

May 7, 2017

VIA ELECTRONIC FILING

Ontario Energy Board 2300 Yonge Street, 27th Floor Toronto, ON M4P 1E4

Attention: Kirsten Walli, Board Secretary

Re: Hydro One Networks Inc. Lake Superior Link Project

EB-2017-0364

Hearing of Motion on May 24 and 25, 2018

Written Evidence of the Métis Nation of Ontario

We are counsel to the Intervenor Métis Nation of Ontario ("MNO") in the above-noted proceeding.

Enclosed please find the MNO's Written Evidence, filed pursuant to the Board's Notice of Hearing of Motion issued April 6, 2017, as updated by Procedural Order No. 1 issued April 27, 2018, and the Board's letter granting leave to the MNO to file written evidence issued May 3, 2018. Due to technical difficulties, we were unable to file the MNO's Written Evidence prior to the Board's deadline of 4:45pm. As such, we are requesting leave from the Board to file the enclosed evidence.

The MNO intends to make witnesses available to speak to the MNO evidence at the technical conference schedule for May 16 and 17, 2018, via teleconference

If there is any issue with the attached, please do not hesitate to contact us.

Yours sincerely

Megan Strachan

Pape Salter Teillet LLP

Encls.

cc: All parties listed in Schedule B of Procedural Order No. 1, Hearing of Motion, issued on

April 27, 2018 (EB-2017-0364)

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ONTARIO ENERGY BOARD

IN THE MATTER OF the Ontario Energy Board Act, 1998;

AND IN THE MATTER OF an Application by Hydro One Networks Inc. pursuant to s. 92 of the Act for an order or Orders granting leave to construct new transmission facilities ("Lake Superior Link") in northwestern Ontario;

AND IN THE MATTER OF an Application by Hydro One Networks Inc. pursuant to s. 97 of the Act for an Order granting approval of the forms of the agreement offered or to be offered to affected landowners.

EVIDENCE OF THE INTERVENOR MÉTIS NATION OF ONTARIO

1. Introduction

- 1. The Notice of Hearing of Motion issued by the Ontario Energy Board (the "Board") on April 6, 2018 (the "Notice"), invited the parties to the above-noted proceeding to address the questions set forth in Schedule A to that Notice. These questions are relevant to Hydro One's proposed timelines and costs for the Lake Superior Link Project ("LSL").
- 2. The Métis Nation of Ontario ("MNO") is an intervenor in the above-noted proceeding and it is filing the attached evidence in relation to the questions identified in Schedule A, and, overall, to whether the Board should grant the relief requested by NextBridge in this motion to dismiss the LSL leave to construct application.
- 3. In addition, the MNO is filing evidence in relation "First Nation and Métis Participation" related issues, which were previously identified by the Board as a filing requirement in EB-2011-0140 and received express and separate consideration by the Board in the East West Tie ("EWT") designation process.

2. Indigenous Consultation

A. The MNO and its Representative Role and Governance Structure

4. The MNO represents its registered citizens and Métis communities throughout Ontario through a province-wide governance structure. This unique governance structure has been

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recognized in the *Métis Nation of Ontario Secretariat Act* (the "MNO Act"). ¹ The MNO Act's Preamble states,

Métis Nation of Ontario Secretariat is a corporation without share capital incorporated under the *Corporations Act*. It is the corporate and administrative arm of the Métis Nation of Ontario, which was created to represent and advocate on behalf of its registered citizens, and the Métis communities comprised of those citizens, with respect to their collective rights, interests and aspirations, as well as to provide social, economic and cultural supports to Métis individuals, families and communities through a province-wide service delivery system.

The Métis Nation of Ontario maintains a centralized registry of its citizens. The members of Métis Nation of Ontario Secretariat are citizens of the Métis Nation of Ontario, with defined rights and responsibilities, as set out in the Secretariat's constituting documents and by-laws.

The citizens of the Métis Nation of Ontario identify as descendants of the Métis people that emerged in west central North America with their own language (Michif), culture, traditions and way of life. These Métis people collectively refer to themselves as the Métis Nation, which includes Métis communities within Ontario.

Through Métis Nation of Ontario Secretariat, the Métis Nation of Ontario has established various democratically elected governance structures at the local, regional and provincial levels to represent its citizens. The Government of Ontario recognizes that the Secretariat's status as a governance structure that represents its citizens at the local, regional and provincial levels creates operational realities that are distinct from other Ontario not-for-profit corporations.

5. The MNO is governed by a comprehensive set of bylaws developed by its citizens that establishes democratically elected governance structures at the provincial (i.e., the Provisional Council of the Métis Nation of Ontario), regional (i.e., Regional Councilors) and local levels (i.e., MNO Chartered Community Councils).²

Métis Nation of Ontario Secretariat Act, 2015, SO 2015, c 39 [Métis Nation of Ontario Written Evidence, EB-2017-0364 ("MNO Evidence"), Appendix A].

MNO Secretariat Bylaws, August 28, 2016 [MNO Evidence, Appendix B]; Sample Métis Nation of Ontario Community Charter Agreement [MNO Evidence, Appendix C]

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B. The Regional Rights-Bearing Métis Communities Impacted by the LSL

6. The MNO represents two regional rights-bearing Métis communities whose traditional territories will be traversed by the LSL and whose rights and outstanding land related claims have the potential to be adversely impacted by the LSL:³

- a) The first regional Métis community—the Northern Lake Superior Métis Community—is generally represented on the attached map at Appendix D. As further explained below, this community has been recognized by Ontario as a historic Métis community consistent with the requirements of the Supreme Court of Canada's judgement in *R. v. Powley*, [2003] 2 SCR 207 and some aspects of this community's Aboriginal rights protected by section 35(1) of the *Constitution Act*, 1982 have been accommodated by Ontario through a negotiated agreement with the MNO.⁴
- b) The second Métis community—the Sault Ste. Marie Métis Community—is generally represented on the attached map at Appendix D. As further explained below, this Métis community has established rights protected by section 35(1) of the *Constitution Act*, 1982 as recognized by the Supreme Court of Canada in *R. v. Powley*, [2003] 2 SCR 207. Some aspects of this Métis community's established and asserted rights have also been recognized by Ontario through a negotiated agreement with the MNO. 6
- 7. As illustrated on the map attached as Appendix D, these two communities are represented at the local level through the following MNO Chartered Community Councils: Historic Sault Ste.

Métis Nation of Ontario, Map of Métis Communities and Proposed East-West Tie Transmission Project (Territories and Administrative Geography) [MNO Evidence, Appendix D].

Fact Sheet for Northern Lake Superior Historic Métis Community, dated August 18, 2017 [MNO Evidence, Appendix E]; Framework Agreement on Métis Harvesting in Ontario between the Métis Nation of Ontario and the Ministry of Natural Resources and Forests, executed on April 30, 2018 [MNO Evidence, Appendix F].

⁵ R v Powley, 2003 SCC 43, [2003] SCJ No 43 (QL) [MNO Evidence, Appendix G]; Fact Sheet for the Sault Ste. Marie Historic Métis Community, dated August 18, 2017 [MNO Evidence, Appendix H].

⁶ Framework Agreement on Métis Harvesting in Ontario between the Métis Nation of Ontario and the Ministry of Natural Resources and Forests, executed on April 30, 2018 [MNO Evidence, Appendix F].

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Marie Métis Council, the North Channel Métis Council, Superior North Shore Métis Council, the Greenstone Métis Council and the Thunder Bay Métis Council.⁷

- 8. These two regional Métis communities assert that they have and exercise Aboriginal rights throughout their respective territories, including, among other things, hunting, fishing (food and commercial), trapping (food and commercial), gathering, sugaring, wood harvesting, use of sacred and communal sites (e.g., incidental cabins and family group assembly locations) and use of water. In addition, the pre-existing use and occupancy of these communities within parts of the region give rise to collectively-held interests in specific lands. These communities also have outstanding claims against the Crown for breaches of its duties and obligations owing to them based on various land related promises made to them. These rights and outstanding claims are embedded within section 35 of the *Constitution Act, 1982* and the Crown is obligated to determine, recognize, respect and reconcile them.
- 9. Unlike First Nations in this region, these Métis communities have not yet negotiated, modified or exchanged their Aboriginal rights for rights protected within a historic or a modern day treaty.
- 10. With respect to dealing with Crown consultation and accommodation matters, these two regional Métis communities have executed internal Regional Consultation Protocols to ensure they are appropriately consulted on Crown conduct (i.e., policies, projects and government decisions) that have the potential to impact Métis rights, claims and interests throughout their respective regions such as the LSL.⁸

C. Recognition, Accommodation and Negotiation of Métis Rights and Interests

11. In 2003, the Supreme Court of Canada in *R. v. Powley* confirmed that Métis are a full-fledged rights-bearing Aboriginal people whose rights are equally confirmed and protected within the meaning of section 35 of the *Constitution Act, 1982*.

MNO Community Charter Agreements for Historic Sault Ste. Marie Métis Council, the North Channel Métis Council, Superior North Shore Métis Council, the Greenstone Métis Council and the Thunder Bay Métis Council [MNO Evidence, Appendix I].

Métis Nation of Ontario Consultation Protocol for Lakehead/Nipigon/Michipicoten Traditional Territory, signed on May 26, 2012 [MNO Evidence, Appendix J]; Métis Nation of Ontario Consultation Protocol for Historic Sault Ste. Marie Traditional Territory, signed on May 5, 2009 [MNO Evidence, Appendix K].

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- 12. On August 21, 2017, the MNO and Ontario jointly identified seven historic Métis communities in the province that meet the requirements of the *Powley* case, 9 including:
 - a) The Historic Northern Lake Superior Historic Métis Community generally described as the inter-connected Métis populations at Michipicoten, Pic River, Fort William, Nipigon House, and Long Lake; 10 and
 - b) The Historic Sault Ste. Marie Métis Community generally described as the interconnected Métis populations at Sault Ste. Marie and its environs, which included "Batchewana, Goulais Bay, Garden River, Bruce Mines, Desbarates, Bar River, St. Joseph's Island, Sugar Island and into Northern Michigan."¹¹
- 13. The following historic reports and research were reviewed as a part of the identification of these historic Métis communities:
 - a) Joan Holmes & Associates, "Historical Profile of the Lake Superior Study Area's Mixed European-Indian Ancestry Community Final Report," September 2007;¹²
 - b) Arthur J. Ray and Kenichi Matsui, "Fur Trade and Métis Settlements in the Lake Superior Region, 1820–50," June 2011;¹³

⁹ Métis Nation of Ontario Press Release, "Ontario and the MNO announce identification of historic Métis communities," August 21, 2017 [MNO Evidence, Appendix L].

Fact Sheet for Northern Lake Superior Historic Métis Community, dated August 18, 2017 [MNO Evidence, Appendix E]

Fact Sheet for the Sault Ste. Marie Historic Métis Community, dated August 18, 2017 [MNO Evidence, Appendix H]

Joan Holmes & Associates, "Historical Profile of the Lake Superior Study Area's Mixed European-Indian Ancestry Community Final Report." Report prepared for the Federal Interlocutor, September 2007. http://www.metisnation.org/media/141008/doj%20report%20-%20lake%20superior.pdf

Arthur J. Ray and Kenichi Matsui, "Fur Trade and Métis Settlements in the Lake Superior Region, 1820–50." Report prepared for the Métis Nation of Ontario, June 2011. http://www.metisnation.org/media/654378/final_report_for_mno_30_june_11-pdf-1.pdf

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- c) Alison E. Gale, "Robinson Treaty Métis Historical Report." Report prepared for Claims Research and Assessment Directorate, Department of Indian Affairs and Northern Development, March 1998;¹⁴
- d) Praxis Research Associates. "Research Report: Historic Métis in Ontario: Wawa and Environs." Report prepared for the Ministry of Natural Resources of the Government of Ontario, August 1999;¹⁵
- e) Gwynneth C.D. Jones, "The Historical Roots of Métis Communities North of Lake Superior." Report prepared for the Métis Nation of Ontario, March 2015;¹⁶
- f) Victor P. Lytwyn, "Historical Report on the Métis Community at Sault Ste. Marie." Report prepared for R v Powley, March 1998;¹⁷
- g) Arthur J. Ray, "An Economic History of the Robinson Treaties Area Before 1860." Report prepared for R v Powley, March 1998; 18 and

Alison E. Gale, "Robinson Treaty Métis Historical Report." Report prepared for Claims Research and Assessment Directorate, Department of Indian Affairs and Northern Development, March 1998. http://www.metisnation.org/media/141017/inac%20report%20-%20robinson%20treaty%20metis.pdf

Praxis Research Associates. "Research Report: Historic Métis in Ontario: Wawa and Environs." Report prepared for the Ministry of Natural Resources of the Government of Ontario, August 1999. http://www.metisnation.org/media/141020/ontario%20report%20-%20michipicoten.pdf

Gwynneth C.D. Jones, "The Historical Roots of Métis Communities North of Lake Superior." Report prepared for the Métis Nation of Ontario, March 2015. http://www.metisnation.org/media/586242/mno_report_on_historic_metis_north_of_lake_superior_(march2015).pdf

Victor P. Lytwyn, "Historical Report on the Métis Community at Sault Ste. Marie." Report prepared for *R v Powley*, March 1998. http://www.metisnation.org/media/141026/powley%20case%20report%20-%20victor%20lytwyn.pdf

Arthur J. Ray, "An Economic History of the Robinson Treaties Area Before 1860." Report prepared for R v Powley, March 1998. http://www.metisnation.org/media/141029/powley%20case%20report%20-%20arthur%20ray.pdf

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- h) Joan Holmes & Associates, "Sault Ste. Marie Métis Historical Report." Prepared for the Ontario Ministry of Natural Resources for R v Powley, August 1996. 19
- 14. On January 12, 2018, an Independent Review of the Métis Nation of Ontario's Harvester Card System was completed by an independent third party consultant based on criteria that was agreed to by Ontario and the MNO (the "Independent Review"). The Independent Review's purpose was to objectively verify that the MNO Registry files for Harvesters Card holders document that these individuals ancestrally connect to historic Métis communities and meet the requirements of *Powley*. The Independent Review confirmed that the MNO has a reliable system for identifying Métis rights-holders with 100% of the Harvesters Card files that were randomly sampled—some of which were held by members of the Northern Lake Superior and Sault Ste. Marie Métis communities—being verified as meeting the criteria set out in *Powley*. ²⁰
- 15. On April 30, 2018, the MNO signed a *Framework Agreement on Métis Harvesting in Ontario* with the Ontario Ministry of Natural Resources and Forestry ("MNRF") This *Agreement* recognizes the existence of Métis harvesting rights in Ontario and accommodates Métis rights in the area that will be impacted by the LSL.²¹
- 16. In addition, the MNO is in formal negotiations with both Canada and Ontario in relation to Métis rights, land related issues and self-government. On December 11, 2017, the MNO-Canada-Ontario Framework Agreement for Advancing Reconciliation was executed.²²

Joan Holmes & Associates, "Sault Ste. Marie Métis Historical Report." Prepared for the Ontario Ministry of Natural Resources for R v Powley, August 1996. http://www.metisnation.org/media/141032/powley%20case%20report%20-%20joan%20holmes.pdf

InterGroup, "An Independent Review of the Métis Nation of Ontario's Harvester Card System Final Report." Prepared for the Government of Ontario and the Métis Nation of Ontario, January 2018, Executive Summary [MNO Evidence, Appendix M]. A copy of the full report is available at http://www.metisnation.org/media/654736/final-report-of-inter-group-without-appendix-c.pdf.

Framework Agreement on Métis Harvesting in Ontario between the Métis Nation of Ontario and the Ministry of Natural Resources and Forests, executed on April 30, 2018 [MNO Evidence, Exhibit F].

Framework Agreement for Advancing Reconciliation between Métis Nation of Ontario, Government of Canada, Province of Ontario, signed on December 11, 2017 [MNO Evidence, Appendix N].

