. For these respondents, a preferable method of seeking membership approval for by-laws was through circulation of petitions on the settlement, by which a much greater number of people would have to indicate their consent before a by-law might proceed.

[31] *Metis Settlements Act*, s.55.

This issue is an important one, and arises in other contexts, such as the requirement for unanimity in much General Council decision-making. Are some parts of the settlement governance package too heavily weighted towards public consultation and consensus seeking? These are traditional Metis values, but is it suitable to employ them so widely in a process of modern governmental decision making? Many of the issues at stake in such decision-making involve complex administrative matters which in many cases will not engage the interests of large numbers of settlement members. Does the requirement for such extensive consultation impose too great a demand on settlement governments?

Respondents to our survey did not directly engage this issue, but many concerns were raised in connection with the unanimity provisions required for General Council decision-making. In that context, the search for consensus is seen as an inhibitor to contemporary governmental decision-making. Might the same be true of the participation requirements for settlement by-law making? There is no consensus on this matter, and none of our respondents questioned the principle that settlement members must have ultimate control over settlement decision-making. What is necessary for settlement governments is what is needed for all democratic government: balancing the requirements of democratic consultation with those of effective administrative decision-making. The Metis settlements have began to engage this issue, and its resolution will be one of the most important contributions the settlements can make to the development of aboriginal government throughout Canada.

D. Resource Base for Settlement Communities

All those who responded to our survey acknowledged that meaningful control of government was not possible without an adequate resource base. Of all aspects of the Metis Settlements legislative package, this remains the most problematic and gives rise to the greatest discontent.

The current resource base of the settlements consists of

a) transition funds that are transferred annually to each of the settlements under the provisions of the ***Metis Settlements Accord Implementation Act***, which amounts vary depending upon the terms of any Financial Allocation Policy which may be adopted by the General Council, and which in the 1991-1992 fiscal year amounted to three million, one hundred, twenty-five thousand dollars per settlement;

b) any other government transfer payments which settlements might obtain as part of regular provincial programme funding;

c) compensation paid to the settlements for access to sub-surface resources, pursuant to the Co-Management Agreement, which amounts vary according to the extent of sub-surface resources available on each settlement and the amount of activity on any given settlement at any given time;

d) whatever income can be generated from sectoral resources under the control of the settlements such as forestry and agriculture; and

e) revenues obtained from the aboriginal economy such as the harvest of fur and fish.

These resources are not insignificant, but they are not (except, generally speaking, for the transition funds made available under the ***Metis Settlements Accord Implementation Act***) equally distributed amongst the settlements. Further, these latter funds are not adjusted for inflation, rendering their real value less every year. Moreover, as has already been discussed, provincial program funding has in many cases not been made readily available to the settlements, due to the impression which exists in some parts of the provincial government that transition funding was intended as a replacement for regular program funding.

Given the social and economic conditions which prevail on the settlements, which are not significantly different from those prevailing in most other aboriginal communities in western Canada, and given as well the relative lack of infrastructure development on the settlements prior to 1990, settlements require a much richer resource base than they currently possess. Without such a base, eventual delivery of services approximately comparable to those enjoyed by other Alberta communities will be extremely difficult, to say nothing of further movement toward self-determination. For this reason two initiatives are crucial:

a) acquiring control of the revenues derived from sub-surface resources; and

b) exercising a taxing power of some kind over interests held in settlement lands.

Acquiring control of sub-surface resources has been a long-standing aim of the settlements, but it was not realized in the Settlement legislation. The legal action concerning this issue has been stayed, not dropped, and it is inactive at this time. Recently, the settlements through the General Council initiated new discussions with the province on the resources issue, to determine whether a negotiated resolution of this matter is possible. The issue of sub-surface resources is not just an opportunity to obtain the increased revenue essential to sustain any governance regime. Also, and perhaps more importantly, ownership of sub-surface resources is a land related issue. In other words it represents a strong desire that full land ownership be sought and attained. This would complete the evolution of a Metis land base.

The settlements possess taxing power on land through the provisions of s.222(1)(i) of the ***Metis Settlements Act***, which gives to the General Council the right to make a policy:

"respecting the assessment or taxation, or both, of land, interests in land or improvements on land, in the settlement area, including rights to occupy, possess or use land in the settlement area".

All of our respondents agreed that it was inevitable that settlement councils will someday have to exercise this power. The legislation provides a further inducement to do so by promising, in Schedule 1 to the ***Accord Implementation Act,*** that any revenues raised by settlements through taxation will be eligible for matching payments from the provincial government during the years 1997-2006.

However, settlement councillors who appreciate all of the advantages to be gained from utilizing this power are **extremely hesitant** to do so **except** in the case of taxing interests held by commercial users in settlements lands such as natural resource companies. These interests are currently taxed by the settlements and for the moment this is the only major taxation initiative which settlements are prepared to undertake.

The imposition of some type of tax on individual settlement members creates many difficulties. No settlement is prepared to seriously pursue such a policy at this time, except for the imposition of a nominal levy on each member who has a registered interest in settlement land. There are a number of reasons for this position, besides the obvious one that no government gains popularity from the imposition of a tax.

Many settlement councillors feel that priority must be given to creating more opportunities for wealth creation on the settlement. They feel it unfair to attempt to tax people who currently have very few resources.

There is a further feeling on the part of councillors that there is simply no mandate amongst the settlement population for the imposition of a tax on individual members. No settlement councillor surveyed for this study supported imposing any type of tax on settlement members, other than the levy referred to above, which was in place under the previous legislation.

This issue will continue to pose problems, particularly as transition funding approaches its limit and it becomes necessary for settlements to generate greater revenues. The Settlements legislation has given the General Council and settlement governments the power to tax, but many obstacles remain in the way of exercising such power.

3. Metis Settlements General Council

The purpose and functions of the General Council have been discussed above in s.1.2 of this paper. Of greatest concern to us in our survey was to determine what were perceived to be the relationships between the General Council and the settlement councils and the settlement membership and how well these relationships are functioning.

It was clear from our surveys that there is not yet the feeling on the part of all settlement members, be they councillors or administrators, that the General Council does represent the collective interests of all the settlements. In some cases there is the perception that the General Council is an external body imposing its will on the

settlements in areas such as policy-making, where it has specifically mandated statutory authority. Why, asked some of our respondents, should the General Council have the right to decide what policies should apply to any particular settlement? The view was also expressed that the General Council's position as fee simple title holder of all settlement land and the role which the legislation gives the General Council as the guardian of the settlements' collective interest in the lands and resources of each settlement is a potential imposition on individual settlements and perhaps even a potential threat.

This view was not a majority one. Some respondents stated that the General Council has been responsive to community concerns in the formulation of policies. Nonetheless, it is clear that a sense of remoteness does exist between some settlements and the General Council. There is still a perception that the General Council is essentially the executive, and not the totality of settlement councillors who in fact constitute the greatest part of the General Council. Perhaps this is a perception that is inherent in any federal system.