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- 17. Some of the history of these two regional Métis communities and their rights is summarized in the MNO Occupied Lands Report for the NextBridge Infrastructure LP East-West Tie Transmission Project (the "MNO Occupied Lands Report") prepared by Calliou Group. This section of the MNO Occupied Lands Report was jointly authored with the MNO.²³
- 18. As set out above, both the Northern Lake Superior Métis Community and the Sault Ste. Marie Métis Community live, use and rely on their traditional territories for their unique Métis way of life, and have collectively-held Métis rights protected by section 35 of the *Constitution Act, 1982* that may be impacted by the proposed LSL. Based on the above, the MNO asserts that deep consultation is required with the MNO—as the representative of these two regional rights-bearing Métis communities—which may include measures to accommodate these communities' rights, if necessary, in relation to the LSL.
- 19. Hydro One has had no direct or meaningful engagement or consultation with the MNO in relation to the LSL. The only correspondence the MNO has received from Hydro One and Ontario in relation to the LSL are attached.²⁴
- 20. The MNO has received no communication from Ontario nor from Hydro One regarding how the consultation process with Ontario or with Hydro One will proceed regarding the LSL.
- 21. Hydro One's project schedule stated that consultation with Métis and First Nations was to start in February 2018,²⁵ and, as demonstrated by the attached letters, absolutely no consultation with the MNO has occurred. The MNO has provided a summary of its concerns with respect to the eleventh-hour nature of the LSL and the difficulties it poses for Métis consultation and economic participation in a letter to the Ministry of Energy dated March 21, 2018.²⁶

Calliou Group, "Occupied Lands Report: NextBridge Infrastructure LP East-West Tie Transmission Project." Report prepared for the Métis Nation of Ontario, March 2017, section 5 [MNO Evidence, Appendix O].

Letters from Hydro One to the MNO Greenstone, North Shore, and Thunder Bay Metis Councils, dated April 30, 2018 [MNO Evidence, Appendix P]; Letter from the Ministry of Energy to the MNO, dated March 2, 2018 [MNO Evidence, Appendix Q].

Hydro One Application for the Lake Superior Link Project, EB-2017-0364, dated February 15, 2018, Exhibit B, Tab 1, Schedule 1 at 12 ("LSL Application"); LSL Application, Exhibit B, Tab 11, Schedule 1 Project Schedule at 1. http://www.rds.oeb.ca/HPECMWebDrawer/Record/603654/File/document.

²⁶ Letter from the MNO to the Ministry of Energy, dated March 21, 2018 [MNO Evidence, Appendix R].

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3. Environmental Assessment

A. Hydro One Cannot Use MNO Studies Completed for the EWT

- 22. The MNO and Nextbridge have engaged in extensive consultation activities over the span of four years regarding the EWT. Much of this was in the context of the environmental assessment ("EA") for the EWT, and is detailed in the consultation log that forms part of NextBridge's EA.²⁷
- 23. As part of that consultation, the MNO undertook two studies: (1) the Project Specific Traditional Land Use Study and Evaluation Criteria: NextBridge Infrastructure's East-West Tie Transmission Project, and, (2) the MNO Occupied Lands Study (together, the "MNO Studies"). The MNO Studies solely focused on and collected data with respect to the potential impacts flowing from the EWT's proposed route.
- 24. Chapter 17 of NextBridge's Amended Environmental Assessment Report: Indigenous Current Use of Lands and Resources for Traditional Purposes refers to and relies extensively on the MNO Studies, in addition to community engagement sessions and discussions with the MNO (as set out in the above-mentioned consultation log) based on the MNO Studies and EWT's proposed route. ²⁸
- 25. It is not the case that another proponent could simply pick up NextBridge's Amended Environmental Assessment Report and use it effectively without also having access to the underlying information that informed it, such as the MNO Studies. Hydro One will not have access to this information, even if Hydro One and Ontario negotiate a measure to allow it to use

²⁷ NextBridge Infrastructure LP, Amended Environmental Assessment Report for the East-West Tie Transmission Project, February 2018, Appendix 2-IX. http://www.nextbridge.ca/~/media/Microsites/Nextbridge/Documents/EWT%20Appendices/Appendix%2011%20through%203III/EWT_Amend_EA_Appendix_02-

IX Indigenous Consultation Log February2018.pdf?la=en.

NextBridge Infrastructure LP, Amended Environmental Assessment Report for the East-West Tie Transmission Project, February 2018, Section 17: Indigenous Current Use of Lands and Resources for Traditional Purposes.

 $[\]frac{http://www.nextbridge.ca/\sim/media/Microsites/Nextbridge/Documents/EWT\%20Appendices/Amended\%20EA\%20Report\%20for\%20the\%20East-$

West%20Tie%20Transmission%20Project/EWT Amend EA Section 17 Indigenous-Land-Resource-Use_February2018.pdf?la=en.

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some NextBridge's EA work because it cannot use the MNO Studies or its underlying information without the MNO's consent.

- 26. The MNO will not provide consent for the MNO Studies and their underlying information to be used for the LSL because this information was collected specifically for the EWT and cannot—based on their structure and the data collected—be arbitrarily and indiscriminately applied to an EA for the LSL, which is a new transmission project with a different route. Because the information gathered in the MNO Studies is project-specific and assesses impacts on Métis rights and interests based on the EWT route, additional studies would need to be commissioned to assess the impacts of the LSL on Métis rights and interests.
- 27. The Scopes of Work for Calliou Group, the third-party consultants used to research and draft the MNO Studies, sets out that the MNO Studies and associated technical review of Nextbridge's EA impacts to Métis rights and interests was specifically crafted for the EWT and its proposed route.²⁹
- 28. Specifically, the MNO Project Specific Traditional Land Use Study and Evaluation Criteria: NextBridge Infrastructure's East-West Tie Transmission Project, states:

Information collected for this Study is the sole property of the Métis Nation of Ontario. The information contained within this project-specific Study is meant for a single application only, for use in the Environmental Assessment and associated review for the Nextbridge Infrastructure East-West Tie Transmission Project. Citation, use or reproduction of the information contained in this Report for any other purpose is permissible only with the written consent of the Métis Nation of Ontario. ³⁰

29. In addition, the Executive Summary of the MNO Project Specific Traditional Land Use Study and Evaluation Criteria: NextBridge Infrastructure's East-West Tie Transmission Project also provides that:

Calliou Group, "Statement of Work for the Project Specific Traditional Land Use Study and Evaluation Criteria: NextBridge Infrastructure's East-West Tie Transmission Project." Prepared for the Métis Nation of Ontario, April 2014 (excerpts) [MNO Evidence, Appendix S]; Calliou Group, "Proposal for Occupied Lands Study and Technical Review, East West Tie Transmission Project." Prepared for the Métis Nation of Ontario, April 2016 (excerpts) [MNO Evidence, Appendix T].

Calliou Group, "Project Specific Traditional Land Use Study and Evaluation Criteria: NextBridge Infrastructure's East-West Tie Transmission Project." Report prepared for the Métis Nation of Ontario, November 2016, disclaimer [MNO Evidence, Appendix U].

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...this Report sets out the process for the selection of Métis Nation of Ontario specific Evaluation Criteria, related to the proposed East-West Tie Transmission Project and a summary of information related to the Evaluation Criteria. The Métis Nation of Ontario expects that the information on this Report will be used by NextBridge Infrastructure and their consultants in the identification of potential positive and negative effects of the Project on MNO...³¹

30. Similarly, the MNO Occupied Lands Report states,

Information collected for the Métis Nation of Ontario Occupied Lands Report for the NextBridge Infrastructure LP East-West Tie Transmission Project remains the sole property of the Métis Nation of Ontario. The information contained within this document is meant for a single application only. Citation, use or reproduction of the information contained in this document for any other purpose is permissible only with the written consent from the Métis Nation of Ontario.³²

31. Each MNO citizen that participated in the MNO Studies signed a consent form. The MNO warranted to participating citizens through that form that the information collected would be used specifically for the EWT. The consent form for the MNO Occupied Lands Study provided that:

This Métis Nation of Ontario (MNO) questionnaire is designed to supplement information collected for the Project Specific Traditional Land Use Study and Evaluation Criteria Summary: NextBridge Infrastructure's East-West Tie Transmission Project. This questionnaire seeks to collect information about the potential for a reduction in Métis access to preferred locations of harvest within the local and generalized study areas identified by NextBridge. I understand that the purpose of this questionnaire is to assist MNO in gathering information specifically related to the NextBridge Infrastructure East-West Tie

Calliou Group, "Project Specific Traditional Land Use Study and Evaluation Criteria: NextBridge Infrastructure's East-West Tie Transmission Project." Report prepared for the Métis Nation of Ontario, November 2016, Executive Summary at 2 [MNO Evidence, Appendix U].

Calliou Group, "Occupied Lands Report: NextBridge Infrastructure LP East-West Tie Transmission Project." Report prepared for the Métis Nation of Ontario, March 2017 at 2 (excerpts) [MNO Evidence, Appendix O].

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Transmission Project. I understand that MNO will produce a report based on the results of the questionnaire.³³ [emphasis added]

- 32. Given that assessing potential impacts to Métis rights and interests from the LSL would require that new studies be undertaken in order to be legitimate, the MNO would not consent to the MNO Studies being used by Hydro One. Neither Hydro One, Ontario, NextBridge or the Board could use the MNO Studies without the MNO's consent, regardless of any arrangements or directions ordered by third parties.
- 33. As noted above, no such studies have been proposed by Hydro One, there is no agreement in place for capacity for such studies, nor have any other substantive consultation activities yet occurred.

B. Pukaskwa National Park

- 35. Hydro One has proposed routing changes to the EWT for about 20% of the proposed route, including traversing Pukaskwa National Park, segments on either side of Pukaskwa National Park, and differing temporary workspaces and access roads for these altered segments.³⁴
- 34. NextBridge's proposed route, at one point, included traversing Pukaskwa National Park, a route which was modified after Parks Canada made clear that based on Indigenous and stakeholder feedback, it would not be feasible to route the EWT through the Park.³⁵
- 35. In the context of the EWT, on February 14, 2014—prior to Parks Canada's decision—the MNO wrote to Parks Canada with its concerns that Parks Canada had not fulfilled its

³³ Calliou Group, "Occupied Lands Report: NextBridge Infrastructure LP East-West Tie Transmission Project." Report prepared for the Métis Nation of Ontario, March 2017, Schedule A: Consent Form [MNO Evidence, Appendix O].

LSL Application, Exhibit B, Tab 2, Schedule 1, Project Overview Documents at 4. http://www.rds.oeb.ca/HPECMWebDrawer/Record/603654/File/document.

Nextbridge, "Project Information, Project Details."

http://www.nextbridge.ca/project_info.aspx; NextBridge Application for the New East-West Tie Line Project, EB-2017-0182, dated July 31, 2017 ("EWT Application"), Exhibit I, Tab 1, Schedule 1, Attachment 1, Letter from Parks Canada to Enbridge Pipelines Inc., dated February 11, 2014, at 1.

http://www.rds.oeb.ca/HPECMWebDrawer/Record/586241/File/document.

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consultation obligations with the MNO regarding potential impacts to Métis rights within Pukaskwa Park.³⁶

- 36. As NextBridge modified its route to avoid the Park, these concerns were never addressed. Given this, the MNO believes that a Detailed Impact Assessment would be necessary if Hydro One pursues its proposed route for the LSL as including Pukaskwa Park, which would typically require at least 6–12 months to complete.³⁷
- 37. Similar to Ontario's recognition of Métis harvesting rights, Canada, pursuant to its own federal interim policy with respect to Métis harvesting, recognizes that Métis harvesting "may occur, where permitted under existing policies and accommodations, for the purposes of food, social and ceremonial requirements ... to ensure the continuation of culturally appropriate harvesting practices within the boundaries of conservation, public health and safety." 38

4. First Nation and Métis Participation

38. Ontario's Long-Term Energy Plan calls for First Nation and Métis communities whose traditional territories are impacted by energy projects—and specifically transmission lines—to be given opportunities to economically participate in those projects; this participation has social and

Letter from Métis Nation of Ontario to Parks Canada, dated February 14, 2014 [MNO Evidence, Appendix V]. Note that the 2004 MNO-Ontario harvesting agreement referenced in this letter has since been replaced with the MNO-MNRF Framework Agreement on Métis Harvesting in Ontario dated April 30, 2018, previously attached as Appendix F.

Parks Canada outlines this for Hydro One. See LSL Application, Status of Environmental Assessment, Letter from Parks Canada to Hydro One, dated November 27, 2017, Exhibit C, Tab 1, Schedule 2, Attachment 2. http://www.rds.oeb.ca/HPECMWebDrawer/Record/603654/File/document.

Government of Canada. *A Reference Manual for Federal Enforcement Personnel on Harvesting by Métis*. February 2007 [MNO Evidence, Appendix W]. Métis harvesting is permitted and occurs within Pukaskwa Park, as detailed in the letter from MNO to Parks Canada, dated February 14, 2014, previously attached as Appendix V.

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well as economic value.³⁹ This commitment is distinct from Indigenous consultation obligations Ontario may have.

39. This distinction—between Crown consultation and economic participation—was acknowledged and reflected in the Board's previous decisions with respect to the EWT. In its Phase 2 Decision and Order, the Board states that:

There is a distinction between this criterion (First Nations and Métis Participation) and the criterion addressed later in this decision (First Nations and Métis Consultation). The former arises from Ontario socio-economic policy and the latter is related to a constitutional obligation. Ontario's Long Term Energy Plan states:

Where new transmission lines are proposed, Ontario is committed to meeting its duty to consult First Nations and Métis communities in respect of their aboriginal and treaty rights and accommodate where those rights have the potential to be adversely impacted. Ontario also recognizes that Aboriginal communities have an interest in economic benefits from future transmission projects crossing through their traditional territories and that the nature of this interest may vary between communities.⁴⁰

Province of Ontario, *Ontario's Long-Term Energy Plan 2017: Delivering Fairness and Choice* at 134: "The Province also appreciates the unique social benefits that can accrue to First Nations and Métis with their participation in energy projects. Measuring and assessing these non-financial benefits could help the government take a broader and more inclusive view of outcomes when deciding on energy policies and projects." https://files.ontario.ca/books/ltep2017_0.pdf. Also see Province of Ontario, *Achieving Balance: Ontario's Long-Term Energy Plan 2013* at 73: "The province expects that companies looking to develop new transmission lines will, in addition to fulfilling consultation obligations, involve potentially affected First Nation and Métis communities, where commercially feasible and where there is an interest." https://www.ontario.ca/document/2013-long-term-energy-plan.

Ontario Energy Board, Phase 2 Decision and Order in EB-2011-0140, August 7, 2013 at 14–15. https://www.oeb.ca/oeb/ Documents/EB-2011-0140/Dec Order Phase2 East-WestTie_20130807.pdf.

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40. When the Board was evaluating applications for designation for the EWT, "the Board kept in mind the distinction between participation and consultation" and these were separate criteria. ⁴¹

41. The MNO and NextBridge, since late 2013, have signed a series of Capacity Funding Agreements ("CFAs") relating to consultation activities and economic participation discussions (consultation activities and economic participation discussions were dealt with in separate CFAs). In contrast, Hydro One has proposed an inadequate 45 days to negotiate economic participation with affected Indigenous communities.⁴² The MNO and NextBridge have engaged in over four years of inter-related and intensive consultation activities and negotiations on economic participation. Given this, the 45-day timeline proposed by Hydro One is completely unrealistic, particularly when no consultation activities have yet occurred, as set out in the attached evidence.

Ontario Energy Board, Phase 2 Decision and Order in EB-2011-0140, August 7, 2013 at 8 and 15. https://www.oeb.ca/oeb/_Documents/EB-2011-0140/Dec_Order_Phase2_East-WestTie_20130807.pdf.

LSL Application, Indigenous Communities, Exhibit H, Tab1, Schedule 1 at 5. http://www.rds.oeb.ca/HPECMWebDrawer/Record/603654/File/document.

Français

Métis Nation of Ontario Secretariat Act, 2015

S.O. 2015, CHAPTER 39

Consolidation Period: From January 13, 2018 to the e-Laws currency date.

Last amendment: 2017, c. 20, Sched. 7, s. 80.

Legislative History: 2015, c. 39, s. 17-29; 2017, c. 20, Sched. 7, s. 80.

Preamble

Métis Nation of Ontario Secretariat is a corporation without share capital incorporated under the *Corporations Act*. It is the corporate and administrative arm of the Métis Nation of Ontario, which was created to represent and advocate on behalf of its registered citizens, and the Métis communities comprised of those citizens, with respect to their collective rights, interests and aspirations, as well as to provide social, economic and cultural supports to Métis individuals, families and communities through a province-wide service delivery system.

The Métis Nation of Ontario maintains a centralized registry of its citizens. The members of Métis Nation of Ontario Secretariat are citizens of the Métis Nation of Ontario, with defined rights and responsibilities, as set out in the Secretariat's constituting documents and by-laws.

The citizens of the Métis Nation of Ontario identify as descendants of the Métis people that emerged in west central North America with their own language (Michif), culture, traditions and way of life. These Métis people collectively refer to themselves as the Métis Nation, which includes Métis communities within Ontario.

Through Métis Nation of Ontario Secretariat, the Métis Nation of Ontario has established various democratically elected governance structures at the local, regional and provincial levels to represent its citizens. The Government of Ontario recognizes that the Secretariat's status as a governance structure that represents its citizens at the local, regional and provincial levels creates operational realities that are distinct from other Ontario not-for-profit corporations.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

DEFINITIONS

Definitions

1 In this Act,

"by-laws" means the by-laws of the Secretariat; ("règlements administratifs")

"citizen" means a member of the Secretariat; ("citoyen")

"councillor" means, except as otherwise provided in section 9, a director of the Secretariat; ("conseiller")

"Métis Community Council" means a corporation without share capital that,

- (a) has the Secretariat as its sole member,
- (b) contains "Métis Community Council" or "Conseil communautaire métis" within its corporate name, and
- (c) is prescribed by regulations made under subsection 16 (2); ("conseil communautaire métis")
- "Provisional Council" means the Provisional Council of the Métis Nation of Ontario, being the board of directors of the Secretariat; ("conseil provisoire")
- "Secretariat" means the corporation without share capital incorporated on February 25, 1994 by letters patent under the *Corporations Act* under the name Métis Nation of Ontario Secretariat. ("Secrétariat")

SECRETARIAT

Corporations Act

2 (1) The Corporations Act applies to the Secretariat, except as otherwise provided under this Act.

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Corporate name

(2) The Secretariat's name is changed to "Métis Nation of Ontario Secretariat" in English and "Secrétariat de la nation métisse de l'Ontario" in French, and the change is deemed to have been effected by supplementary letters patent under the *Corporations Act*.

Note: On the day subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010* comes into force, section 2 of this Act is repealed and the following substituted: (See: 2015, c. 39, s. 17)

Not-for-Profit Corporations Act, 2010

2. The *Not-for-Profit Corporations Act, 2010* applies to the Secretariat, except as otherwise provided under this Act. 2015, c. 39, s. 17.

Section Amendments with date in force (d/m/y)

2015, c. 39, s. 17 - not in force

Notice to Minister

3 The Secretariat shall notify the Minister responsible for the administration of this Act when an application to file letters patent or supplementary letters patent is made under the *Corporations Act* in relation to,

Note: On the day subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010* comes into force, section 3 of this Act is amended by striking out the portion before clause (a) and substituting the following: (See: 2015, c. 39, s. 18)

Notice to Minister

- **3.** The Secretariat shall notify the Minister responsible for the administration of this Act when an application to file articles is made under the *Not-for-Profit Corporations Act*, 2010 in relation to,
 - (a) the Secretariat;
 - (b) a Métis Community Council; or
 - (c) a body that, if incorporated, proposes, with the Secretariat's written consent, to include within its corporate name the expression "Métis Community Council" or "Conseil communautaire métis".

Section Amendments with date in force (d/m/y)

2015, c. 39, s. 18 - not in force

Note: On the day subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010* comes into force, this Act is amended by adding the following section: (See: 2015, c. 39, s. 19)

Councillors must be citizens

3.1 Despite subsection 23 (2) of the *Not-for-Profit Corporations Act*, 2010, no person shall be a councillor unless he or she is a citizen. 2015, c. 39, s. 19.

Section Amendments with date in force (d/m/y)

2015, c. 39, s. 19 - not in force

Election of councillors

4 (1) Councillors shall be elected by citizens every four years, and the elections shall be by province-wide ballot.

Same

(2) For the purposes of subsection (1), the requirement in subsection 287 (1) of the *Corporations Act* that the election take place in a general meeting does not apply.

Note: On the day subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010* comes into force, subsection 4 (2) of this Act is repealed and the following substituted: (See: 2015, c. 39, s. 20)

Same

(2) For the purposes of subsection (1), the requirement in subsection 24 (1) of the *Not-for-Profit Corporations Act*, 2010 that the election take place in an annual meeting does not apply. 2015, c. 39, s. 20.

Section Amendments with date in force (d/m/y)

2015, c. 39, s. 20 - not in force

Removal of councillors

5 (1) The citizens may, by ordinary resolution at a special meeting, remove from office any councillor, except a person who is a councillor by virtue of his or her office.

Note: On the day subsection 4 (1) of the Not-for-Profit Corporations Act, 2010 comes into force, subsection 5 (1) of this Act is repealed. (See: 2015, c. 39, s. 21)

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Councillor elected by group of citizens

(2) A councillor elected by a group of citizens that has an exclusive right to elect the councillor may only be removed by an ordinary resolution of the members of that group.

Note: On the day subsection 4 (1) of the Not-for-Profit Corporations Act, 2010 comes into force, subsection 5 (2) of this Act is repealed. (See: 2015, c. 39, s. 21)

Ordinary resolution

- (3) For the purposes of subsections (1) and (2), an ordinary resolution is a resolution that,
 - (a) is submitted to and passed at a meeting of the citizens, with or without amendment, by at least a majority of the votes cast; or
 - (b) is consented to by each citizen entitled to vote at a meeting of the citizens, or by the citizen's attorney.

Note: On the day subsection 4 (1) of the Not-for-Profit Corporations Act, 2010 comes into force, subsection 5 (3) of this Act is repealed. (See: 2015, c. 39, s. 21)

Ouorum to remove councillor

(4) The quorum for a special meeting to remove a councillor is a majority of the citizens entitled to vote to remove the councillor.

Section Amendments with date in force (d/m/y)

2015, c. 39, s. 21 - not in force

Youth representatives

6 (1) A person who, while under the age of 18, is elected by the citizens in accordance with the by-laws to represent, on the Provisional Council, the interests of young people for a specified term is not a councillor, does not hold any of the rights, powers, duties or liabilities of a councillor, and is not entitled to exercise a binding vote on any matter before the Provisional Council or any of its committees.

Application

(2) Subsection (1) applies for the duration of the person's term, even if he or she reaches the age of 18 during the term.

Requisition for meeting

- 7 (1) The application of subsection 295 (1) of the *Corporations Act* to the Secretariat is modified as follows:
 - 1. A requisition that the councillors hold a meeting requires that the citizens who hold at least 20 per cent of votes that may be cast at the meeting sought to be held make the request.
 - 2. In addition to the requirement that the purpose of the meeting not be inconsistent with that Act, the purpose must not be inconsistent with this Act.

Failure to call meeting

(2) If the councillors do not call a meeting within 21 days after receiving a requisition that meets the requirements of subsection 295 (2) of the *Corporations Act*, any citizen who signed the requisition may call the meeting, and subsection 295 (4) of that Act does not apply.

Note: On the day subsection 4 (1) of the Not-for-Profit Corporations Act, 2010 comes into force, section 7 of this Act is repealed and the following substituted: (See: 2015, c. 39, s. 22)

Requisition for meeting

7. Despite subsection 60 (1) of the *Not-for-Profit Corporations Act, 2010*, a requisition that the councillors hold a meeting requires that the citizens who hold at least 20 per cent of votes that may be cast at the meeting sought to be held make the request. 2015, c. 39, s. 22.

Section Amendments with date in force (d/m/y)

2015, c. 39, s. 22 - not in force

List of citizens

8 (1) Section 306 of the *Corporations Act* does not apply to the Secretariat.

Same

- (2) The application of subsection 307 (1) of the *Corporations Act* to the Secretariat is modified as follows:
 - 1. Only a citizen or his or her attorney or legal representative may require the Secretariat to provide the information described in that subsection.
 - 2. A statutory declaration shall be used instead of the affidavit, and shall contain,

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- i. the applicant's name and address, and
- ii. a statement that the information described in that subsection will not be used except as permitted under section 307 of that Act.

Unconnected purposes

- (3) For the purposes of clause 307 (4) (b) of the *Corporations Act*, purposes not connected with the Secretariat include,
 - (a) forming a body with objects similar to those of the Secretariat or establishing a registry of Aboriginal persons;
 - (b) challenging the eligibility of any person to be a citizen; and
 - (c) soliciting citizens on behalf of another body.

Note: On the day subsection 4 (1) of the Not-for-Profit Corporations Act, 2010 comes into force, section 8 of this Act is repealed and the following substituted: (See: 2015, c. 39, s. 22)

List of citizens

- **8.** For the purposes of clause 96 (5) (c) of the *Not-for-Profit Corporations Act*, 2010, matters that do not relate to the affairs of the Secretariat include.
 - (a) forming a body with objects similar to those of the Secretariat or establishing a registry of Aboriginal persons;
 - (b) challenging the eligibility of any person to be a citizen; and
 - (c) soliciting citizens on behalf of another body. 2015, c. 39, s. 22.

Section Amendments with date in force (d/m/y)

2015, c. 39, s. 22 - not in force

Copies of annual financial statements, etc.

8.1 Subsection 84 (2) of the *Not-for-Profit Corporations Act*, 2010 applies to the Secretariat, except that the copies of the documents shall be provided not less than five days, excluding Saturdays and holidays, before the annual meeting or signing of a resolution. 2015, c. 39, s. 22.

Section Amendments with date in force (d/m/y)

2015, c. 39, s. 22 - not in force

Notice to citizens, councillors

8.2 The by-laws may provide that a notice or other document may or shall be given by the Secretariat to a citizen or councillor in a manner other than a manner specified in subsection 196 (1) of the *Not-for-Profit Corporations Act, 2010.* 2015, c. 39, s. 22.

Section Amendments with date in force (d/m/y)

2015, c. 39, s. 22 - not in force

MÉTIS COMMUNITY COUNCILS

Definition

9 For the purposes of sections 10 to 14,

"councillor" means a director of a Métis Community Council.

Note: On the day subsection 4 (1) of the Not-for-Profit Corporations Act, 2010 comes into force, section 9 of this Act is amended by striking out "14" and substituting "14.1". (See: 2015, c. 39, s. 23)

Section Amendments with date in force (d/m/y)

2015, c. 39, s. 23 - not in force

Corporations Act

10 The Corporations Act applies to Métis Community Councils, except as otherwise provided under this Act.

Note: On the day subsection 4 (1) of the Not-for-Profit Corporations Act, 2010 comes into force, section 10 of this Act is amended by striking out "Corporations Act" and substituting "Not-for-Profit Corporations Act, 2010". (See: 2015, c. 39, s. 24)

Section Amendments with date in force (d/m/v)

2015, c. 39, s. 24 - not in force

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Secretariat as sole member

11 (1) Despite subsection 4 (1) and section 121 of the *Corporations Act*, upon incorporation of a corporation without share capital that, with the Secretariat's written consent, includes within its corporate name the expression "Métis Community Council" or "Conseil communautaire métis", the Secretariat becomes the sole member of the corporation.

Corporation with fewer than three members

(2) Section 311 of the *Corporations Act* does not apply to Métis Community Councils.

Note: On the day subsection 4 (1) of the Not-for-Profit Corporations Act, 2010 comes into force, section 11 of this Act is repealed. (See: 2015, c. 39, s. 25)

Section Amendments with date in force (d/m/y)

2015, c. 39, s. 25 - not in force

Councillors must be citizens

12 Subsections 286 (1) and (2) of the *Corporations Act* do not apply to Métis Community Councils, but no person shall be a councillor unless he or she is a citizen.

Note: On the day subsection 4 (1) of the *Not-for-Profit Corporations Act*, 2010 comes into force, section 12 of this Act is repealed and the following substituted: (See: 2015, c. 39, s. 26)

Councillors must be citizens

12. No person shall be a councillor unless he or she is a citizen. 2015, c. 39, s. 26.

Section Amendments with date in force (d/m/y)

2015, c. 39, s. 26 - not in force

Written declarations restricting councillors

13 (1) The Secretariat may, in its capacity as the sole member of a Métis Community Council, make a written declaration that restricts, in whole or in part, the powers of the councillors of the Métis Community Council to manage or supervise the management of its activities and affairs.

Effect of written declaration

- (2) If the Secretariat makes a written declaration under subsection (1) in relation to a Métis Community Council,
 - (a) the Secretariat has all the rights, powers, duties and liabilities of a councillor under the *Corporations Act*, this Act or otherwise, including any defences available to the councillors, to the extent that the declaration restricts the powers of the councillors to manage or supervise the management of the Métis Community Council's activities and affairs and gives the Secretariat such powers; and

Note: On the day subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010* comes into force, clause 13 (2) (a) of this Act is amended by striking out "Corporations Act" and substituting "Not-for-Profit Corporations Act, 2010". (See: 2015, c. 39, s. 27 (1))

(b) the councillors of the Métis Community Council are relieved of their duties and liabilities, including any liabilities under section 81 of the *Corporations Act*, to the same extent.

Note: On the day subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010* comes into force, clause 13 (2) (b) of this Act is amended striking out "section 81 of the *Corporations Act*," and substituting "section 40 of the *Not-for-Profit Corporations Act, 2010*". (See: 2015, c. 39, s. 27 (1))

Limitations on Secretariat's discretion

(3) Nothing in this section prevents the Secretariat from fettering its discretion when exercising the powers of councillors under a written declaration.

Termination

(4) If a written declaration does not provide for its termination, the Secretariat may terminate it by a resolution.

Winding up by court

(5) A Métis Community Council may, in addition to the circumstances set out in section 243 of the *Corporations Act*, be wound up by order of a court, if the court is satisfied that a written declaration made in relation to that Métis Community Council entitled the Secretariat to demand the dissolution of the Métis Community Council after the occurrence of a specified event and that event has occurred.

Note: On the day subsection 4 (1) of the *Not-for-Profit Corporations Act*, 2010 comes into force, subsection 13 (5) of this Act is amended by striking out "section 243 of the *Corporations Act*," and substituting "clause 136 (b) of the *Not-for-Profit Corporations Act*, 2010". (See: 2015, c. 39, s. 27 (2))

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When reference to written declaration included

- (6) A reference in the following provisions of the *Corporations Act* to a corporation's letters patent is, when applied to a Métis Community Council, deemed to include a reference to any written declaration made under subsection (1) in relation to that Métis Community Council:
 - 1. Clause 97 (1) (d).
 - 2. Subsection 126 (2).
 - 3. Subsection 129 (1).
 - 4. Subsection 289 (3).
 - 5. Paragraph 1 of section 300.

Note: On the day subsection 4 (1) of the Not-for-Profit Corporations Act, 2010 comes into force, subsection 13 (6) of this Act is repealed and the following substituted: (See: 2015, c. 39, s. 27 (3))

When reference to written declaration included

- (6) A reference in the following provisions of the *Not-for-Profit Corporations Act, 2010* to a corporation's articles is, when applied to a Métis Community Council, deemed to include a reference to any written declaration made under subsection (1) in relation to that Métis Community Council:
 - 1. Subsection 8 (6).
 - 2. Subsection 16 (3).
 - 3. Subsection 17 (1).
 - 4. Clause 19 (1) (a).
 - 5. Subsection 42 (1).
 - 6. Clause 43 (2) (b).
 - 7. Subsection 47 (1).
 - 8. Clause 84 (1) (c).
 - 9. Sections 85 and 86.
 - 10. Clause 92 (1) (a).
 - 11. Subsection 95 (2), except that the reference in that subsection to amendments to the articles does not apply with respect to a written declaration.
 - 12. Section 191.
 - 13. Subsection 199 (1). 2015, c. 39, s. 27 (3).

When subject to written declaration

- (7) The following provisions of the *Corporations Act*, as they apply to a Métis Community Council, are subject to any written declaration made under subsection (1) in relation to that Métis Community Council:
 - 1. REPEALED: 2017, c. 20, Sched. 7, s. 80.
 - 2. Section 69.
 - 3. Subsection 130 (1).
 - 4. Subsection 283 (1).
 - 5. Subsection 289 (4).
 - 6. Section 290.
 - 7. Subsection 291 (1). 2017, c. 20, Sched. 7, s. 80.

Note: On the day subsection 4 (1) of the Not-for-Profit Corporations Act, 2010 comes into force, subsection 13 (7) of this Act is repealed and the following substituted: (See: 2015, c. 39, s. 27 (3))

When subject to written declaration

(7) Section 21 and subsection 43 (3) of the *Not-for-Profit Corporations Act*, 2010, as they apply to a Métis Community Council, are subject to any written declaration made under subsection (1) in relation to that Métis Community Council. 2015, c. 39, s. 27 (3).

Section Amendments with date in force (d/m/y)

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2015, c. 39, s. 27 (1-3) - not in force

2017, c. 20, Sched. 7, s. 80 - 13/01/2018

Youth representatives

14 (1) A person who, while under the age of 18, is appointed by the Secretariat, in its capacity as the sole member of a Métis Community Council, in accordance with the by-laws of the Métis Community Council to represent, on the Métis Community Council's board, the interests of young people for a specified term is not a councillor, does not hold any of the rights, powers, duties or liabilities of a councillor, and is not entitled to exercise a binding vote on any matter before the board or any of its committees.