A number of suggestions were offered by which this perception could be changed, and the General Council be made to appear less remote to settlement membership. For example, it was proposed that the General Council executive should be elected by the entire settlement membership, and not as it now is by settlement councillors. However, there was not unanimity on this issue by any means, as some respondents felt that the current electoral system preserves a balance among the

settlements, and prevents any one settlement from dominating all executive positions.

Further, it was suggested that the General Council must be primarily **"political"** in the discharge of its mandate, and give less priority to administrative matters. This may be a suggestion that there is, in the opinion of some, a perceived failure on the part of General Council to provide direction in common policy areas, which is one of the General Council's principal functions.

Our conversations with respondents did reveal one widespread, although not universal, suggestion for change in General Council decision-making, and that concerns the provision that the General Council must make most of its decisions unanimously in areas of policy making. Not all General Council policies must receive the unanimous support of all eight settlements before they can be adopted, but all major policies must obtain such support.

This provision for unanimity represents a re-affirmation of traditional methods of decision-making in Metis communities based on consensus-seeking, but in the opinion of many of our respondents, this has made it too difficult to obtain decisions on important issues from General Council. Since a number of policy areas produce strong disagreements among some General Council members, and there is, at least at times, an inability to attain consensus, decisions simply do not get made. In our discussions with respondents, it was frequently suggested that the unanimity provision be replaced with a requirement that the support of either a simple majority or six of

the eight settlements be sufficient to make all General Council decisions.

This view is not universally held. One settlement in particular is a strong proponent of the current unanimity provision, as a way of protecting its vital interests in the context of General Council decision-making. This perspective points to a further reason why the unanimity clause was included in the legislation, and why it may not be easy to change. It is clear that there is not as yet sufficient certainty that the common interest of all settlements can be realized through General Council action in such a way that the particular interest of some settlements may not be adversely affected. Perhaps such certainty can never be achieved among communities as widely dispersed and as distinctive as are the Alberta Metis settlements. However, as long as doubts on this subject persist, there may be periods of difficulty for General Council decision-making.

4. Other Metis Institutions

As was discussed above, in addition to the settlement councils and the General Council, several other institutions have been established under the Metis Settlements legislative package or as a result of it. These are the Metis Settlements Land Registry, the Metis Settlements Access Committees, and the Metis Settlements Appeal Tribunal. The views of our respondents on the functioning and efficacy of each of these will be discussed in turn.

a) Metis Settlements Land Registry

The Land Registry was established to record the interests created in Metis Settlement land as a result of the General Council Land Policy, which is perhaps the most ambitious policy initiative the General Council has taken to date. The Registry is currently operated under the aegis of the Metis Settlements Transition Commission.

The Registry is widely perceived to have done an effective job in establishing and administering a completely new land registration system which is in some ways analogous to, but far from identical with, the provincial land registry system. Some respondents did indicate that the Registry should operate under the authority of the General Council rather than the Transition Commission, but this concern is being addressed and the Registry will ultimately be operated under a Metis governance jurisdiction of some kind. Its current location at the Transition Commission is simply another aspect of the transitional arrangements for which the legislation has provided.

b) Metis Settlements Access Committee

As was discussed above, the Access Committees were designed to assist in realizing the objectives of the Co-management Agreement which gave the settlements some decision-making authority over, and the proceeds from, access to sub-surface resources. As with the Land Registry, there was a general consensus among respondents that MSAC has adequately discharged the duties given it in the legislation.

c) Metis Settlements Appeal Tribunal

The purpose and composition of the Tribunal has been discussed earlier in this paper. In the view of those respondents who had participated in the framing of the legislation, the establishment of the Appeal Tribunal was one of the most innovative elements in the entire legislative package.

Its potential strengths are obvious. Since its membership is drawn largely from the settlements, it allows people familiar with settlement realities to decide disputes relating to land and membership - issues which have distinctive features which those with no experience of the settlements might not appreciate. The Tribunal procedures are relatively informal, and it holds hearings on the settlements. Individuals can represent themselves at Tribunal hearings if they choose, although there is no bar to being represented by counsel. As a result, the formality of court proceedings, and their cost, are avoided and settlement members have access to a decision-making body which is approachable and affordable.

As a tribunal, it has very significant authority (it can for example, quash by-laws, a power not given to any other tribunal in Alberta)[32], and its decisions may, with the approval of the Court of Queen's Bench of Alberta, be enforced in the same manner as a judgement or order of the Court. As the volume of its decision-making increases, there will be established a body of precedent based on distinctive Metis experience to which the settlements may turn for guidance in some of the most

[32] *Metis Settlements Act*, s.190(i).

important areas of their decision making. This represents an important precedent in the establishment of an aboriginal justice system in Canada.

The Tribunal has released some fourteen decisions to date. The have all concerned land or membership issues, although, with the agreement of affected parties, the Tribunal may determine other types of disputes or perform other functions.

It is still much too early to achieve any balanced assessment of the Tribunal's work. There was widespread consensus amongst respondents that the Tribunal represents a valuable concept, but that it would take time to realize its advantages. All respondents agreed that it was crucial for the Tribunal to preserve its impartiality, and to remain completely removed from any type of political activity. Without a common perception that the Tribunal remains "above the fray" of settlement politics, all respondents agreed that its effectiveness would be severely impaired.

PART III

THE CONSTITUTIONAL POSITION OF THE METIS SETTLEMENTS

The Alberta-Metis Settlements Accord and the Metis Settlements legislation represent an important stage in the development of institutions of Metis government in Alberta. However, none of our respondents regards this stage of development as representing any type of culmination or end point. Rather, it is seen as part of a larger process, which continues to evolve.

Even in the context of the legislation itself, various of its provisions are to be subject to periodic review.[33] A review of the transitional funding arrangements in the legislation is currently under way to determine if the financial support for settlements mandated by the ***Accord Implementation Act*** is adequate. It was always conceived that various elements of the legislation might be changed, depending on what was learned as the package was implemented.

Further, as has been discussed above, there was, from the perspective of the settlements two major gaps in the 1990 package. The first was that although the settlement land base was effectively put beyond the reach of unilateral legislative extinguishment, it did not receive protection under the Constitution of Canada. The second was that sub-surface mineral rights were not transferred to settlement control.

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[33] As examples, see *Metis Settlements Accord Implementation Act*, s.9; *Metis Settlements Act*, s.264.

Both issues remain important priorities for the settlements. Constitutional protection for settlement lands and resources was promised by the Charlottetown Accord, but with the public rejection of that proposal, activity on the issue has not been resumed. With regard to the sub-surface resources issue, negotiations concerning this matter are to begin shortly between the General Council and the provincial government. Unless this situation is resolved to the settlements' satisfaction, it may be unlikely that they would be prepared to accept any constitutional entrenchment of the settlement land base.

Although aboriginal governance is not mentioned as such in the Metis Settlements legislative package, it does provide a broader context within which can be placed the development of Metis institutions under the legislation. Members of the settlements have always placed a priority on the concrete achievement of certain goals, and have not been so concerned with the conceptual nature of whatever constitutional entitlements they might possess.