Application

(2) Subsection (1) applies for the duration of the person's term, even if he or she reaches the age of 18 during the term.

Note: On the day subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010* comes into force, this Act is amended by adding the following section: (See: 2015, c. 39, s. 28)

Notice to councillors

14.1 The by-laws of a Métis Community Council may provide that a notice or other document may or shall be given by it to a councillor in a manner other than a manner specified in subsection 196 (1) of the *Not-for-Profit Corporations Act, 2010.* 2015, c. 39, s. 28.

Section Amendments with date in force (d/m/y)

2015, c. 39, s. 28 - not in force

PROHIBITION

Prohibition respecting corporate names

15 (1) Use by a corporation of any of the following expressions, either within its corporate name or any other name by which the corporation is known, is prohibited without the Secretariat's written consent:

- 1. Métis Nation of Ontario.
- 2. Métis Community Council.
- 3. Nation métisse de l'Ontario.
- 4. Conseil communautaire métis.

Transition

(2) This section applies only to corporations incorporated on or after the day on which this section comes into force.

REGULATIONS

Regulations

By Lieutenant Governor in Council

16 (1) The Lieutenant Governor in Council, on the joint recommendation of the Minister responsible for the administration of this Act and the Minister responsible for the administration of the *Corporations Act*, may make regulations,

Note: On the day subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010* comes into force, subsection 16 (1) of this Act is amended by striking out "Corporations Act" in the portion before clause (a) and substituting "Not-for-Profit Corporations Act, 2010". (See: 2015, c. 39, s. 29)

(a) providing for further exemptions from or alterations to the application of the *Corporations Act* or the regulations made under it to the Secretariat or to Métis Community Councils;

Note: On the day subsection 4 (1) of the *Not-for-Profit Corporations Act*, 2010 comes into force, clause 16 (1) (a) of this Act is amended by striking out "Corporations Act" and substituting "Not-for-Profit Corporations Act, 2010". (See: 2015, c. 39, s. 29))

(b) respecting any matter that the Lieutenant Governor in Council considers necessary or advisable for the purposes of this Act.

By Minister

(2) The Minister responsible for the administration of this Act may make regulations prescribing corporations without share capital for the purposes of clause (c) of the definition of "Métis Community Council" in section 1.

Section Amendments with date in force (d/m/y)

2015, c. 39, s. 29 - not in force

17-29 OMITTED (PROVIDES FOR AMENDMENTS TO THIS ACT).

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30 Omitted (provides for coming into force of provisions of this Act).
31 OMITTED (ENACTS SHORT TITLE OF THIS ACT).
Français

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MNO Secretariat Bylaws:

AGA Approved August 28, 2016



MNO Secretariat Bylaws

AGA Approved August 28, 2016

1. These are the Bylaws of the Métis Nation of Ontario Secretariat (the "MNO") that represents the Métis in Ontario. The MNO is composed of nine geographic regions and has established several institutions to better serve its citizens. Those institutions include the Provisional Council of the MNO, the Registry, Community Councils, the Captains of the Hunt, the Veterans Council, the Women's Secretariat of the MNO and the Youth Council.¹

Conditions and Classes of Membership

- 2. There shall be one class of membership in the MNO individual members. Individual membership is a voting membership. Individual members of the MNO shall be known as citizens. Individual membership shall be known as citizenship.²
- 3. It is a condition of citizenship that individual members commit to uphold and advance the MNO Statement of Prime Purpose, which is attached to and forms part of these Bylaws as Appendix A, as the foundational and guiding objects, principles and aspirations of the MNO.³
- 4. Citizenship in the MNO shall be limited to individuals interested in furthering the objects of the MNO and who are Métis within the definition adopted by the MNO,⁴ which is as follows:

One Class of Membership

Individual Citizens

Footnotes are for information purposes only.

¹ 2014 amendment added this clause.

 $^{^2}$ 2014 amendment removed community councils as "members", and established one class of membership in MNO; previously read, "There shall be two classes of membership in the MNO. Those classes shall consist of individual memberships and MNO charter memberships." April 7, 1995 amendment included MNO community council memberships as non-voting members.

³ 2014 amendment added the phrase "It is a condition of citizenship that ..." and the word "objects". The phrase "objects" is added here in light of the requirement in clause 4. Also added the phrase "and forms part of". August 23-25, 2013 amended to add the Statement of Prime Purpose as an Appendix and add the sentence "Both classes of membership commit to uphold and advance the Statement of Prime Purpose ... of the MNO." June 7-8, 2001 amended to change "MNO community council memberships" to "MNO charter memberships". April 7, 1995 amendment to include MNO community council memberships as non-voting members

⁴ 2016 amendment removed "in accordance with Métis National Council."

MNO Secretariat Bylaws: AGA Approved August 28, 2016

2

Métis Definition

(a) Métis means a person who self-identifies as Métis, is distinct from other Aboriginal peoples, is of historic Métis Nation ancestry, and is accepted by the Métis Nation.⁵

Registration

- 5. A person is entitled to be registered as a citizen of MNO who:
 - (a) provides sufficient documentation that he or she is Métis within the meaning of 4(a);⁶
 - (b) is not enrolled on any other Aboriginal registry; and
 - (c) applied for admission as a citizen and has been approved through the Registry process of the MNO as amended from time to time.⁷

Children & Youth

- 6. A parent or legal guardian of a child under the age of sixteen (16) may apply to register that child as a youth citizen.⁸
- 7. Deleted.9

Fees

8. Fees or dues, if any, shall be at the direction of the PCMNO.¹⁰

Withdrawal

9. Any individual may withdraw as a citizen of the MNO by delivering a written resignation to the Registrar of the MNO.¹¹

Rights May be Limited

10. Citizenship may be granted on a conditional basis and the rights and privileges of a citizen to participate in the affairs of the MNO may be limited by the MNO pursuant to the MNO Policy –

⁵ July 2004 amended by consensus to adopt the Métis National Council's definition. October 23, 2003 amendment replaced "is distinct from Indian or Inuit" with "is distinct from other Aboriginal peoples". March 1999 amendment added the phrase "... as distinct from Indian and Inuit". Previous definition read, "... anyone of Aboriginal ancestry who self-identifies as Métis; has at least one grandparent who is Aboriginal; and whose application for admission as a citizen is accepted by the MNO." May 5–7, 1994, November 12, 1994 and June 17, 1997 amendments.

⁶ Amended pursuant to PCMNO Motion #2, June 17, 1997.

 $^{^7}$ The phrase "as amended from time to time" added Nov. 5, 1997 to allow MNO to improve its registry process without the requirement of amending the Bylaws. Added by the PCMNO by motion #2, September 27, 1994.

⁸ 2014 amendment deleted the sentence "Such registrations expire automatically when the child reaches the age of 16. After reaching the age of 16, in order to continue to be registered as a citizen, such youths must reapply in their own right." June 2001 amendment to state that after the age of 16 it is the responsibility of that youth to register in their own right. Also MNO registers citizens, there is no provision for a "youth citizenship." Previously read "An individual may obtain a youth citizenship from 16 to the age of 29 years." Previously children under 16 were not registered as citizens. Amended by MNO Special Assembly, Toronto, Nov. 14/98. March 17, 1996 amendment changed age from 17 years to 24 years. Amended at MNO Delegates Assembly, May 5–6, 1994 by motion #16.

¹⁰ 2014 amendment added "if any", deleted the phrase "upon obtaining individual citizenship" and moved community council fees to Charter Community section. PCMNO motion #1, June 19, 1996. Amended so that the words "Executive Council" are replaced by

^{11 2014} amendment replaced "secretary" with "Registrar."

Conditions or Limitations That May Apply to Citizenship, these Bylaws, or the MNO Electoral Code, all as amended from time to time. 12

(a) The fair processes for setting out conditions or limitations on citizenship, removal or reinstatement of limitations, requests for reconsideration and appeals of MNO decisions with respect to citizenship shall be according to the rules of natural justice and as set out in the MNO Policy – *Conditions or Limitations That May Apply to Citizenship,* as amended from time to time.¹³

Head Office

11. The head office of the MNO shall be in the City of Ottawa, Ontario.¹⁴

MNO Charter Communities¹⁵

- 12. MNO Charter Communities shall be limited to those entities that have been granted an MNO Community Charter. MNO Charter Communities are not members of the MNO.¹⁶
 - (a) MNO Charter Communities may not incorporate under the laws of Ontario or Canada.¹⁷
- 13. Fees or dues, if any, with respect to a MNO Community Charter shall be at the direction of the PCMNO.¹⁸

Membership

Charter

No Incorporation

Fees

 12 July 2007 amendment added "Citizenship may be granted on a conditional basis and ... MNO Citizenship Policy..." and "...all as amended from time to time." June 7 – 8, 2001 amendment, previously read "The rights of any citizen to participate in the affairs of the MNO may be limited by the PCMNO."

December 17 - 18, 1995.

¹³ 2014 amendment corrected grammar by adding "and" after "natural justice". July 2007 amendment deleted the previous clause 5: "5.1 A citizen whose privileges have been so limited may ask the PCMNO, in writing, seven days in advance of its next meeting, to remove the limitation. 5.2 In the event that the PCMNO upholds its decision to limit that citizen's rights, the citizen may appeal the PCMNO's decision, at the next meeting of the General Assembly." The phrase "...may ask the PCMNO, in writing, to remove the limitation. A citizen whose rights have been so limited may ask the PCMNO, in writing, seven days in advance of its next meeting, to remove the limitation." was added by the General Assembly in July 2005. The words "subject to the discretion of a process to be established by the PCMNO and ratified at the first annual meeting" were deleted from the first sentence by PCMNO motion #2, June 19, 1996.

 $^{^{14}}$ Head Office was moved from Ottawa to Toronto by PCMNO motion #19, December 6 – 8, 1996. Head Office was again relocated to Ottawa by PCMNO June 8, 2002 and approved by the General Assembly in Kenora, July 10, 2002.

 $^{^{15}}$ 2014 amendment, created this MNO Charter Communities section.

¹⁶ 2014 amendment clarified that Charter Communities are not "members" and have no vote, previously read, "MNO charter membership shall be limited to those entities that have been granted an MNO charter. MNO charter membership is a non-voting membership." Amended by PCMNO June 7–8, 2001. Previously read, "MNO community council membership shall be limited to those communities who have been granted an MNO Community Charter. MNO community council membership is a non-voting membership." ¹⁷ 2014 amendment deleted the sentence "MNO charter members may incorporate only through the charters of the MNO." The no incorporation rule was originally added at MNO Delegates Assembly, May 5 – 7, 1994 motion #27. Confirmed by PCMNO motion #6,

Purpose and Composition of PCMNO

Provisional Council of the MNO ("PCMNO")

- 14. The PCMNO shall make decisions and act in a manner consistent with upholding and advancing the *MNO Statement of Prime Purpose* and shall take its direction from and shall report to the General Assembly. The property and business of the MNO shall be managed by a council of nineteen (19) elected citizens who shall be called councilors and shall sit on the Provisional Council of the MNO ("PCMNO"). The PCMNO shall consist of: president, chair, vice-chair, secretary-treasurer, four (4) senators, one [1] representative from each of the nine [9] regions, one (1) post secondary representative and one (1) youth. ¹⁹
 - (a) Regional Councilors shall be Ordinarily Resident in the region in which they are elected for the duration of their term of office.²⁰
 - (b) Only MNO citizens may be councilors of the MNO.²¹
 - (c) With the exception of appointments made to fill vacancies pursuant to section 23, the councilors may not appoint additional councilors to the PCMNO.²²
- 15. Provisional secretaries may be appointed from the PCMNO and for each appointment the term of office, responsibilities and removal shall be determined by the president and ratified by the PCMNO. Provincial secretaries shall report to the president. Provincial secretaries shall support the management of the MNO by providing leadership in the area of their portfolio responsibility and shall advocate, advise and represent their respective portfolios to MNO management, MNO citizens and outside agencies.²³
- 16. Each community council may elect a senator. Those senators elected by their community councils together with the senators currently serving on the PCMNO, and any senators who have

Senators

Provincial Secretaries

 $^{^{18}}$ 2014 amendment added this clause. Previously included in clause 8 with respect to fees for members.

¹⁹ 2014 amendment replaced "post secondary education student" with "post secondary representative". August 23–25, 2013 amendment, adding "make decisions and act in a manner consistent with upholding and advancing the MNO Statement of Prime Purpose and shall". July 2007 amendment again made PCMNO a council of 19 elected citizens when the women's representative was removed. Nov. 5, 1997 amendment added the phrase "shall be called councilors and shall sit on" to clarify that all elected persons are councilors. July 19–20, 1997 amendment added, "The PCMNO shall take its direction from and shall report to the General Assembly." December 17–18, 1995 amendment replaced "Director" and "Board" with "Council" and "councilor." May 5–7, 1994 amendment added another region, previously 8 regions.

²⁰ 2014 amendment added this clause.

²¹ 2014 amendment added this clause.

 $^{^{22}}$ 2014 amendment added this clause clarifying that councilors may not appoint additional councilors other than to fill vacancies under s. 23.

²³ Added July 10, 2002.

served in the past on the PCMNO, who are in attendance at a General Assembly, shall, by means of a process which shall be determined by themselves, choose from among themselves four (4) senators to sit on the PCMNO, and from among those four (4), shall also choose one (1) Executive Senator who shall sit on the executive committee.²⁴

- (a) For greater certainty an Executive Senator or a senator who holds office on the PCMNO is a councilor with all the rights and privileges attached to that position.²⁵
- (b) Senators selected to sit on the PCMNO and on the executive committee shall hold those positions for a four (4) year term.²⁶
- (c) Senators shall be at least fifty-five (55) years of age.²⁷
- (d) Senators, after holding office on the PCMNO or the executive committee, are entitled to retain the title of Senator forever after and that honorary title does not entitle them to participate or vote at PCMNO or executive committee meetings after their term of office has expired.²⁸

17. Deleted.²⁹

18. The elected youth representative on the PCMNO may only vote at PCMNO meetings if over the age of eighteen (18) years. The Youth Representative shall be Ordinarily Resident in Ontario throughout the term of office. The Youth Representative may request permission from the PCMNO to retain his or her office if attending an educational institution out of Province during the term of office.³⁰

Youth Representative

²⁴ 2014 amendment added the term "Executive Senator" as a title to distinguish the Senator that sits on the Executive Committee from the Senators sitting on PCMNO, changed "select" to "elect" and added the phrase "by means of a process which shall be determined by themselves." Added by PCMNO motion #15, December 17 – 18, 1995. July 10, 2002 amendment, previously read, "At an annual meeting of the General Assembly those Senators chosen by their communities shall choose from among themselves four (4) Senators to sit on the PCMNO including the Senator who shall sit on the executive committee."

²⁵ 2014 amendment added the term "Executive Senator" as a title to distinguish the Senator that sits on the Executive Committee from the Senators sitting on PCMNO. Added by General Assembly, July 10, 2002.

 $^{^{26}}$ In July of 2007 the term was changed from three years to four years. Originally added July 20, 1996.

²⁷ Age requirement changed from 60 to 55 by Motion #7, annual General Assembly, July 20, 1996. Originally added at MNO Delegates Assembly May 5–7, 1994.

²⁸ Added by General Assembly, July 10, 2002.

²⁹ July of 2007 amendment, deleted this clause, previously read "The president of the Métis Women of Ontario will sit on the PCMNO as the women's representative." Added by PCMNO motion #24, March 17, 1996.

 $^{^{30}}$ 2014 amendment added the requirement to be Ordinarily Resident in Ontario throughout term of office at the discretion of the PCMNO.

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Post Secondary Representative

19. The Post Secondary Representative on the PCMNO may only vote at PCMNO meetings if over the age of eighteen (18) years. The Post Secondary Representative shall be Ordinarily Resident in Ontario throughout the term of office. The Post Secondary Representative may request permission from the PCMNO to retain his or her office if attending an educational institution out of Province during the term of office.³¹

Voting Councilors

- 20. Voting councilors must be individuals who are bondable, at least eighteen (18) years of age and with power under law to contract.32
- 21. deleted³³

Term of Office

- 22. Councilors shall be elected for a term of four (4) years by the citizens through a process established by the MNO Electoral Code, as amended from time to time.34
- 23. If any vacancy occurs the PCMNO may appoint as a replacement, a citizen of the MNO who would be eligible for that office and that person shall hold office until the next election. The office of councilor may be deemed vacated: 35
 - (a) if a councilor has resigned the office by delivering a written resignation to the PCMNO;36
 - (b) if he or she is found by a court to be of unsound mind;
 - (c) if at a meeting of the General Assembly, a resolution is passed by a majority of the citizens present at the meeting that he or she be removed from office:
 - (d) on death;
 - (e) on missing three (3) consecutive council meetings without good reason;37

Vacancies

^{31 2014} amendment added this clause.