However, the political leadership of the settlements is not indifferent to these issues. As noted above, the General Council played an active role in negotiations leading to the conclusion of the Charlottetown Accord, and our respondents indicated that they continue to support on-going efforts to provide constitutional protection for the exercise of aboriginal government.

As with members of many other Canadian communities to-day, however,

people on the settlements are uncertain as to how to proceed with this task and reluctant to engage it. As a result, the focus is on improvements to the existing legislative package rather than a formal re-ordering of the constitutional relationship between Canada, Alberta and the settlements.

Perhaps for this reason, there was little extended reaction on the part of our respondents to questions concerning further constitutional initiatives on the part of the settlements. All respondents support the principle of constitutional protection for settlement lands providing the settlements gain complete control of these lands. However, no clear indications were provided as to how constitutional recognition of aboriginal government would change the ways in which the settlements are currently operating as they try to implement the provisions of the Metis Settlements legislation. The implication of this might be that there would be very little practical change with regard to the ways in which the settlements are implementing governance should the basis for this be conceptualized as a constitutional entitlement rather than a statutory devolution of power.

Most of our respondents believe that Metis people have the right to govern themselves and determine how their communities should be structured. The consensus among them seems to be that the Metis Settlements legislation currently gives them an opportunity to do this, although none of them views the provisions of the legislation as an ideal arrangement or as in any way representing the final word on this matter. The whole process is viewed as an evolutionary one, moving towards the

assumption of greater authority and the dedication of greater resources to Metis government jurisdictions.

As a result, there was not a strong response to questions dealing with the conceptual basis for Metis government and the relationship between Metis jurisdictions and other governments in Canada. The practical reality is that the leadership of the Alberta Metis Settlements is currently coping with the discharge of new responsibilities and the administration of new resources. When the leadership of the settlements comes to feel that these tasks have been mastered, it will be opportune to consider expanding the actual reach of Metis settlements government, and to consider in that context what might be the conceptual basis for such expansion. However, should constitutional amendment become an important public policy item in the near future, the settlements will insist on representing their interests in any negotiation leading to such amendment.

PART IV

CONCLUSION

The Metis Settlements legislation has now been in force for three years. In that time significant changes have occurred in Metis settlements, but equally significant changes lie ahead. In summarizing the views of our respondents with regard to the advantages and disadvantages of the regime established by the Settlements legislation, the following general conclusions can be drawn.

Almost all respondents remain generally supportive of the underlying policy thrusts of the legislation. Identified as especially important in this regard were the increased authority now exercised by settlement councils, the protection of the land base of the settlements from unilateral abolition by the provincial government, and those infrastructure improvements such as the upgrading of settlement housing stock which transition funding has made possible.

These achievements have all imposed greater demands on settlement councils, and have made the exigencies of settlement decision-making more intensely felt. With greater power has come greater responsibilities, and settlement councils must now balance the fulfilment of great needs with the availability of limited resources.

In the view of many of our respondents, it is in the provision of these resources that the Settlements legislation is most deficient. The weaknesses in this

area have been discussed at some length earlier in this paper, and consist of such problems as the failure to provide for inflation in transition funding, the difficulty of obtaining access to established government programme funding, and the failure to place sub-surface resource wealth in the hands of the settlements.

If a generalized progress report relating to the Settlements legislation could be made, it would not be unfair to state, on the basis of the replies of respondents to our survey, that the political-administrative aspects of the legislation, though capable of some improvement, appear to be working satisfactorily, but resourcing aspects of the legislation require the greatest amount of change. This in turn points to a wider lesson to be drawn from the Metis experience which may have application to all aboriginal governments: the issues of resourcing will always be the most difficult to address effectively. However, if they are not addressed, genuine self-determination will never be achieved.

There are provisions in the legislation for addressing some of these difficulties. The transitional funding arrangements mandated by the ***Accord Implementation Act*** must, under the terms of s.9(1) of the ***Act***, be reviewed by the Minister and the General Council in 1993, 1996, 2001 and 2006 to determine, in the words of s.9(2) *"... whether the money required to be paid under [the Act] reflects the needs of the settlements and their members in light of prevailing circumstances."* The review for 1993 is already under way and this may provide an opportunity to address many of the difficulties with transition funding which have been raised in this paper.

Similarly, negotiations have been initiated between the provincial government and the General Council to address the issue of control of sub-surface resources. As has been noted earlier, some resolution of this issue is necessary before the settlements will view the land component of the Settlements legislation as satisfactorily completed.

The fundamental point to be taken from these developments is that none of our respondents viewed the Settlement legislation as static, and its own terms indicate that its principal components must be subject to continual review. As a further example of this, reference may be had to s.264 of the ***Metis Settlements Act***, which requires that the Minister and the General Council must, in 1994, review and make a report about:

> *"(a) the election process, system and legislation for the election of councillors, and*
>
> *(b) the election system for officers of the General Council."*

These and other tasks mandated by the legislation are carried out in a pragmatic atmosphere and have not, to date, much utilized the conceptual language of aboriginal governance. However, the reality for the Metis settlements, three years after the passage of the legislative package, is that they are steadily exercising more and more of the powers of governance, and increasing the scope of their autonomy. At the end of the day, all exercises of aboriginal governance, no matter how conceptualized, will amount to this: governments elected by and accountable to

aboriginal communities taking onto themselves the effective power to govern those communities. Under the Metis Settlements legislation, the people of the Alberta Metis settlements are now doing precisely that.

PART V

RECOMMENDATIONS

Based on the experience of the Metis settlements and on the views acquired from the Metis Settlements Royal Commission survey, the following recommendations are made to the Royal Commission on Aboriginal Peoples.

1. Transition Period:

a) It is essential that any aboriginal governance regime be based on extensive consultation with the aboriginal community and that the design and structure of the regime be aboriginal-driven. It is fundamental that the people any government is to serve also have a sense of ownership in that regime. One method of achieving this might be, as with the Metis settlements, the conducting of a referendum to approve any governance package prior to its adoption.

b) The time frame of any transition period must be such as to adequately achieve the goals which the governance framework hopes to achieve. The experience of the Alberta Metis settlements is that the initial seven year period with corresponding resources is too short. Each community differs and presents different challenges; these must be taken into account. In the case of the settlements, a doubling of the time frame to fourteen years would certainly have been more realistic.

c) Adequate resources must be made available if success is to be achieved in the transition to self-determination. These resources must establish, as the current settlement package does not, an ability to ensure economic development from resources fully controlled by the aboriginal community.

d) Funding arrangements for the transition period must be clearly specified. There must be some assurance that all parties to proposed governance agreements understand clearly what is, and what is not, being provided for in transitional funding arrangements.

e) Any transition must allow for flexibility in meeting its goals. We would recommend that, as in the Settlement package, reviews of the package be incorporated to allow for a periodic, realistic examination as to whether or not the resources allocated are meeting the needs of the people. Further, it is essential that there be a willingness on the part of the participants in any agreement to make the changes necessary to meet those.

2. Governance Regime:

a) The foremost requirement in this area is the need to ensure that any regime reflect the community which it is intended to serve. As with the transition period, ownership by the people is fundamental if any

self-government framework is to survive, grow and flourish. Extensive consultation followed by a referendum is a possible method of ensuring such feelings of ownership.

b) It is important that any governance regime be sufficiently detailed to both limit conflict, and yet be flexible enough to allow for fluidity and change. As mentioned above, comprehensive reviews incorporated into a transition plan could achieve this. Further, it may be advisable to develop, prior to implementation, a constitution which includes clear division of powers pertaining to governing structures.

c) Any self-government arrangement must be adequately resourced. This is especially vital in the early years.

d) As with the transition period, structures, processes and mandates need to be periodically reviewed. These reviews should focus on gaps, inconsistencies, inadequacies and general problems experienced with the governance framework.

e) Any aboriginal governance regime should contain dispute resolution mechanisms especially as they relate to land and membership. The Metis Settlements Appeal Tribunal offers a useful example of such a mechanism.

3. Land and Resource Base:

a) Where possible a land base should be provided for aboriginal communities. This makes the process of defining the jurisdiction of aboriginal governments much less difficult.

b) The method of holding land is extremely important. The settlements have chosen a collective approach which ensures that the land base remains intact. However, collective land ownership also presents problems in terms of economic initiatives and the use of land for security purposes.

c) Of utmost importance is that any land base be owned in its entirety. In other words, full land ownership is essential, including all resources such as timber, oil and gas. This principle has been consistently sustained by the Metis leadership, who have experienced what the failure to obtain effective full ownership of land can mean. The most fundamental point to be made in relation to aboriginal governance is that without adequate resources, there cannot be fully self-determining decision-making on the part of aboriginal governments.

APPENDIX "1"

SCHEDULE 1

BY-LAWS

By-law Making Authority of Settlement Councils

General governance

1 A settlement council may make by-laws for the general governance of the settlement area.

Internal management

2 A settlement council may make by-laws for the internal management of the settlement, including

(a) the persons who are authorized to sign agreements on behalf of the settlement and any terms or conditions attached to the authorization;

(b) establishing a quorum for public meetings and the procedure to be followed when a vote is taken at public meetings;

(c) the establishment, maintenance and safekeeping of the minute book of the council, by-laws and other records of the settlement;

(d) applications for membership in a settlement;

(e) establishing waiting lists for the persons described in section 79(4) and the means of deciding which application has priority over another when they are on the list;

(f) prescribing forms or authorizing them to be prepared.

Miscellaneous matters

3 A settlement council may make by-laws

(a) describing the circumstances when a settlement member who is on an authorized leave of absence is not considered to be a resident of the settlement area;

(b) respecting the establishment of holidays in a settlement area;

(c) describing the persons who have a right to live on patented land in addition to those described in section 92;

(d) respecting those matters that may, by this or any other enactment, be subject to a settlement by-law.

Health, safety and welfare

4 A settlement council may make by-laws to promote the health, safety and welfare of the residents of the settlement area.

Public order and safety

5 A settlement council may make by-laws respecting public order and safety, including by-laws

(a) prohibiting or regulating the discharge of firearms as defined in section 84(1) of the *Criminal Code* (Canada);

(b) prohibiting or regulating activities or conduct offensive to or not in the public interest as determined by the council;

(c) establishing curfews for children who are not accompanied by a parent or appropriate guardian and providing for penalties in respect of parents or guardians whose children contravene the by-law.

Fire protection

6 A settlement council may make by-laws to prevent and extinguish fires, preserve life and property and protect persons from injury or destruction by fire, including

(a) prohibiting interference with the efforts of persons engaged in extinguishing fires or preventing the spreading of fire, by regulating the conduct of persons at or in the vicinity of a fire;

(b) prohibiting or regulating the storage or transportation of explosives or other flammable or dangerous matter;

(c) prohibiting or regulating any conduct, activity or other thing that is or may become a fire hazard.

Nuisances and pests

7 A settlement council may make by-laws

(a) prohibiting unsightly or untidy land or buildings or anything on land that is unsightly or untidy;

(b) prohibiting or regulating noise generally or during specified periods throughout or in designated areas of the settlement area;

(c) requiring or providing for the removal or burning of trees or shrubs that may interfere with settlement works or utilities;

(d) regulating or controlling activities for the purpose of eliminating or mitigating animal or insect pests and diseases.

Animals

8 A settlement council may make by-laws

(a) preventing the leading, riding and driving of cattle or horses in any public place;

(b) prohibiting or regulating the running at large of dogs and other animals, including

(i) providing for the impounding of dogs running at large and for the killing, sale or other disposition of impounded dogs if not claimed from the pound within a specified time with any conditions governing payment of costs and expenses and removal from the pound that the by-law provides, and

(ii) licensing dogs and classifying dogs for licensing purposes;

(c) regulating the keeping by any person of poultry or wild or domestic animals;

(d) prohibiting the keeping by any person of poultry or wild or domestic animals in any specified part or parts of the settlement area when, in the opinion of the council, that keeping is likely to cause a nuisance;

(e) preventing cruelty to animals.

Airports

9 A settlement council, subject to any Act of the Parliament of Canada, may make by-laws establishing, controlling, operating or maintaining an airport, aerodrome or seaplane base.

Posters and advertising

10 A settlement council may make by-laws

(a) prohibiting or regulating the posting or exhibition of pictures, posters or other material;

(b) respecting the removal of anything posted or exhibited contrary to the by-law;

(c) prohibiting or regulating the size, use, location and placement of advertising devices.

Refuse disposal

11(1) A settlement council may make by-laws

(a) defining "refuse" for the purpose of this section and the by-laws;

(b) prohibiting or regulating the placement or depositing of refuse;

(c) regulating the activities or use of waste disposal sites established by the settlement council;

(d) establishing and regulating a system for the collection and disposal of refuse.

(2) If a settlement council establishes a system for the collection and disposal of refuse, whether the settlement undertakes the collection and disposal of the refuse or does so by contract, all refuse collected becomes the property of the settlement and may be sold, destroyed or otherwise disposed of as the council directs.

Public health

12 A settlement council may make by-laws

(a) respecting the health of the residents of the settlement area and against the spread of diseases;

(b) regulating and controlling the use of wells, springs and other sources of water for the settlement area and preventing the contamination of it or of any water in the settlement area;

(c) compelling the removal of dirt, filth or refuse or any other obstruction from public rights of way or private roads by the person depositing it and providing for its removal at the expense of that person if he or she fails to remove it;

(d) compelling the removal from any place within the settlement area of anything considered dangerous to the health or lives of the inhabitants.

Parks and recreation

13 A settlement council may make by-laws respecting the regulating of activities and equipment in

(a) parks or recreation areas;

(b) trailer courts or mobile home parks;

(c) campgrounds;

(d) exhibition or rodeo grounds.