³² The word "bondable" was added July 20, 1996.

^{33 2014} amendment deleted this clause, which previously read, "The applicants for incorporation shall become the first officers of the MNO whose term of office shall continue until their successors are elected. At the first meeting of citizens, the PCMNO then elected shall replace the applicants named in the letters patent of the MNO."

³⁴ July of 2007 amendment changed the term from a three-year term to a four year term. June 19, 1996 amendment deleted the words "an annual meeting of citizens until this process is replaced by a ballot box process". December 17-18, 1995 amendment changed the term from two years to three years. May 5-7, 1994 amendment changed the term from one year to two years.

^{35 2014} amendment added the phrase "who would be eligible for that office". March 30, 2004 amendment deleted "pursuant to this paragraph". Nov. 5, 1997 amendment changed the word "shall" to "may", to allow PCMNO flexibility in this decision.

³⁶ Amended by PCMNO February 13, 1997 by replacing "...to the secretary of the MNO" with "...to the PCMNO".

³⁷ Added December 17 - 18, 1995.

- (f) where PCMNO determines that a regional councilor is no longer Ordinarily Resident in the region in which he or she was elected;³⁸
- (g) where the PCMNO determines that a member of the executive is no longer Ordinarily Resident in Ontario;³⁹
- (h) where the PCMNO determines that a councilor holds or takes a position on the board of directors of another provincial aboriginal organization and where by reason of holding the two positions the councilor may be placed in a conflict of interest;⁴⁰
- (i) where the PCMNO determines that a councilor is not entitled to be registered as a citizen of MNO pursuant to 4(a);⁴¹
- (j) where the PCMNO determines that a councilor, by an ongoing and serious action of omission or commission, is in direct contravention of an express direction from the General Assembly;⁴²
- (k) is convicted of an indictable offence;⁴³ or
- (l) has been found guilty, in connection with an election, of corrupt practice, accepting a bribe, dishonesty or malfeasance.⁴⁴

24. There shall be at least one (1) meeting per year of the PCMNO.

Each voting councilor present and participating in the meeting is authorized to exercise one (1) vote.⁴⁵

- (a) Ten (10) councilors shall constitute a quorum of the PCMNO.⁴⁶
- 25. Meetings of the PCMNO may be held at any time and place to be determined by the president or executive provided that forty-eight (48) hours written notice of such meeting shall be given, other than my mail, to each councilor. Notice by mail or other means shall be sent at least fourteen (14) days prior to the meeting. There shall be at least one (1) meeting per year of the PCMNO. Notice by mail shall be sent at least fourteen (14) days prior to the meeting. No error or omission in giving notice of any meeting of the PCMNO or any adjourned meeting of the PCMNO shall invalidate such meeting or make void any proceedings

Meetings of PCMNO

PCMNO Quorum

Notice of PCMNO Meetings

^{38 2014} amendment added this clause.

³⁹ 2014 amendment added this clause.

⁴⁰ Added December 17 - 18, 1995.

⁴¹ Added June 17, 1997.

⁴² Added July 19 - 20, 1997.

⁴³ Added July 2001.

⁴⁴ Added July 2001.

⁴⁵ Nov. 5, 1997 amendment replaced the phrase "determined by the councilors" with "by the president or executive"; "meeting per year of the MNO" with "meeting per year of the PCMNO" and added the phrase "present and participating in the meeting".

⁴⁶ Amended from a quorum of 8 December 17 – 18, 1995. Quorum amended from eleven (11) to ten (10) in July of 2007.

taken thereat and any councilor may at any time waive notice of any such meeting and may ratify, approve and confirm any or all proceedings taken or had thereat.

Electronic Participation at PCMNO meetings 26. A councilor may participate in a meeting of the council or of a committee of the council by communication facilities that permit all persons participating in the meeting to hear each other, and a councilor participating in such a meeting by such means is deemed to be present at the meeting.⁴⁷

Resolutions in Writing

27. A quorum of the PCMNO may pass a resolution in writing and such resolution is as valid as if it had been passed at a meeting of the PCMNO. Such resolution must be signed by each member of the quorum and in order to pass, must have the approval of the requisite number of PCMNO councilors whose approval would be required to pass that resolution at a meeting of the PCMNO.⁴⁸

Compensation for Councilors

28. A councilor may be remunerated or paid reasonable expenses incurred by him or her in the performance of his or her duties.⁴⁹ A councilor may, provide services to MNO under a term contract for services.⁵⁰

PCMNO Councilors not MNO Employees or Community Councilors

- (a) A councilor may not, during his or her term of office as councilor, concurrently be an employee of MNO. 51
- (b) A councilor may not, during his or her term of office as councilor, concurrently serve as an elected community council member.⁵²

Appointment of Agents & Employees 29. The PCMNO may appoint such agents and engage such employees as it shall deem necessary from time to time and such persons shall have such authority and shall perform such duties as shall be prescribed by the PCMNO at the time of such appointment.

 $^{^{47}\,2014}$ amendment deleted the sentence "If all the councilors of the MNO consent thereto generally or in respect of a particular meeting," and deleted "by means of such conference telephone of other ..."

⁴⁸ Amended April 2, 2000, previously read, "A resolution in writing, signed by all the councilors entitled to vote on that resolution at a meeting of councilors or committee of councilors, is as valid as if it had been passed at a meeting of councilors or committee of councilors."

 $^{^{49}}$ The following sentence was deleted December 17 – 18, 1995, "The councilors shall serve as such without remuneration and no councilor shall directly or indirectly receive any profit from his or her position as such; provided that a ..."

 $^{^{50}}$ June 7 – 8, 2001 amendment deleted "Nothing herein contained shall be construed to preclude any councilor from serving the MNO as an officer or in any other capacity and receiving compensation therefore."

⁵¹ Added June 7 – 8, 2001.

⁵² Added June 7 – 8, 2001.

Remuneration for Officers, Agents & Employees

- 30. A reasonable remuneration for all officers, agents and employees and committees of citizens shall be fixed by the PCMNO by resolution.
- 31. Every councilor or officer of the MNO or other person who has undertaken or is about to undertake any liability on behalf of the MNO or any company controlled by it and their heirs, executors and administrators, and estate and effects, respectively, shall from time to time and at all times, be identified and saved harmless out of the funds of the MNO, from and against;
 - (a) all costs, charges and expenses which such councilor, officer or other person sustains or incurs in or about any action, suit or proceedings which is brought, commenced or prosecuted against him or her, or in respect of any act, deed, matter of thing whatsoever, made, done or permitted by him, in or about the execution of the duties of his office in respect of any such liability;
 - (b) all other costs, charges and expenses which he or she sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by his own willful neglect or default.

Legal Powers of PCMNO

Indemnity

- 32. The PCMNO and councilors duly authorized by the PCMNO shall have the power to enter into contracts which the MNO may lawfully enter into and may exercise all such other powers and do all such other acts and things as the MNO is, by its charter or otherwise by law, authorized to exercise and do.⁵³
 - (a) From time to time the PCMNO may release, for research purposes, the MNO's registration list to government authorities. PCMNO shall only release the registration list when it has reliable assurances that no individual information will be accessed.⁵⁴
- 33. The councilors shall have power to authorize expenditures on behalf of the MNO from time to time and may delegate by resolution to an officer or officers of the MNO the right to employ and pay salaries to employees. The councilors shall have the power to enter into a trust arrangement with a trust company for the purpose of creating a trust fund in which the capital and interest may be made available for the benefit of promoting the interest of the MNO in accordance with such terms as the PCMNO may prescribe.

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 $^{^{53}}$ Amended October 31, 1997 to clarify that the PCMNO and authorized councilors have the power to legally contract or bind the MNO by their actions.

⁵⁴ July 2004 amendment added this clause.

- 34. Subject to any limitations set out in grants, or contributions agreements, PCMNO may invest its funds at its discretion. No part of MNO's profits or property may be distributed directly or indirectly to a citizen, councilor or officer of MNO except in furtherance of its activities.⁵⁵
- 35. The PCMNO shall take such steps as they may deem requisite to enable the MNO to acquire, accept, solicit or receive legacies, gifts, grants, settlements, bequests, endowments, donations of any kind whatsoever for the purpose of furthering the objects of the MNO.

Executive Committee (Officers)

- 36. The executive committee of the MNO shall consist of the president, chair, vice-chair, secretary-treasurer, a senator and any such other officers as the PCMNO may by its Bylaws determine.⁵⁶
 - (a) No citizen may hold more than one executive committee office at a time.⁵⁷
- 37. The executive committee will make decisions and act in a manner consistent with upholding and advancing the MNO Statement of Prime Purpose and shall have the day-to-day management and administration of the MNO and shall ensure that resolutions and motions passed by the General Assembly and the PCMNO are carried out. The executive committee shall report to, advise and take direction from the PCMNO and the General Assembly and may not override express directions from the PCMNO or the General Assembly. Ongoing and serious actions of omission or commission by members of the executive committee, which directly contravene express direction from the PCMNO or the General Assembly, may be grounds for removal from office.⁵⁸
 - (a) Executive committee officers shall be Ordinarily Resident in Ontario for the duration of their term of office.⁵⁹

Composition of Executive

55 2014 amendment added this clause.

Duties of Executive

⁵⁶ February 13, 1997.amendment deleted "no two offices may be held by the same person."

 $^{^{57}}$ 2014 amendment added this clause.

⁵⁸ August 23–25, 2013 amendment added "will make decisions and act in a manner consistent with upholding and advancing the MNO Statement of Prime Purpose". July 19–20, 1997 amendment added reporting to PCMNO and General Assembly. December 17–18, 1995 amendment removed "There shall be an executive committee composed of five (5) citizens of the PCMNO who shall be appointed by the PCMNO. The executive committee shall exercise such powers as are authorized by the PCMNO. Any executive committee citizen may be removed by a majority vote of the PCMNO."

⁵⁹ 2014 amendment added this clause.

Meetings of Executive

Executive Quorum

Notice of Executive Meetings

Duties of President

Duties of Chair

- 38. Meetings of the executive committee shall be held at any time and place to be determined by the members of such committee provided that forty-eight (48) hours written notice of such meeting shall be given, other than by mail, to each member of the committee. Notice by mail shall be sent at least fourteen (14) days prior to the meeting. Three members of such committee shall constitute a quorum. No error or omission in giving notice of any meeting of the executive committee of the PCMNO or any adjourned meeting shall invalidate such meeting or make void any proceedings taken thereat and any councilor may at any time waive notice of any such meeting and may ratify, approve and confirm any or all proceedings taken or had thereat. 60
- 39. Repealed.61
- 40. Repealed.⁶²
- 41. The president shall be the chief executive officer of the MNO. The president shall be the chief spokesperson for the MNO and shall represent the MNO on the Board of Governors of the Métis National Council. The president shall have the general and active management of the affairs of the MNO.
- 42. The chair shall preside at meetings of the MNO and of the PCMNO and when acting as chair shall not vote unless required to cast a tie-breaking vote. The chair shall see that all orders and resolutions of the General Assembly and the PCMNO are carried into effect. The chair shall, in the absence or disability of the president, perform the duties and exercise the powers of the president and shall perform such other duties as shall from time to time be imposed upon him or her by the executive committee or the PCMNO.⁶³

⁶⁰ December 17 – 18, 1995 amendment changed the quorum from two to three.

 $^{^{61}\,\}mbox{June}$ 19, 1996 amendment repealed "The executive committee shall be elected at an annual meeting of citizens."

⁶² June 19, 1996 amendment repealed "The Executive Committee of the MNO shall hold office for three (3) years from the date of election or until their successors are elected in their stead". December 17–18, 1995 amendment deleted "Officers shall be subject to removal by resolution of the PCMNO at any time." May 5–7, 1994 amendment changed the term to 3 years. Originally read – "The executive committee of the MNO shall hold office for one (1) year from the date of election or until their successors are elected in their stead" 63 March 8, 1999 amendment added "the General Assembly". February 21, 1999 amendment deleting the following: "The chair shall be the executive director of the MNO. The chair shall be responsible to the PCMNO for the finances of the MNO and in that capacity shall render to the president and councilors at the regular meetings of the PCMNO, or whenever they may require it, an accounting of all the transactions and a statement of the financial position of the MNO. To ensure sound financial management, the chair shall

Duties of Vice-Chair

Duties of Secretary-Treasurer

- 43. The vice-chair shall assist the chair in the conduct of all meetings of the MNO. The vice-chair shall represent the MNO as required or as assigned from time to time by the executive committee or the PCMNO. The vice-chair may vote only when not acting as chair.
- 44. The secretary-treasurer shall have the responsibility to ensure the custody of the funds and securities of the MNO and is responsible to ensure that full and accurate accounts are kept of all assets, liabilities, receipts and disbursements of the MNO in the books belonging to the MNO. The secretary-treasurer shall have the responsibility to ensure the proper deposit of the moneys, securities and other valuable effects in the name and to the credit of the MNO in such chartered bank or trust company, or, in the case of securities, in such registered dealer in securities as may be designated by the PCMNO from time to time. He or she is empowered to authorize the disbursement of the funds of the MNO following established MNO financial policies as amended from time to time. He or she shall also perform such other duties as may from time to time be directed by the president, the chair and the PCMNO.

The secretary-treasurer shall carry out the affairs of the MNO under the supervision of the president and shall attend all meetings and ensure that all votes and minutes of all proceedings are responsibly kept in the books of the MNO. He or she shall give or cause to be given notice of all meetings of the citizens and of the PCMNO, and shall perform such other duties as may be prescribed by the PCMNO or the president.⁶⁴

supervise and may assume or delegate all or some of the duties and responsibilities of the secretary-treasurer."

⁶⁴ Amended February 1999 to current wording. Duties and responsibilities of secretarytreasurer were previously amended February 13, 1997 and from Feb/97 - Feb/99 was as follows: "The secretary-treasurer may be empowered by the PCMNO, upon resolution of the PCMNO, to carry out the affairs of the MNO under the supervision of the Chair and executive director of the MNO. The secretary-treasurer if so empowered, may have custody of the funds and securities of the MNO and may be responsible to ensure that full and accurate accounts of all assets, liabilities, receipts and disbursements of the MNO in the books belonging to the MNO and may have the responsibility to deposit the moneys, securities and other valuable effects in the name and to the credit of the MNO in such chartered bank or trust company, or, in the case of securities, in such registered dealer in securities as may be designated by the PCMNO from time to time. He or she may be empowered to disburse the funds of the MNO as may be directed by proper authority taking proper vouchers for such disbursements. He or she shall also perform such other duties as may from time to time be directed by the president, the chair and the PCMNO. The secretary-treasurer may be empowered by the PCMNO, upon resolution of the PCMNO, to carry out the affairs of the MNO under the supervision of the Chair and if so empowered shall attend all meetings and act as clerk thereof and record all votes and minutes of all proceedings in the books to be kept for that purpose. If so empowered by the Chair, he or

- 45. The duties of all other officers of the MNO shall be such as the terms of their engagement call for or the PCMNO requires of them.
- Execution of Documents
- 46. Contracts, documents, or any instruments in writing requiring the signature of the MNO, shall be signed by two (2) officers who are duly authorized as signatories by PCMNO, and all contracts, documents, and instruments in writing so signed shall be binding upon the MNO without any further authorization or formality. The councilors shall have power from time to time by resolution to appoint an officer or officers on behalf of the MNO to sign specific contracts, documents and instruments in writing. The councilors may give the MNO power of attorney to any registered dealer in securities for the purposes of transferring of and dealing with any stocks, bonds, and other securities of the MNO. The seal of the MNO when required may be affixed to contracts, documents and instruments in writing signed as aforesaid or by any officer or officers appointed by resolution of the PCMNO.

Meetings of the General Assembly⁶⁶

- 47. The General Assembly is a duly called meeting of MNO citizens. The annual or any other meeting of the General Assembly shall be held at any place in Ontario as the PCMNO may determine and on such days as the PCMNO shall appoint. Pursuant to the notice provisions in clause 49, the citizens may consider and transact any business at any meeting of the General Assembly.⁶⁷
 - (a) For greater certainty PCMNO meetings are not meetings of the General Assembly.⁶⁸
- 48. There shall be an annual meeting of the General Assembly (the "AGA") each year. At every AGA, in addition to any other business that may be transacted, the report of the councilors, the financial statements and the report of the auditors shall be presented and auditors shall be appointed for the ensuing year.⁶⁹

Meetings of the General Assembly

AGA

she shall give or cause to be given notice of all meetings of the Citizens and of the PCMNO, and shall perform such other duties as may be prescribed by the PCMNO or Chair.