Control of business

14(1) A settlement council may make by-laws to control and regulate businesses, industries and activities carried on in the settlement area, including

(a) the manner and nature of their operation,

(b) the location of them,

(c) prohibiting any business, industry or activity without a licence, which may apply to persons who carry on the business, industry or activity partly in and partly outside the settlement area, and

(d) making any provision of the by-law applicable to one or more businesses, industries or activities or one or more classes of them.

(2) A settlement council may license any or all businesses, industries or activities

(a) whether or not the business, industry or activity is mentioned in this Act, and

(b) whether or not the business, industry or activity has an office in the settlement area.

(3) The power to license a business, industry or activity includes the power to specify the qualifications of the persons carrying on the business, industry or activity and the conditions on which the licence is to be granted.

(4) A settlement council may, in a by-law,

(a) provide for the classification of businesses, industries and activities for the purposes of the by-law;

(b) prescribe different licence fees for different classes of businesses, industries and activities.

Installation of water and sewer connections

15(1) A settlement council may make by-laws

(a) directing the owner of a building on land abutting a street or public place in which there is a sewer and water main to install in the building connections with the sewer and water mains, and the apparatus and appliances required to ensure the proper sanitary condition of the building and premises;

(b) preventing the use of a toilet that is not connected with the sewer and providing for it to be removed or filled up;

(c) directing the owner of any building, erection or structure situated on land abutting any public right of way or private road where a system of storm sewers is constructed to connect the owner's building, erection or structure to the system.

(2) If the owner fails or refuses to comply with a direction under subsection (1) within the period of time fixed by the settlement council, a person authorized by the settlement council may enter on the land and into the building concerned and make the connection or do other work needed to comply with the directions and charge the cost of it against the land, building, erection or structure concerned.

Sewerage system fees

16(1) A settlement council may by by-law impose a service charge payable by all persons occupying property connected to the sewerage system of the settlement.

(2) The service charge is to be levied having regard to the cost of the sewerage system and to the cost of treatment and disposal of sewage and the services respectively rendered with respect to properties connected to the sewerage system.

Special charges

17 A settlement council may by by-law impose special levies for the purposes of providing recreation and community services and facilities to residents, and may provide for the charging of admissions or the raising of funds as the council may decide.

Planning, land use and development by-laws

18 A settlement council may make by-laws

(a) establishing a general plan for land use and development in a settlement area;

(b) prohibiting or regulating and controlling the use and development of land and buildings in the settlement area;

(c) authorizing the settlement council, or a person designated by it, to prohibit the development or use of land or buildings if there are inadequate arrangements for access to, and for utilities and other services to, the land or buildings.

By-laws under a General Council Policy

19 If there is a General Council Policy in effect, a settlement council may, in accordance with that Policy, make by-laws

(a) prohibiting persons who are not settlement members from hunting, trapping, gathering or fishing in the settlement area;

(b) prescribing the terms and conditions under which a person or class of person is permitted to occupy, hunt, trap, gather or fish in the settlement area;

(c) prescribing the manner in which and the terms and conditions subject to which a settlement member may acquire

(i) the right to trap, hunt or gather in the settlement area;

(ii) the right to fish in a marsh, pond, lake, stream or creek in the settlement area and the circumstances under which that right may be suspended, limited or revoked;

(d) as to the use by settlement members of a part of the land allocated for occupation by a settlement council in respect of which no person has the exclusive right of occupation;

(e) respecting the cutting of timber on all or part of the settlement area, including

(i) the amount of timber that may be cut,

(ii) the disposition of the timber cut,

(iii) the disposition of the proceeds of the sale of the timber cut, and

(iv) prohibiting the cutting of timber otherwise than in accordance with the by-laws;

(f) permitting the settlement council to engage in some or all of the activities described in section 3(2);

(g) respecting the rights and privileges of a minor child or adopted minor child of a settlement member and the circumstances under which all or any of those rights or privileges may be suspended or terminated;

(h) respecting the matters described in section 222(1)(k) to (s).

By-laws to implement General Council Policies

20 A settlement council may make any by-laws that are necessary to implement General Council Policies.

Matters that may be included in by-laws

21(1) Settlement by-laws made under this Act or any other enactment may include

(a) a system of granting permits, approvals, licences or similar authority and prohibiting any development, activity, industry, business or thing until the permit, approval, licence or authority has been granted;

(b) the one or more persons, including the settlement council, having authority to issue a permit, approval, licence or authority, whether conditions may be imposed and, if so, the nature of them and who may impose them;

(c) conditions that must be met before a permit, approval, licence or authority is granted or renewed, the nature of them and who may impose them if they are not specified in the by-law;

(d) provisions governing the duration and the suspension, cancellation or revocation of a licence, permit, approval or other authority for failure to comply with a condition or the by-law or for any other reason specified in the by-law;

(e) the fees, dues, charges or levies payable for any permit, approval, licence or other authorization;

(f) the fees, dues, charges or levies payable for anything provided or done by or on behalf of the settlement or for any service or assistance;

(g) the method by which fees, dues, charges or levies or the cost of services or assistance are to be calculated or assessed and collected, the persons by whom and when they are to be paid, penalties or interest for non-payment or late payment of money payable and discounts or other benefits for early payment;

(h) providing for an appeal in respect of any matter referred to in the by-laws.

(2) A settlement council may make by-laws prescribing the terms and conditions of a lease, licence, permit, authorization or other right or interest in land granted by it.

APPENDIX "2"

(b) the election of officers of the General Council, their eligibility, term of office, disqualification and related matters;

(c) the process and procedure for passing resolutions, including public notice and consultation with settlement members before passing a resolution.

(2) The General Council must name a place in Alberta as its permanent office and publish that information in The Alberta Gazette.

Executive committee

218 The General Council may establish an executive committee and delegate to it any of the General Council's powers, duties or functions, except the power to make General Council Policies.

Division 2
Making Decisions

Decisions made by resolution

219(1) The General Council can make decisions only by

(a) a unanimous resolution, being a resolution approved by all 8 settlement councils,

(b) a special resolution, being a resolution approved by at least 6 settlement councils, or

(c) an ordinary resolution, being a resolution approved by at least 5 settlement councils.

(2) General Council Policies must be approved by a unanimous resolution or a special resolution.

(3) All other decisions of the General Council can be approved by an ordinary resolution, unless a General Council Policy requires another form of approval.

Voting

220 Each settlement council present at a General Council meeting has one vote in respect of each resolution to be voted on at the meeting.