⁶⁵ 2014 amendment deleted "any" from the phrase "signed by any two" and added "who are duly authorized as signatories by PCMNO".

⁶⁶ This entire section amended for clarity, Nov. 5, 1997.

⁶⁷ 2014 amendment added the phrase "pursuant to the notice provisions in clause 49".

 $^{^{68}}$ 2014 amendment moved what is now 47(a) from s. 50 and deleted "and not withstanding clause 22". Added by PCMNO motion #6, June 19, 1996.

 $^{^{69}}$ Modified to clarify that these are required at the annual meeting of the General Assembly, Nov. 5, 1997.

Notice

- 49. At least fourteen (14) days and not more than fifty (50) days written notice shall be given to each citizen of any annual or other meeting of the General Assembly. Notice of any meeting of the General Assembly where Special Resolutions will be proposed shall be at least thirty (30) days and not more than 50 days and shall contain the text of the Special Resolutions to be submitted at the General Assembly. ⁷⁰
- 50. No error or omission in giving notice of any annual or other meeting of the General Assembly or any adjourned meeting, whether annual or otherwise of the General Assembly shall invalidate such meeting or make void any proceedings taken thereat and any citizen may at any time waive notice of any such meeting and may ratify, approve and confirm any or all proceedings taken or had thereat. For the purpose of sending notice to any citizen, councilor or officer for any meeting or otherwise, the address of the citizen, councilor or officer shall be his or her last address recorded in the records of the MNO.

Decision Making

Eligible Voters

Quorum for General Assembly

51. At all meetings of General Assembly, citizens shall make decisions consistent with upholding and advancing the MNO Statement of Prime Purpose and shall strive to make decisions by consensus.⁷¹ In the event that consensus cannot be achieved, questions shall be determined by a simple majority of votes unless otherwise specifically provided by statue or by these Bylaws.

- (a) Subject to any limitations on a citizens rights and privileges that have been imposed pursuant to clause 10, each citizen who is at least sixteen (16) years old and is present at a meeting of the General Assembly shall have the right to exercise one vote.⁷²
- (b) The quorum for each General Assembly shall be fifty percent (50%) of the citizens who are eligible to vote and who are registered as in attendance at the General Assembly at noon on the first business day of that General Assembly.⁷³

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⁷⁰ 2014 amendment added "at least ... and not more than 50 days notice", replaced the phrase "where special business will be transacted" with "where Special Resolutions will be proposed', replaced "judgment on the Special Business under consideration" with "judgment on the Special Resolutions under consideration', replaced "sufficient information to permit each citizen to form a reasoned judgment on the special Business under consideration" with "the text of the Special Resolutions to be submitted at the General Assembly" and moved two subclauses to 67 and 69 in the Amendments section which was also created in 2014. The phrase "...shall be thirty (30) days and..." was added by the PCMNO, in September 2010.

 $^{^{71}}$ August 23–25, 2013 amendment added "make decisions consistent with upholding and advancing the MNO Statement of Prime Purpose and shall ..."

⁷² The age limit was amended April 7, 1995.

⁷³ Added June 7-8, 2001.

Finances⁷⁴

Financial Year and Accountability

52. Unless otherwise ordered by the PCMNO, the fiscal year end of the MNO shall be March 31st. The MNO shall operate on a balanced budget basis and shall provide quarterly financial statements and quarterly budget projections.⁷⁵

Finance Committee

- 53. The PCMNO shall establish a finance committee, which shall be composed of four (4) appointed members of the PCMNO, one of whom shall be the secretary-treasurer who shall assume the position of chair of the finance committee.⁷⁶
 - (a) The president shall sit on the finance committee in an exofficio capacity and shall be a non-voting member.⁷⁷
 - (b) The finance committee will meet quarterly and shall be responsible to oversee and monitor the finances of the MNO.
 - (c) The finance committee shall be responsible to prepare quarterly financial statements and quarterly budget projections.⁷⁸
- 54. The PCMNO shall approve annual financial statements that relate to the period that began immediately after the end of the last completed financial year and ended not more than six (6) months before the AGA.⁷⁹
- 55. The finance committee shall be responsible to present a financial update at each meeting of the PCMNO and at each Annual General Assembly shall place before the citizens, the financial statements approved by the PCMNO and the report of the auditor.⁸⁰
- Auditors

56. The citizens shall, by ordinary resolution, at each annual meeting of the General Assembly, appoint an auditor to audit the accounts of the MNO for report to the citizens at the next annual meeting of the General Assembly. The auditor shall hold office until the next annual meeting of the General Assembly provided that the councilors may fill any casual vacancy in the office of the auditor.

 $^{^{74}}$ 2014 amendment creates this Finances section by consolidating finances clauses from all parts of the Bylaws.

⁷⁵ Amended by the MNO Delegates Assembly May 5 – 7, 1994 motion #18.

⁷⁶ July 11, 1999 amendment, previously read "... (a) four (4) appointed members of the PCMNO; (b) the secretary-treasurer; and (c) the president." July 20, 1996 amendment established a finance committee.

 $^{^{77}}$ Amended by PCMNO June 7, 2001. Previously included the secretary treasurer as an exofficio member of the finance committee.

⁷⁸ 2014 amendment deleted the phrase "pursuant to paragraph 37".

⁷⁹ 2014 amendment added this clause.

 $^{^{80}}$ 2014 amendment added "shall place before the citizens, the financial statements approved by the PCMNO and the report of the auditor."

The remuneration of the auditor shall be fixed by the PCMNO. If an auditor is not appointed at a General Assembly or if no resolution is passed to appoint a new auditor, the incumbent auditor continues in office until a successor is appointed.⁸¹

Repeals or Amendments⁸²

- 57. The MNO's Statement of Prime Purpose may be repealed or amended by Special Resolution.⁸³
- 58. The Bylaws of the MNO may be repealed or amended by resolutions passed by a majority of the councilors at a meeting of the PCMNO, or by a resolution in writing pursuant to clause 27 of these Bylaws, and subsequently confirmed by a Special Resolution at the next General Assembly.⁸⁴
- 59. The Bylaws of the MNO may be repealed or amended by Special Resolution.⁸⁵
- 60. MNO policies previously adopted by the General Assembly may only be repealed or amended by Special Resolution.⁸⁶

Amendments

Amendments Require Special Resolutions

⁸¹ 2014 amendment created the new finances section, moved this clause from the General Provisions section, added "by ordinary resolution" and the sentence "If an auditor is not appointed at a General Assembly or if no resolution is passed to appoint a new auditor, the incumbent auditor continues in office until a successor is appointed."

 $^{^{\}rm 82}$ 2014 amendment created the new amendments section and combined former amendment provisions.

⁸³ 2014 amendment moved and replaced previous first sentence of s. 34.1 "Amendments to the MNO's Statement of Prime Purpose, Bylaws or policies previously adopted by the general assembly are special business."

^{84 2014} amendment incorporated previous clause 39.1 into this clause, previously read, "In the event that the Bylaws of the MNO have been amended by the PCMNO, the amended Bylaws shall be approved at the next annual meeting of the general assembly", added "Special Resolution" and "next" and deleted "requiring an affirmative vote of at least two-thirds (2/3) of the eligible voters registered at noon on the first business day of the General Assembly" which is now part of the definition of "Special Resolution." July 2007 amendment added "at noon". June 7 – 8, 2001 amendment, previously read "...by an affirmative vote of at least two-thirds of the eligible voters at a meeting of the General Assembly." March 30 – April 2, 2000 amendment added "... by a resolution in writing pursuant to clause 13 of these Bylaws...".

 $^{^{85}}$ 2014 amendment replaced previous version "The Bylaws of the MNO may be repealed or amended by resolutions passed by an affirmative vote of at least two-thirds of the eligible voters registered at noon on the 1st business day of a general assembly." July 2007 amendment added "at noon". June 7 – 8, 2001 amendment, previously read "...by an affirmative vote of at least two-thirds of the eligible voters at a meeting of the General Assembly". Previously amended June 19, 1996.

⁸⁶ 2014 amendment replaced previous version "Amendments to the MNO's Statement of Prime Purpose, Bylaws or policies previously adopted by the general assembly are special business. For greater certainty, resolutions to amend MNO policies that have not been previously adopted by the general assembly are not special business." Previously this was clause 34.1. Previous s. 39.2 has been incorporated into this clause, which read "Amendments to the Bylaws of the MNO by the general assembly are special business and are subject to ..." This clause was originally added by the PCMNO in September 2010.

- (a) For greater certainty, a Special Resolution is not required to repeal or amend MNO policies that were not previously adopted by the General Assembly.⁸⁷
- 61. Fundamental changes that create a new class of citizens, change a condition required for becoming a citizen, add, change or remove any rights or conditions of a new class, require approval by Special Resolution.⁸⁸
- 62. Special Resolutions and Ordinary Resolutions must comply with the notice provisions in clause 49 and the MNO Policy Process for Conducting Ordinary and Special Resolutions at a General Assembly as amended from time to time.⁸⁹
- 63. These Bylaws, as amended, were approved by the AGA on **August 28, 2016**. 90

Conflict of Interest⁹¹

- 64. A conflict of interest arises when the private interests of a councilor or citizen supersede or compete with the interests of the MNO or its related entities. Such conflicts of interest, whether real, potential or apparent shall be dealt with according to the MNO Conflict of Interest Policy as amended from time to time.
- 65. Whenever a councilor has a real, potential or apparent conflict of interest in any matter coming before the PCMNO, that councilor shall fully disclose the nature of the interest and shall withdraw from discussion, lobbying, and voting on the matter. Whenever an MNO citizen has a real, potential or apparent conflict of interest in any matter coming before the General Assembly, the affected citizen shall fully disclose the nature of the interest and withdraw from discussion, lobbying, and voting on the matter.

Fundamental Changes

Conflict of Interest

⁸⁷ 2014 amendment moved and replaced second sentence of previous 34.1, "For greater certainty, resolutions to amend MNO policies that have not been previously adopted by the general assembly are not special business."

^{88 2014} amendment added this clause.

⁸⁹ 2014 amendment added "the notice provisions in clause 49 and", replaced "or Special or non-Special Business" with "Special Resolutions or Ordinary Resolutions" and the MNO Policy is renamed from "Process for Conducting Special Business at a General Assembly" to "Process for Conducting Ordinary and Special Resolutions at a General Assembly". This clause (previously 34.2) was added on June 27th 2011 at the direction of the 2010 AGA (AGA-RES-10-02). The Statement of Prime Purpose was added because it contains MNO's foundational principles. On August 23–25, 2013, the AGA amended it to read "Any special or non-Special Business resolutions…" Previously read "Any Special Business to be dealt with…" This clause was originally added August 23–25, 2013.

⁹⁰ Added by legal counsel in July 2002, so that the Bylaws include the date of approval by the PCMNO and the AGA.

^{91 2014} amendment added this section.

66. The obligation to disclose a conflict of interest is a continuing obligation.

General Provisions

- 67. In these Bylaws the following definitions apply:92
 - (a) "**Bylaws**" means these bylaws of the Métis Nation of Ontario Secretariat as amended from time to time;
 - (b) "Community Charter" means the agreement that affiliates a Community Council with the MNO and by means of which the Community Council agrees to uphold and advance the MNO Statement of Prime Purpose as the foundational and guiding objects, principles and aspirations of the MNO.
 - (c) "Community Council" means a body of MNO citizens elected to manage the affairs of a Métis community that is recognized by and affiliated with the MNO by means of a Community Charter;
 - (d) "General Assembly" means a meeting of the citizens and includes the Annual General Assembly;
 - (e) "Ordinarily Resident" means a person who actually lives and has lived continuously in Ontario for at least one (1) full year prior to the date of the Election. In making such determination, temporary absences from Ontario for reasons such as travel, education, medical treatment, military service or incarceration shall be considered periods of residence provided the person was ordinarily resident prior to such temporary absences. A person can have only one place of ordinary residence;
 - (f) "PCMNO" means the Provisional Council of the MNO;
 - (g) "Region" means one of the nine (9) Regions of the MNO;
 - (h) "Regional Councilor" means a person who is elected as a councilor of one of the nine (9) MNO Regions;
 - (i) "Registrar" means the person with the primary responsibility to manage and administer the MNO Registry;
 - (j) "Registry" means the site where applications and records of MNO citizens and harvester certificate holders are held; and
 - (k) "Special Resolution" means a resolution passed at a General Assembly, the subject of which is considered a fundamental change and which requires the approval of at least two-thirds (2/3) of the votes cast by the eligible voters registered at noon on the first business day of that General Assembly.

Definitions

^{92 2014} amendment adding entire definitions clause.

Committees

68. The PCMNO may appoint committees whose members will hold their offices at the will of the PCMNO. The councilors shall determine the duties of such committees and may fix any remuneration to be paid.

Registration of Bylaws

- 69. The Bylaws of the MNO shall be registered with legal counsel for the MNO. Once a resolution has been passed to amend or repeal a by-law, the secretary-treasurer shall forward the amending or repealing resolutions to counsel within thirty (30) days. Upon receipt of written resolutions, counsel shall register the Bylaws by making the amendments, annotating the changes, dating the Bylaws and affixing the MNO seal on the first page. Registration of the Bylaws in this manner renders all previous versions of the Bylaws invalid. In the event of any dispute, the registered Bylaws bearing the latest date shall be considered valid. Legal counsel for the MNO shall register the Bylaws and shall return a sealed copy of the newly amended, registered Bylaws to the PCMNO within fifteen (15) days of receiving written resolutions from the PCMNO.⁹³
 - (a) These Bylaws, as amended, were registered by legal counsel on the **29**th **day of August 2016**.94

Books and Records

70. The PCMNO shall ensure that the written consent of each individual elected to the PCMNO and community councils, and all necessary books and records of the MNO required by the Bylaws of the MNO or any applicable statute or law are regularly and property kept.⁹⁵

Rules and Regulations Confirmed at AGA

- 71. The PCMNO may prescribe such rules and regulations not inconsistent with these Bylaws relating to the management and operation of the MNO as they deem expedient, provided that such rules and regulations shall have force and effect only until the next annual meeting of the General Assembly when they shall be confirmed, and failing such confirmation at such annual meeting of the General Assembly, shall at and from that time cease to have any force and effect.
- 72. If MNO gives notice or other document to a citizen at the latest address of that citizen in the MNO's records and the notice or document is returned on three consecutive occasions because the citizen cannot be found, the MNO is not required to give any

⁹³ Added by PCMNO motion #8, June 19, 1996.

⁹⁴ Added by legal counsel, July 2002, so that the Bylaws include a record of the date of registration.

 $^{^{95}}$ 2014 amendment added the phrase "the written consents of each individual elected to the PCMNO and community councils."

further notices or other documents to that citizen until the citizen provides MNO with a document setting out the citizen's address. 96

Interpretation

73. In these Bylaws and in all other Bylaws of the MNO hereafter passed unless the context otherwise requires, words importing the singular number shall include the plural number, and vice versa, and references to persons shall include firms and corporations and the use of either the masculine or the feminine form does not preclude application to a person of either sex.⁹⁷

74. Deleted98

Corporate Seal

75. The seal, a computer impression whereof is stamped in the margin hereof, shall indicate the seal of the Métis Nation of Ontario Secretariat ("MNO"). Legal counsel shall be custodian of the seal of the MNO, which he or she shall deliver only when authorized by a resolution of the PCMNO to do so and such person or persons as may be named in the resolution.⁹⁹



⁹⁶ 2014 amendment added this clause.

⁹⁷ Amended at MNO Delegates Assembly, May 5 – 7, 1995, motion #21.

^{98 2014} amendment moved in its entirety to clause 2.

 $^{^{99}}$ 2014 amendment moved the first sentence, which was previously s. 2 and combined with the last sentence, which was previously s. 45. No change in content. Last sentence was originally added by PCMNO February 13, 1997.

MNO Secretariat Bylaws:

AGA Approved August 28, 2016

Appendix A **Statement of Prime Purpose**

Where We Got Our Name

"The paternal ancestors of the Métis were the former employees of the Hudson Bay Northwest Fur Companies, and their maternal ancestors were Indian women of the various tribes. The French word *Métis* is derived from the Latin participle *mixtus*, which means "mixed"; in French *mêlé*; it expresses well the idea that is sought to be conveyed. However appropriate the corresponding English expression 'Halfbreed' might have been for the first generation of the mixture of blood, now that European blood and Indian blood are mixed in every degree, it is no longer general enough.

The French word *Métis* expressed the idea of this mixture in the most satisfactory manner possible, and thus becomes a proper race name ... why should we care to what degree exactly of mixture we possess European blood and Indian blood? If we feel ever so little gratitude and filial love toward one or the other, do they not constrain us to say: We are Métis!"

Louis Riel, 1885¹⁰⁰

Who We Are As a People

We, the Métis are a people of the lands, which gave rise to our history and tradition and culture.

We call those lands the Métis Homelands. The Homelands stretch from the lakes and rivers of Ontario; cross the wide prairies, traverse the mountains into British Columbia and into the northern reaches of the Northwest Territories. They include the hills and valleys of the north-central American States.

These are our lands. They are Métis lands. They are the lands of our past which nurture us today and which we value as the precious foundation of our future.

As Métis who live in the Homelands, we hold it to be a fundamental truth that we are one of the Aboriginal peoples of the Americas.

The Métis Nation continues today to be the embodiment of our past, the source of sustenance for our present while giving rise to our hopes and aspirations for the future.

We are a Nation, born of independence, and self-sufficiency whose teachings are founded on the values of honesty and truth. We are proud of our rich heritage. We

¹⁰⁰ For the French version of this quote see: *The Collected Writings of Louis Riel/Les ecrits complets de Louis Riel,* (University of Alberta Press, Edmonton, 1985), Vol. 3; 3-156. *Les Métis du nord-ouest* [Regina]. [85/10-11], at p. 278-279. For the English version see *Hold High Your Heads*, which is an English translation of *l'Histoire de la nation métisse dans l'ouest*, by A.H. de Tremaudan (Pemmican Publications: Winnipeg, 1936) at p. 200.

are inspired by the values and traditions of our ancestors. The strength of our society is based on democracy, freedom, fairness, equality, generosity, justice and the customary and written law of our people. Above all, we cherish harmony and peace.

As Aboriginal people we hold sacred the rights of the individual and of the collective. We have respect for each other, for the land and for the animal and plant life that surrounds us. We are people who honour and respect the family, our elders who hold the key to the past, and our children, who are our future.

Guided by our spiritual values we aspire to attain our highest potential.

Now Therefore We Declare as Follows:

We, the Métis Nation, are a distinct Nation among the Aboriginal peoples in Canada and as such our Aboriginal and treaty rights are recognized and affirmed under Section 35 of the *Constitution Act*, 1982.

We, the Métis Nation, have the inherent right of self-determination and self-government;

We, the Métis who live within the Métis Homelands of Ontario, desiring to bind our people together to collectively promote our common cultural, social, political, and economic well-being, have founded the Métis Nation of Ontario, to be our representative body with the following aims and objectives:

- to research, publish and promote the genealogical documentation of the Métis, and to establish and maintain a registry of the Métis Citizens of Ontario;
- to establish democratic institutions based on our inherent right of selfgovernment;
- to encourage the full participation of all Métis in the Métis Nation;
- to promote and foster community development;
- to re-establish land and resource bases;
- to protect and preserve the land and waters within our homelands for future generations;¹⁰¹
- to develop prosperity and economic self-sufficiency within the Métis Nation;

 $^{^{101}}$ Amended by 2015 MNO AGA in Midland (AGA-SPECRES2015-003) by adding this additional objective.

- to provide care and support necessary to meet the fundamental needs of the citizens of the Métis Nation;
- to promote the improved health and wellness of the individual, the family and the whole Métis community;
- to establish effective means of communication for the Métis Nation;
- to encourage academic and skills development and to enable citizens of the Métis Nation to attain their educational aspirations;
- to promote the history, values, culture, languages and traditions of the Métis Nation and to create an awareness of our proud heritage;
- to promote Métis artistic and cultural achievement;
- to ensure that Métis can exercise their Aboriginal and Treaty rights and freedoms and in so doing, act in a spirit of cooperation with other Aboriginal and non-Aboriginal people;
- to establish good relations and maintain our historic alliances with all Aboriginal peoples for the pursuit of our common interests and goals;¹⁰²
- to continue our affiliation with the Métis National Council for the representation of the interest of the Métis Nation in Ontario at the National and International levels; and
- to gain the recognition and respect of the Métis as a Nation and a people.

 102 Amended by 2015 MNO AGA in Midland (AGA-SPECRES2015-003) by adding "and maintain our historic alliances".

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Métis Nation of Ontario Community Charter Agreement

The seal, an impression whereof is stamped in the margin hereof, shall be the seal of the Métis Nation of Ontario Secretariat ("MNO").

This Agreement is made in triplicate this day(insert date)

BETWEEN:

Métis Nation of Ontario

["MNO"]

AND:

Métis Nation of Ontario Secretariat Inc.

A corporation duly incorporated under the laws of Ontario ["Secretariat"]

AND:

Council Name

["Community Council"]

WHEREAS the Métis people joined together long ago to form a new nation which Louis Riel called the Métis Nation;

AND WHEREAS the Métis Nation continues today to be the embodiment of our past, our present and our hopes and aspirations for the future;

AND WHEREAS the Métis people who live in Ontario, desiring to bind our people together to collectively promote a common cultural, social, political and economic well-being, have founded the MNO to be our representative body;

AND WHEREAS the existing Aboriginal and Treaty rights of the Métis people, as one of the Aboriginal peoples of Canada, are recognized and affirmed under section 35 of the *Constitution Act*, 1982;

AND WHEREAS the Métis people, as one of the Aboriginal peoples of Canada, has the inherent right of self-determination and self-government;

AND WHEREAS the MNO wishes to establish democratic institutions based on that inherent right of self-government;

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MNO Community Charter Agreement

AND WHEREAS the MNO wishes to promote and foster community development within the Métis Nation:

AND WHEREAS the MNO wishes to develop prosperity and economic self-sufficiency within the communities of the Métis Nation;

AND WHEREAS the MNO has incorporated under the laws of Ontario a body known as the Secretariat for the purposes of implementing community development and democratic institutions, until such time as they may be governed by their own self-government;

AND WHEREAS the MNO may incorporate under the laws of Ontario other bodies for the purposes of implementing community development;

AND WHEREAS the Community Council declares itself to be the democratic representative of the citizens of the MNO who live within the geographic territory of described in this Agreement;

AND WHEREAS the Community Council declares that it wishes to enter into an agreement with the MNO in order that it may represent the Métis citizens of the community under the values, principles and laws of the MNO as amended from time to time;

AND WHEREAS the MNO recognizes the Community Council as the only legitimate representative of the Métis citizens of the MNO who live within the boundaries of the Community;

AND WHEREAS the MNO wishes to enter into an agreement with the Community Council to further the interests of the Métis citizens who are represented by the Community Council;

NOW THEREFORE in consideration of the respective covenants and agreements of the parties contained in this Agreement, the MNO, the Secretariat and the Community Council agree as follows:

1. Name of this Agreement

1.1 This agreement shall be called the *Métis Nation of Ontario Community Charter Agreement*.

2. Definitions

- 2.1 All words and phrases in this Agreement have the same meaning as in the Secretariat's bylaws. In the event of any conflict the definitions in the by-laws of the MNO shall prevail to the extent of the conflict.
- 2.2 "Community Charter" means the certificate granted by the MNO to the Community Council under the terms of this agreement.
- 2.3 "Executive Council" means the Executive Council of the Secretariat as defined in the Secretariat's by-laws.

3. The Community Council

Criteria for Community Council

- 3.1 The Community Council declares that it represents the citizens of the MNO who live within the specified geographic area described in paragraph 3.10.
- 3.2 The Community Council declares that it represents only the Métis citizens who meet the criteria of, and are registered with, the MNO.
- 3.3 The Community Council declares that it currently represents and will maintain a minimum of 15 citizens who are eligible to vote in the MNO.
- 3.4 The Community Council subscribes to the principles of the MNO as stated in the *Statement of Purpose*, a copy of which is attached as Appendix A to this Agreement, and agrees to be bound by it.
- 3.5 The Community Council shall adopt a Community Code, which shall contain but is not limited to the following:
 - a) a statement of purpose;
 - b) the rights and responsibilities of the citizens;
 - c) the responsibilities and duties of the Community Council;
 - d) rules of fiscal management;
 - e) rules pertaining to the calling and conduct of meetings;
 - f) accountability of the Community Council to the citizens and to the Executive Council; and
 - g) a dispute resolution mechanism;
- 3.6 The Community Code shall be submitted to the Secretariat as it is adopted or amended. The Community Council shall notify the Secretariat of any changes in its Council or to its Community Code within 30 days of such change.
- 3.7 The Community Council may modify and adopt the MNO by-laws as its Community Code. The MNO by-laws shall govern in any matter not specifically provided for in the Community Code. The Community Council shall revise, within thirty days, after receiving written notice, any provisions in its Community Code which are found to be in conflict with the MNO by-laws.
- 3.8 The Community Council shall not represent the interests of non-aboriginal persons, those who self-identify as Inuit, or those who are registered as Indians under the *Indian Act, R.S.C. 1985*, *c.* 6 as amended from time to time.
- 3.9 The Community Council shall not enter into an agreement with governments or other bodies where that agreement is inconsistent with the by-laws, regulations, policies or guidelines, as amended from time to time.

Description of Community Council

3.10 The Community Council is described geographically as follows:

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North:	
East:	
West:	
South:	
The address of the Community Council is as follows: Community Council	
Insert address here	

Decision Making in the Community Council

3.12 In decision-making, the Community Council shall strive for consensus. If consensus cannot be achieved, then a vote may be taken. If voting is used for decision making then majority rule shall obtain

4. Community Charter

- 4.1 The MNO and the Secretariat shall grant a Community Charter upon execution of this Agreement.
- 4.2 Provided the Community Council is not in breach of any term of this Agreement, the Community Council:
 - a) is a non-voting member of the Secretariat;
 - b) has all the rights, privileges, responsibilities, liabilities and duties as defined within or arising out of, this Agreement and the MNO by-laws;
 - c) is entitled to use the incorporation number of the Secretariat or of any of the Secretariat's subsidiaries or wholly owned companies, subject to the terms and conditions in this Agreement and any other terms and conditions that may be established by the Secretariat or the MNO from time to time.

5. Financial

- 5.1 Community Council funds shall be used only for the benefit of the Métis citizens who are represented by the Community Council. Expenditures shall be consistent with the financial ability of the Community Council and may include, but are not limited to:
 - a) the purpose of assisting Métis citizens of the MNO;
 - b) salaries, offices or administration;

- c) obligations arising from agreements entered into for the benefit of the Métis citizens represented by the MNO;
- d) other activities that fall within the purposes of the MNO as stated in the Statement of Purpose (Appendix A).
- 5.2 The Community Council and any of its committees, subsidiaries, institutions or other entities shall;
 - a) have a fiscal end of March 31st;
 - b) keep its financial records in accordance with generally accepted accounting procedures;
 - c) cause an annual financial statement of its books and records and funds to be created within 90 days of the end of the fiscal year;
 - d) within 30 days of its completion, submit the financial statement to the Secretariat;
 - e) within 30 days of its completion, provide on request, the financial statement to its citizens.
- 5.3 In the event that a copy of the annual financial statement is not submitted, pursuant to paragraph 5.2(d), the Secretariat may cause an audit to be made, at the expense of the Community Council.

6. Revocation or Suspension of Community Council Charter

- 6.1 In the event that a Community Charter is revoked or suspended under this Agreement, or the Community Council disbands, the Community Charter and all books and records shall be delivered to the Secretariat within 10 days after a demand is made by the Secretariat.
- 6.2 Serious violations of this Agreement and will be subject to an inquiry by the Executive Council of the Secretariat. Serious violations of this Agreement include but are not limited to the following:
 - a) making a false statement or withholding material information when applying for a Community Charter, government programs or grants;
 - b) failure to comply with any decision or order of the MNO or the Secretariat;
 - c) any willful action which defeats or impedes activities of the MNO, the Secretariat or any of its Community Councils in furtherance of the purposes of the MNO;
 - d) misappropriating money or property of the MNO, the Secretariat or the moneys or property held or managed by the Community Council for the benefit of the citizens of the Community Council;
 - e) incorporation under the laws of Ontario or Canada of the Community Council or other any committees, subsidiaries, institutions or other entities of the Community Council for any purpose whatsoever;

7. Dispute Resolution

7.1 Any dispute or inquiry that arises out of this Agreement shall be referred to the Community Council for resolution.

- 7.2 If resolution is not possible under paragraph 7.1 an inquiry panel may be called by the Secretariat for that purpose.
- 7.3 The Executive Council may call for a sitting of an inquiry panel upon request or upon its own initiative.
- 7.4 The inquiry panel will be composed of a Chair who is appointed by the Executive Council and who is not a sitting member of the Executive Council, one Executive Council member and one Community Council member.
- 7.5 Where a dispute is referred to the Executive Council or where the Executive Council, upon its own initiative calls for an inquiry, the Secretariat shall give 30 days notice in writing to all parties. Such notice shall include the reasons for the inquiry and the materials and persons, which the parties shall provide for the assistance of the inquiry panel. The inquiry shall be held within 90 days of issuing the notice.
- 7.6 At any inquiry, called pursuant to paragraph 7.2 the panel shall hear representations from persons or entities concerned in the dispute. The inquiry panel may decide whether the representations are to be made orally or in writing. Any written submission must be received at least 30 days before the date of the inquiry.
- 7.7 Upon termination of the inquiry the panel shall either:
 - a) issue a recommendation as to costs
 - b) issue a recommendation regarding the substantive issue in dispute; or
 - c) issue a recommended procedure on how to resolve the dispute; or
 - d) issue a judgment on the merits of the issue in dispute.
- 7.8 A judgment on the merits of the issue in dispute may be either:
 - a) to uphold the Community Charter; or
 - b) to revoke the Community Charter permanently; or
 - c) to place the Community Charter in the care of trustees; or
 - d) to suspend the Community Charter temporarily, pending the completion of specified actions by the Community Council and/or any of its committees, subsidiaries, institutions or other entities.
- 7.9 Where an inquiry is held, the panel shall set out its decision in writing. The written decision shall be made available to the parties within 30 days of the inquiry.

Appeals

7.10 A decision of the inquiry panel arising from this Agreement may be appealed to a specially convened Senators Council which shall be called together for this purpose by the Executive Council. The Senators Council shall consist of at least three Métis Senators.

- 7.11 At any appeal pursuant to paragraph 7.10, the Senators Council may hear representations from the parties. The Senators Council may decide whether the representations are to be made orally or in writing. Any written submission must be received at least 30 days before the date of the inquiry.
- 7.12 Upon termination of the appeal the Senators Council shall:
 - a) issue a decision as to costs
 - b) issue a judgment on the merits of the issue in dispute.
- 7.13 A judgment on the merits of the issue in dispute may be either:
 - a) to uphold the Community Charter; or
 - b) to revoke the Community Charter permanently; or
 - c) to place the Community Charter in the care of trustees; or
 - d) to suspend the Community Charter temporarily, pending the completion of specified actions by the Community Council and/or any of its committees, subsidiaries, institutions or other entities.
- 7.14 The Senators Council shall set out its decision in writing. The written decision shall be made available to the parties within 30 days of the appeal.
- 7.15 A decision of the Senators Council shall be final and binding on the parties.

8. Role of the MNO Secretariat

- 8.1 Where the Community Council uses the incorporation number of the Secretariat, notice of any contract or agreement which the Community Council or any of its committees, subsidiaries, institutions or other entities, enters into which incurs liabilities for the Secretariat or any of the Secretariat's committees, subsidiaries, institutions or other entities under its control, shall be subject to the approval of, and given in writing to, the Secretariat.
- 8.2 The Secretariat shall not be liable under contracts entered into pursuant to paragraph 8.1 unless the Community Council and its committees, subsidiaries, institutions or other entities has received authorization in writing by the Secretariat.
- 8.3 The Secretariat or any of its committees, subsidiaries, institutions or other entities under its control shall maintain a supervisory function with respect to all contracts, tasks, privileges and responsibilities which the Community Council or any of its committees, subsidiaries, institutions or other entities enters into which incur liability for the Secretariat.

9. No Incorporation Rule

- 9.1 The Community Council shall not be or remain incorporated under the laws of Ontario or Canada for any purpose whatsoever.
- 9.2 In the event that the Community Council has committees, subsidiaries, institutions or other entities under its control which were incorporated under the laws of Ontario or Canada prior to

entering into this Agreement, the Community Council agrees to work with the Secretariat towards bringing those entities within the spirit of this Agreement and the parties shall sign a Memorandum of Understanding to that effect which shall be attached to and form part of this Agreement.