Resolutions must be passed at meetings

221 Every resolution of the General Council must be passed at a regular or special meeting of the General Council.

Unanimous General Council Policies

222(1) The General Council, after consultation with the Minister, may make, amend or repeal General Council Policies

(a) respecting the prohibition or the regulation and control of the sale, lease or other disposition of timber in settlement areas;

(b) respecting the co-management of the subsurface resources of settlement areas and the distribution of the proceeds from exploration for, and development of, those resources;

(c) respecting the means by which any right or interest in patented land may be created, the person or persons having authority to create it, the persons who may acquire the right or interest, and any conditions or restrictions attached to its creation, use or disposal;

(d) respecting a financial allocation policy for the settlements, which may include a requisition on settlements to fund the General Council;

(e) respecting whether and, if so, under what conditions the General Council may

(i) engage in commercial activities,

(ii) make investments other than those described in Schedule 2,

(iii) lend money,

(iv) make grants of money,

(v) guarantee the repayment of a loan by a lender to someone other than the settlement, or

(vi) guarantee the payment of interest on a loan by a lender to someone other than the settlement;

(f) authorizing a settlement council to engage in some or all of the activities described in section 3(2);

(g) respecting the consent of the General Council under section 7 of the *Metis Settlements Land Protection Act*, and any terms and conditions that must be met before consent is given;

(h) providing for a levy to be imposed by settlement by-law on the General Council in such form and manner as the Policy provides;

(i) respecting the assessment or taxation, or both, of land, interests in land or improvements on land, in the settlement area, including rights to occupy, possess or use land in the settlement area;

(j) permitting settlement by-laws to be made respecting the assessment and taxation of the fee simple or any lesser interest in patented land held by the General Council;

(k) respecting the means by which the General Council may maintain, create, terminate and grant rights and interests in patented land;

(l) respecting the allocation of patented land;

(m) respecting the issuance of rights or interests in patented land and the reservations, exceptions, conditions or limitations in respect of the issuance of the rights or interests;

(n) respecting the rescinding or termination of rights or interests in patented land;

(o) respecting the eligibility of persons to be allocated rights or interests in patented land;

(p) respecting appeals relating to the allocation of rights or interests in patented land;

(q) respecting the circumstances under which an allocation can be refused;

(r) respecting the disposition of rights or interests in allocated patented land;

(s) respecting the disposition of rights or interests in patented land that are not allocated;

(t) governing the location of utilities and public rights of way in a proposed subdivision and the minimum width and the maximum gradient of public rights of way;

(u) respecting the devolution of estates and interests in patented land held by a settlement member on the death of the member whether the member dies testate or intestate;

(v) providing that one or more of the *Administration of Estates Act*, the *Devolution of Real Property Act* and the *Wills Act* do

not apply to specified interests in patented land that are held by settlement members;

(w) describing the persons who are permitted to reside i settlement areas in addition to the persons described in sectio 92;

(x) respecting the entities in which a settlement or the General Council may establish accounts in addition to those permitted by this Act.

(2) General Council Policies under subsection (1) or an amendment or repeal of them

(a) must be approved by all 8 settlement councils, and

(b) are subject to a veto by the Minister under section 224.

(3) A General Council Policy described in subsection (1) can be made, amended or repealed in accordance with section 223(2) if all the settlement councils agree that the policy is to be passed, and subsequently made, amended or repealed, in accordance with section 223(2).

Special resolution General Council Policies

223(1) The General Council, after consultation with the Minister, may make, amend or repeal General Council Policies

(a) respecting membership in settlements;

(b) respecting the taking of a census of settlement members or the population of settlement areas;

(c) respecting the notice required and procedures for General Council meetings or public or special meetings called by the General Council;

(d) describing what is or what is not considered to be a financial interest for the purpose of explaining when a conflict of interest may exist;

(e) providing for planning, land use and development c settlement areas, including the prohibition or regulation and control of the use and development of land and buildings;

(f) respecting the occupation or use of patented land that is not allocated to a person or in respect of which no person has exclusive right of possession;

(g) respecting the right of non-settlement members to reside in a settlement area and the duties associated with being a resident;

(h) respecting those matters that may, by this Act or any other enactment, be subject to a General Council Policy;

(i) respecting such other matters as are considered by the General Council to be for the benefit of the settlements or settlement members.

(2) General Council Policies under subsection (1) or an amendment or repeal of them

(a) must be approved by at least 6 settlement councils, and

(b) are subject to a veto by the Minister under section 224.

(3) A General Council Policy described in subsection (1) can be made, amended or repealed in accordance with section 222(2) if all the settlements agree that the policy is to be passed, and subsequently made, amended or repealed, in accordance with section 222(2).

Ministerial veto

224(1) General Council Policies made under section 222 or 223 or an amendment or repeal of those Policies must be sent to the Minister and come into effect 90 days after they are received by the Minister, or any longer period to which the General Council agrees, unless

(a) the Minister by order approves the Policy in writing at an earlier date, in which case the Policy comes into effect when it is approved, or on any later date specified in the Policy, or

(b) the Minister vetoes the Policy or any portion of it by notice in writing to the President of the General Council.

(2) A General Council Policy or any portion of it that is vetoed by the Minister has no effect.

(3) A copy of an order or notice under subsection (1) must be sent to each settlement council.

Policies not subject to veto

225 The Minister may, in accordance with section 239, specify which General Council Policies are not subject to a veto, or the amendment or repeal of which is not subject to a veto, in which

APPENDIX "3"

SCHEDULE 3

CO-MANAGEMENT AGREEMENT

This Agreement made this day of 1990,

Between:

Her Majesty the Queen in right of the Province of Alberta, as represented by the Minister of Energy (hereinafter called the "Minister")

and

Metis Settlements General Council, a corporation established under the *Metis Settlements Act* (hereinafter called the "General Council")

and

Buffalo Lake Metis Settlement, a corporation established under the *Metis Settlements Act*

and

East Prairie Metis Settlement, a corporation established under the *Metis Settlements Act*

and

Elizabeth Metis Settlement, a corporation established under the *Metis Settlements Act*

and

Fishing Lake Metis Settlement, a corporation established under the *Metis Settlements Act*

and

Gift Lake Metis Settlement, a corporation established under the *Metis Settlements Act*

and

Kikino Metis Settlement, a corporation established under the *Metis Settlements Act*

and

Paddle Prairie Metis Settlement, a corporation established under the *Metis Settlements Act*

and

Peavine Metis Settlement, a corporation established under the *Metis Settlements Act*

WHEREAS:

1 The Alberta Metis Settlements Accord dated July 1, 1989 and executed by the Alberta Federation of Metis Settlement Associations and on behalf of Her Majesty the Queen in Right of the Province of Alberta contains provisions regarding the co-management of exploration for and development of, the Minerals, including provisions regarding the issuing of Resource Agreements in relation to those Minerals;

2 The Minister, under section 16(c) of the Act, may issue Dispositions in respect of Crown minerals pursuant to any procedure determined by him;

3 The Minister may, under section 5(1) of the *Department of Energy Act*, enter into an agreement on or in connection with any matter under his administration; and

4 The Minister has determined that the procedure he will utilize for issuing the Resource Agreements will be subject to the procedure set forth in this agreement.

The parties hereto agree as follows:

Article 1 - Interpretation

101 In this agreement

(a) "Act" means the *Mines and Minerals Act;*

(b) "Affected Settlement Corporation" means, in respect of any Posting Request, Notice of Public Offering, Bid, Development Agreement or Resource Agreement with respect to any of the Minerals, the Settlement Corporation of the Settlement Area in which the Minerals are located;

(c) "Affected Metis Settlement Access Committee" or "Affected MSAC" means, in respect of any Posting Request, recommended, proposed or approved terms and conditions of an NPO, or an NPO, with respect to any of the Minerals, the committee appointed under Article 2 in respect of the Settlement Area in which those Minerals are located;

(d) "Bid" means an offer made to the Minister in response to a Notice of Public Offering, which, when accepted by the Minister, would create an agreement between the person making the offer and the Minister with respect to the issuing of a Resource Agreement for the Minerals the subject of the NPO and offer;

(e) "Bidder" means the person making a Bid;

(f) "Commissioner" means the Commissioner of the Metis Settlements Transition Commission under the *Metis Settlements Accord Implementation Act;*

(g) "Development Agreement" means an agreement entered into by the Affected Settlement Corporation, General Council and a Bidder, setting out rights and obligations of those partic with regard to any of the matters referred to in section 303 an d surface access of the Bidder to and the exploration for and development by the Bidder of, Minerals in respect of which the Bidder submitted a Bid;

(h) "Disposition" means an agreement as defined in the Act;

(i) "Effective Date" means , 1990;

(j) "Metis Settlements Lands" means the parcels of land granted to the General Council by Her Majesty the Queen in right of Alberta by letters patent;

(k) "Minerals" means the whole or any part of the mines and minerals, as defined in the *Mines and Minerals Act*, owned by the Minister in the whole or any part of the Metis Settlements Lands, that are not subject to a Disposition

(i) that was issued by the Minister before the Effective Date, or

(ii) that is issued by the Minister after the Effective Date but that arises out of, or that is a renewal, continuation,

reinstatement or other like extension under the Act of any Disposition issued before the Effective Date;

(l) "Notice of Public Offering" or "NPO" means a document issued by the Minister to the public, soliciting Bids to acquire Resource Agreements for rights in any of the Minerals;

(m) "Occupant" means occupant as defined in Division 1 of Part 4 in the *Metis Settlements Act;*

(n) "Overriding Royalty" means a right reserved in a Development Agreement to the General Council, for it to receive a share of the portion of production, or of the value of the portion of production, obtained by the Bidder pursuant to Resource Agreements referred to in the Development Agreement, that remains after payment of royalty to the Minister in relation to such production;

(o) "Participation Option" means an option reserved in a Development Agreement to the General Council that allows the General Council to obtain from the Bidder who is a party to the Development Agreement, not more than a 25% specified undivided interest in the Resource Agreements referred to in the Development Agreement;

(p) "Post" means, in respect of any Minerals, the issuing to the public of an NPO with respect to those Minerals by the Minister; and "Posted" has the corresponding meaning;

(q) "Posting Period" means the period of time specified in an NPO that Bidders may submit Bids in response to the NPO;

(r) "Posting Request" means a written request made to the Minister by any person that the Minister Post the Minerals specified in the request;

(s) "Resource Agreement" means a Disposition,

(i) that is issued by the Minister after the Effective Date, and

(ii) under which the Minister grants rights in any of the Minerals,

but does not include any Disposition

(iii) that arises out of or is a renewal, continuation, reinstatement or other like extension under the Act, of another Disposition issued before the Effective Date, or

(iv) in respect of which the person issued the Disposition has been notified by the Minister that the person will not be granted access to any Metis Settlements Lands to recover the Minerals the subject of the Disposition;

(t) "Settlement Area" means "settlement area" as defined in the *Metis Settlements Act*, to the extent such settlement area is comprised of Metis Settlements Lands;

(u) "Settlement Corporation" means each of the parties to this agreement, other than the Minister or the General Council.

102 The descriptive headings appearing above the Articles of this agreement are inserted for convenience only and do not constitute a part of this agreement.

103 In this agreement, except where otherwise expressly provided or where the context does not permit

(a) words in the singular include the plural and vice versa;

(b) words importing any one of the masculine, feminine or neuter genders include the other genders, and a reference to a person includes a body corporate; and

(c) "herein", "hereof" or "hereunder" and similar expressions when used in a section shall be construed as referring to the whole of this agreement and not to that section only.

104 In this agreement, the days referred to in any provision that contains a reference to a period of days shall be days that are neither a Saturday nor a holiday as defined in the *Interpretation Act*.

105 Except as provided in this agreement, the procedures and practices generally utilized by the Minister from time to time for the issuing of Dispositions under section 16(b) of the Act, wil apply to the issuing of Resource Agreements with respect to any of the Minerals.

106 Unless otherwise expressly provided herein, references in this agreement to statutes are references to those statutes as amended or substituted from time to time.

Article 2 - Metis Settlement Access Committees

201 A settlement access committee shall be appointed for each Settlement Area in accordance with this Article.

202 Each settlement access committee shall comprise 5 members appointed as follows:

(a) one member to be appointed by the Minister,

(b) one member to be appointed by the Energy Resources Conservation Board, which member may be part of the staff of the Board but not a member of the Board,

(c) one member to be appointed by the Settlement Corporation for the Settlement Area in respect of which the committee is being appointed,

(d) one member to be appointed by the General Council, and

(e) one member to be appointed by the Commissioner or, if the Commissioner ceases to be appointed, by mutual agreement of the other four members, such member to be chairman of the committee.

203 A person appointed under section 202 as a member of a settlement access committee may be appointed as a member of any other settlement access committee.

204 Anyone who has appointed a member of a settlement access committee under section 202 may at any time revoke the appointment and appoint a replacement member.

205 The costs of each member of a settlement access committee shall be borne by the person or government appointing him.

Article 3 - Posting

301 The Minister shall refer a Posting Request for Minerals that the Minister is willing to Post, to the Affected MSAC within 4 days after receipt by the Minister of recommendations regarding the Posting Request from the Crown Mineral Disposition Review Committee appointed under the *Land Surface Conservation and Reclamation Act*.

302 The Minister, the General Council and the Affected Settlement Corporation shall cause the Affected MSAC in relation

to a Posting Request, to recommend in writing to the Minister within 42 days after the Minister has referred the Posting Request to the Affected MSAC,

(a) that the Posting Request be denied, or

(b) that the Minerals that are the subject of the Posting Request be Posted, and any special terms and conditions that should be included in the NPO in relation to the Minerals so Posted.

303 An Affected MSAC may, for the purposes of section 302(b), recommend terms and conditions concerning the environmental, socio-cultural, and land use impacts, and employment and business opportunities of exploration for and development of the Minerals referred to in a Posting Request, including terms and conditions concerning reservation to the General Council of an Overriding Royalty, Participation Option, or both, with respect to such development.

304 If the Affected MSAC has recommended under section 302(b) that Minerals not be Posted, the Minister may issue Dispositions in respect of the Minerals, provided the Minister has, before issuing any such Disposition, notified each person issued such Disposition that he will not be granted access to any Metis Settlements Lands to recover the Minerals.

305 The Minister may issue a Disposition under section 304 in accordance with the Act and, in doing so, need not comply with the provisions hereof other than section 304.

306 If the Affected MSAC has recommended under section 302(b) that Minerals be Posted, the Minister shall prepare, based on the terms and conditions recommended by the Affected MSAC in accordance with section 303, the terms and conditions in that respect he proposes to include in the NPO and deliver them to the Affected MSAC for approval.

307 The Affected MSAC shall approve or disapprove in writing, of the proposed terms and conditions delivered to them by the Minister under section 306, within 14 days after they are received from the Minister.

308 If the Affected MSAC disapproves of proposed terms and conditions delivered to them under section 306, the Minister shall, unless he decides not to Post the Minerals, amend those terms and conditions and resubmit them to the Affected MSAC for approval in accordance with section 306, and the Affected MSAC shall

approve or disapprove of the amended terms and conditions in accordance with section 307, the Minister and the Affected MSAC to repeat this procedure until either the Affected MSAC has approved of the terms and conditions proposed by the Minister or the Minister decides not to Post the Minerals.

309 Upon receipt of approval of proposed terms and conditions for an NPO under section 307 or 308, the Minister shall include such NPO in the next public offering of minerals scheduled by the Minister that follows such receipt by not less than 21 days.

310 In addition to any proposed terms and conditions included in an NPO pursuant to this Article, the Minister may, in accordance with section 105, also include in the NPO, any terms and conditions recommended by the Crown Mineral Disposition Review Committee appointed under the *Land Surface Conservation and Reclamation Act*.

Article 4 - Industry Consultation

401 The General Council and the Affected Settlement Corporation shall appoint an individual as their representative to consult with potential Bidders for Minerals requested to be Posted in a Posting Request, and shall notify the Affected MSAC of the name of the appointee before the Affected MSAC recommends any special terms and conditions to the Minister pursuant to section 302(b) in connection with that Posting Request.

402 To ensure fairness in the process for issuing Resource Agreements, the General Council and Affected Settlement Corporation shall ensure that the representative appointed by them under section 401 only conducts such consultation through public meetings open to all potential Bidders, the schedule for which shall initially be determined and provided to the Affected MSAC by the General Council and Affected Settlement Corporation concurrently with the name of their representative.

403 A representative appointed under section 401 may change a schedule of public meetings he is to conduct, with respect to all public meetings scheduled other than the first, by way of announcement at any such scheduled public meeting.

Article 5 - Award of Agreements

501 Within 2 days after the date of the public offering specified in an NPO, the Minister shall provide the General Council and the Affected Settlement Corporation with the name of the Bidder who

has offered the greatest amount of bonus payment to the Minister and whose Bid otherwise meets the requirements of the NPO soliciting that Bid and the procedures and practices referred to in section 105.

502 The General Council and Affected Settlement Corporation may negotiate with the Bidder whose name was provided to them under section 501, with respect only to topics identified in the terms and conditions included in the NPO as open to negotiation and, within 7 days after being provided with that name, notify the Minister that

(a) the Bidder's Bid should be rejected, or

(b) the General Council and Affected Settlement Corporation have entered into a Development Agreement with the Bidder.

503 Upon receipt of a notice under section 502(a) in respect of a Bid or upon the expiration of 7 days referred to in section 502 without the Minister receiving a notice under clause (a) or (b) of that section, the Minister shall reject the Bid and the procedure set out in sections 501 and 502 shall, until

(a) a Development Agreement is entered into with one of the Bidders,

(b) there are no further Bidders for the Minister to refer to the General Council and the Affected Settlement Corporation, or

(c) the Minister refuses to refer to the General Council and the Affected Settlement Corporation any further Bidders who submitted Bids in response to the NPO,

whichever occurs sooner, be repeated by the Minister, the General Council and the Affected Settlement Corporation, except that the next Bidder, if any, referred to the General Council and the Affected Settlement Corporation shall be the Bidder whose Bid offered the next greatest amount of bonus payment to the Minister compared to the Bid last rejected, and the name of that next Bidder shall be provided to the General Council and the Affected Settlement Corporation within 2 days after the Minister receives notice under section 502(a) that the last Bid was rejected.

504 The Minister shall, within 21 days after he receives notice that a Development Agreement has been entered into in respect of any Minerals in accordance with section 502(b), issue an Agreement in respect of those Minerals to the Bidder who is a

party to the Development Agreement, or, to the Bidder and the General Council in specified undivided interest, if he receives a written notice from the Bidder within that 21 day period, directing him to issue the Agreement to the Bidder and General Council and indicating their respective specified undivided interests in the Agreement.

505 A Development Agreement may include as parties thereto, any Occupants who agree to provide to the Bidder who is a party to that Development Agreement, access to any part of the Settlement Area that the Occupants have a right to occupy and that is subject to the Development Agreement.

Article 6 - Amendment of Procedure

601 The Minister may from time to time amend any time period specified in Articles 2, 3, 4 or 5 by written notice to the other parties, provided such amendment shall not shorten or extend any such time period by more than the greater of one day or 20% (rounded to the nearest day) of the time period so specified.

602 Subject to sections 601 to 603, the parties agree that this agreement may be otherwise amended by mutual agreement between the Minister and the General Council.

603 In the event the Minister and the General Council cannot agree under section 602 with respect to any amendment proposed to this agreement by either, the matter shall be resolved by arbitration under the *Arbitration Act* of Alberta, by an arbitration panel comprising 5 arbitrators, one to be appointed by each of

(a) the Minister,

(b) the Energy Resources Conservation Board under the *Energy Resources Conservation Act*,

(c) the Commissioner, and

two to be appointed by the General Council.

604 If a Commissioner ceases to be appointed, the member of any arbitration panel to be appointed by the Commissioner shall be appointed by agreement between the Minister and the General Council.

Article 7 - General

701 This agreement is governed by the laws of the Province of Alberta.

702 This agreement may not be assigned by any party.

703 Any settlement corporation established under the *Metis Settlements Act* that is not a party hereto on the day this agreement is made, may be made a party to this agreement by mutual agreement between that settlement corporation and all the parties to this agreement.

704 This agreement enures to the benefit of the parties hereto and their respective successors.

In witness whereof the parties hereto have duly executed this agreement.

Her Majesty the Queen in right of the Province of Alberta, as represented by the Minister of Energy

_____

Minister of Energy

_____

Metis Settlements
General Council

Buffalo Lake Metis Settlement	East Prairie Metis Settlement
_____	_____
Elizabeth Metis Settlement	Fishing Lake Metis Settlement
_____	_____
Gift Lake Metis Settlement	Kikino Metis Settlement
_____	_____
Paddle Prairie Metis Settlement	Peavine Metis Settlement
_____	_____

Suite 649 Princeton Place, 10339 - 124 Street
Edmonton, Alberta T5N 3W1
Telephone (403) 488-6500 Fax (403) 488-5700

November 2, 1993

Mr. Richard Budgel
A/Director,
Intervener Participation Project
5th Floor
427 Laurier Avenue West
Ottawa, Ontario
K1Y 2R7

Dear Mr. Budgel:

RE: Intervener Participation Project

Enclosed please find a slightly modified copy of our Intervener Participation Project Report. The copy which we sent to you on Monday, November 1, 1993 did not include the Table of Contents.

Yours sincerely,

Thomas Droege,
Executive Director