- 9.2.1 Paragraph 6.2(e) will not apply to the Community Council provided a Memorandum of Understanding is signed pursuant to Paragraph 9.2, which covers all committees, subsidiaries, institutions or other entities under its control that were incorporated under the laws of Ontario or Canada prior to entering into this Agreement.
- 9.3 Notwithstanding 9.1, the Community Council may incorporate under the laws of Ontario or Canada, an entity which shall not be or become the Community Council itself, and such entity shall be a for-profit development corporation which shall be incorporated on the following terms and conditions:
 - a) the Community Council shall inform the PCMNO in writing of their intention to incorporate a development corporation;
 - b) the Community Council shall work with MNO's legal counsel to draft the by-laws and articles of incorporation for the development corporation;
 - c) the articles of incorporation and the by-laws of the development corporation shall stipulate that at times:
 - i) 100% of the members of the Board of Directors shall be citizens of the MNO;
 - ii) 100% of the shares of the development corporation shall be held by citizens of the MNO resident in the geographic territory described in paragraph 3.10; and
 - iii) the purpose, services and any profits of the development corporation shall be solely for the benefit of the citizens of MNO.
- 9.4 Any violation of the terms of paragraph 9.3 shall constitute a fundamental breach of this Community Charter Agreement.

10. Termination of this Agreement

10.1 This Agreement may be terminated by any party if another party does not perform its obligations under this Agreement for a period of thirty (30) days after receiving written notice of such default from the party seeking to terminate.

11. Agreement Without Prejudice

11.1 This Agreement creates only the rights and a privilege expressly described herein and is without prejudice to other existing legal rights of the parties including for greater certainty any Aboriginal or Treaty rights of the individual Métis represented by the Community Council, the Community Council, the Secretariat or the MNO.

12. Applicable Law

12.1 This Agreement shall be governed by and construed in accordance with the laws of the MNO.

13. Endurement

13.1 This Agreement shall endure to the benefit of and be binding upon the parties and their respective successors and assigns.

14. Not Transferable

14.1 This Agreement is not transferable to any other party.

15. Transmission by Facsimile

15.1 The parties hereto agree that this Agreement may be transmitted by facsimile or such similar device and that the reproduction of signatures by facsimile or such similar device will be treated as binding as if originals and each party hereto undertakes to provide each and every other part hereto with a copy of the Agreement bearing original signatures forthwith upon demand.

16. Amendments to this Agreement

16.1 This Agreement may be amended at any time with the consent of the parties. The amendment shall be ratified by the Executive Council and by resolution passed at a meeting of the Community represented by the Community Council. Amendments shall be in writing, signed by both parties and attached to this Agreement and after effective date will form part of this Agreement.

17. Effective Date

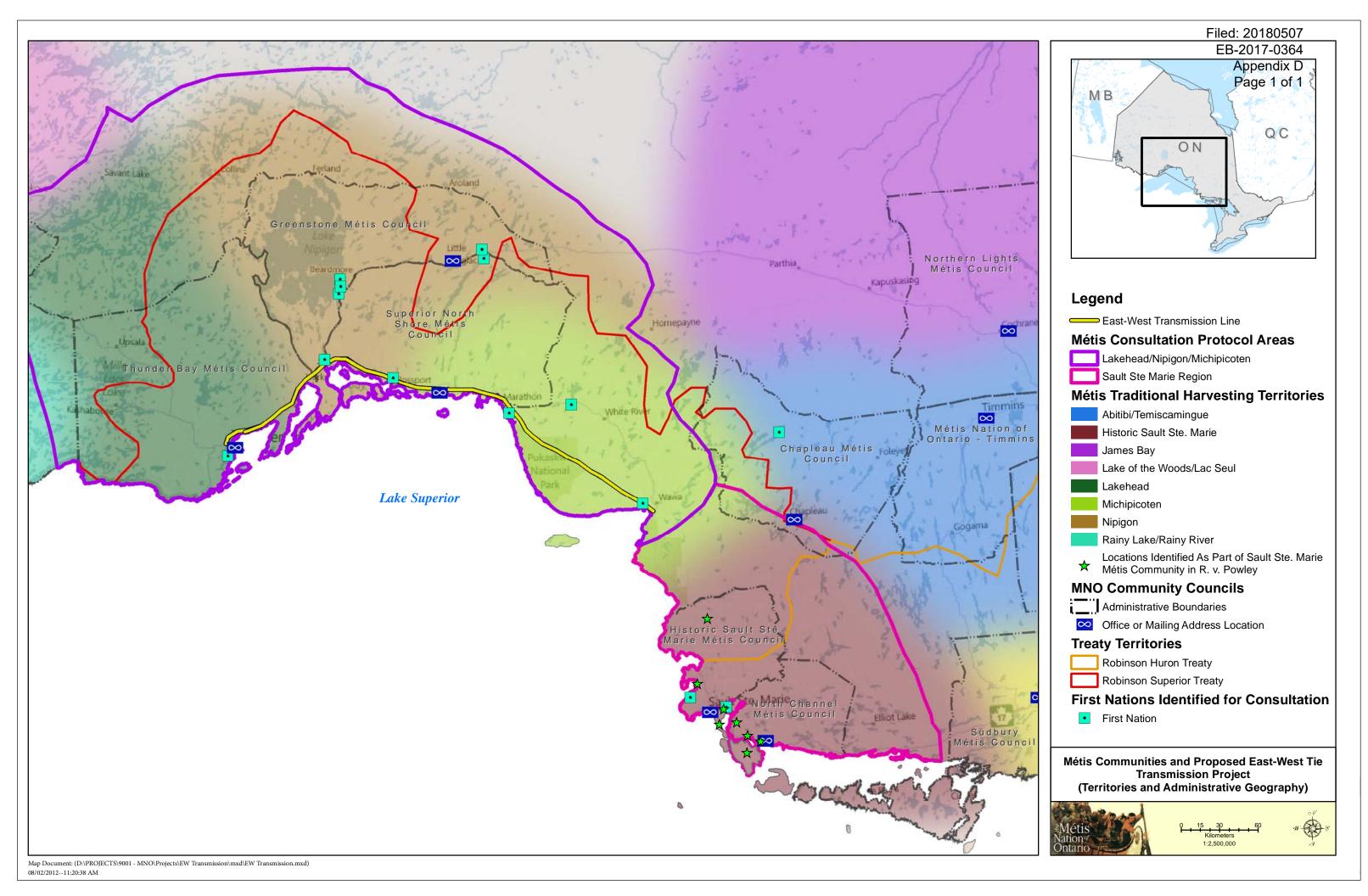
17.1 This Agreement has an effective date of the

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MNO Community Charter Agreement

IN WITNESS WHEREOF the Métis Nation of Ontario, the MNO Secretariat and the Community Council has executed this *MNO Community Charter Agreement*.

Signing Authority for the Community Council	March 3, 2011 Date
Gary Lipinski, President on behalf of the Métis Nation of Ontario	March 3, 2011 Date
Signing Authority on behalf of the MNO Secretariat	March 3, 2011 Date



HISTORIC MÉTIS COMMUNITIES IN ONTARIO

THE HISTORIC NORTHERN LAKE SUPERIOR MÉTIS COMMUNITY

Based on the existing research on Métis communities in Ontario and the criteria established by the Supreme Court of Canada in *R. v. Powley* ("*Powley*"), a historic Métis community developed from the inter-connected Métis populations at Michipicoten, Pic River, Fort William, Nipigon House, and Long Lake (collectively, the "Historic Northern Lake Superior Métis Community").

Identifying the Historic Métis Communities in Ontario

In *Powley*, the Supreme Court of Canada held that Métis rights—protected by section 35 of the *Constitution Act, 1982*—exist in Ontario. This case established the framework for the recognition of Métis rights.

The Métis within section 35 refers to distinctive peoples or communities who, in addition to their mixed First Nation and European ancestry, developed their own customs, way of life, and recognizable group identity separate from their forebearers.

In order for a contemporary Métis community to possess section 35 rights it must have its roots in an identifiable historic Métis community that emerged prior to the time when Europeans established effective political and legal control in the area. It is therefore crucial to identify such historic Métis communities.

Identifying a historic Metis community requires demographic evidence that the population was identified as distinctive, evidence that the community had its own collective identity, and, evidence that the community had its own shared customs, practices and traditions.

Northern Lake Superior Timeline

1679	French traders establish the first trade post in the Lakehead region, near the mouth of the Kaministiqua River.
1684	A French trading post is constructed on Lake Nipigon.

Late 1600s The Lake Nipigon area was integrated into both the English trade to James Bay and the French trade to New France, and represented a strategic point in

both networks.

The French establish the first fur trade post at the mouth of Michipicoten River.

A "Canadian" post was opened at the mouth of the Nipigon River on Lake Superior, with an outpost at Michipicoten.

1730s-1740s Trading and transportation work continues out of the established posts at Kaministiquia, Michipicoten, Sault Ste. Marie, Michilimackinac, and posts south of the Upper Lakes, as well as many transient trading sites around Lake

Nipigon and the north shore of Lake Superior.

1778-1779 Independent trader Ezekiel Solomon operates a number of trading sites in the region including Lake Minnitaki, Pashkokogan Lake, Lake Escabitchewan, Lac Seul, Shikag Lake, and Sturgeon Lake. Pays Plat serves as a main rendezvous point, with travel through Lake Nipigon at Wabinosh Bay.

1790	"Fort Pic", the permanent post at Pic River, is established by the North West Company (NWC) sometime prior to 1790.
1792	The Hudson's Bay Company (HBC) engages John McKay, a former trader for the independent company "Cotté and Shaw" to open a post on Lake Nipigon.
1797	The HBC establishes a post on the north bank of the Michipicoten River opposite the NWC.
1800	By 1800, the NWC has established a post on Long Lake in order to intercept trade that would otherwise have gone to Henley House - an HBC post approximately 140 miles northeast, on Albany River. The NWC post is supplied by a post at Pic.
1807	The Kaministiquia post was renamed by the NWC as "Fort William". A short distance from Fort William the HBC operates a small post known as Point Meuron.
1814	The HBC establishes a post near the northern tip of Long Lake as an outpost of Henley House. Until 1863, Long Lake post was operated as an outpost of the Pic Post.
1816	The HBC re-establishes its post at Michipictoen, after having abandoned it by agreement with the NWC in 1803.
1821	The HBC and the NWC merge, leading to a re-organization of the posts.
1850	The Robinson-Superior Treaty is negotiated and signed.
1859	The HBC establishes a post at Red Rock.
1880s	European settlement in the areas north of Lake Superior increases, the fishery begins to become more regulated, and the railroad continues to develop through the area.
1883	Fort William is closed.
1887-1888	The HBC moves its Pic business to Montizambert when the Canadian Pacific Railway is built.
1904	Michipicoten Post is closed.

Demographics

There were corporate and economic ties between the fur trade posts within the Lake Superior district; the men engaged in that trade were required to travel between posts both seasonally and for specific tasks. The historic record shows a stable and consistent population of traders and their families consistently being identified as 'half-breeds" as opposed to being identified as "Indians" over successive generations. There were also documented inter-group kinship ties and marriages between these Métis families who worked for periods of time or settled at these posts.

Before the negotiation of the Robinson-Superior Treaty in 1850, the Crown began to take stock of the population in the lands north of Lake Superior, noting the extent of both the "Indian" and "half-breed" populations. The census taken by the Crown in 1849 for the entire north and east shores of Lake Superior reported "eighty-four half-breeds". At this time, one HBC servant with

intimate knowledge of the area (who was Métis himself and was married to a Métis woman) wrote, "I am not certain whether the Government will acknowledge the rights and claims of the half breeds, to a share of the payments to be made for the lands about to be ceded by the Indians of Lake Superior..." highlighting that the Indians and "half-breeds" in the area were considered distinct populations.

After the signing of the Robinson-Superior Treaty, the Crown did not preclude "half-breeds" from living on the reserve lands set aside pursuant to the treaty, or from receiving treaty annuity payments as "half-breeds". As a result, one of the primary demographic record sources for the persistent Métis population following the making of Robinson-Superior Treaty are annuity paylists which list both Indian and "half-breed" annuitants. For example, the pay-list for Fort William in 1850 includes 14-16 half-breed families.

Throughout much of the latter half of the 1800s, many of these same known Métis families continue to be identified as "half-breeds" on treaty annuity pay lists for the Fort William, Red Rock, and Nipigon Bands. Censuses for 1871, 1881 and 1891 also identify the same "half-breed" families in various locations as distinct from "Indians" and "whites" (i.e., Rossport, McDiarmid, etc.).

Vocation and Cultural Practices

The Historic Northern Lake Superior Métis Community shared a number of customs, traditions, and common vocations, including:

- The Métis populations in both Lakehead and Nipigon engaged in fishing; making maple sugar; and trapping small game, and hunting as a part of provisioning the posts. At Fort William, some of these Métis families are noted as gardening. Fishing in particular was crucial to post-provisioning by Métis.
- Métis employees tended to occupy similar positions within the post establishment which
 were distinctive from the roles of both the company gentry and the local Indian
 population. Those positions included: blacksmith, tinsmith, cooper, boat/ canoe builder,
 and occasionally apprentice postmaster.
- The record shows that Métis—as a part of their canoeing and portaging travel—participated various religious and cultural rites, such as the "baptism" of newcomers by dunking them in the water, making offerings or prayers at dangerous sites or places of their journeys, and taking a ceremonial "dram" at the completion of some long portages or sections of a journey (shot of liquor);
- The post employees' manner of dress was also noted as distinctive, including the voyageur's woven belt, blanket coats, and red milled caps.

Distinctive Collective Identity

The requirements and characteristics of the fur trade, including interaction of First Nations and European people, the necessity of certain skills (such as canoe building), the need for mobility between post locations, and long-distance canoe travel, resulted in the development of a fur trade culture. Overtime, these features became somewhat synonymous with Métis culture.

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In the early to mid-19th century, discriminatory HBC policies towards the "half-breeds" contributed to a sense of "other-ness" and resulted in collective opposition to these policies. HBC records also reflected other distinctions between the Métis and other local populations, for example, noting that brawls occurred between "half-breeds" and "sailors", and noting the celebration by the "half-breeds" of St. Andrew's Day.

The Crown also viewed the "half-breeds" as distinctive from other local populations, for example, one Crown official noted that "half-breeds" in this area: live in houses instead of wigwams or huts like the Indians; pursued a somewhat different lifestyle; have mainly French-Canadian origins; are practicing Catholics; and maintain distinctive surnames.

In the 1880s, a joint petition made to the Crown identified the petitioning "half-breeds" and "Indians" separately, indicating the groups saw themselves and each other as distinct.

About this Document

This summary was prepared collaboratively by the Métis Nation of Ontario ("MNO") and the Ontario Government ("Ontario"). It is based on historical research currently available on Métis in Ontario. Many of the reports reviewed and relied on to create this summary are available online at: http://www.metisnation.org/registry/citizenship/historicresources/. The parties will consider additional historic information as it may become available.

Identifying historic Métis communities is a necessary part of the legal requirements for establishing Métis rights, protected by section 35 of the *Constitution Act, 1982*, however, the identification of historic Métis communities alone does not define contemporary rights-bearing Métis communities, determine who in Ontario is Métis, who holds Métis rights, or define Métis harvesting areas or territories.

This summary does not necessarily address the claims of other self-identifying Métis communities not represented by the MNO. The conclusions in this summary do not limit the potential for other historic Métis communities to be identified or the expansion of recognition historic Métis communities in the future based on additional historic research.





FRAMEWORK AGREEMENT ON MÉTIS HARVESTING

THIS AGREEMENT is made in duplicate this 31 th day of 2018.

BETWEEN

HER MAJESTY THE QUEEN in right of the Province of Ontario, as represented by the Minister of Natural Resources and Forestry (herein referred to as "the MNRF")

AND

THE MÉTIS NATION OF ONTARIO whose legal and administrative arm is the Métis Nation of Ontario Secretariat Inc. (herein referred to as "the MNO")

(herein referred to collectively as "the Parties" and individually as a "Party")

WHEREAS Métis communities emerged in various areas surrounding the Upper Great Lakes as well as along the waterways and fur trade routes of what is now known as Ontario prior to the Crown effecting legal and political control in those regions;

AND WHEREAS these historic Métis communities developed their own shared customs, traditions, and collective identities that are rooted in kinship, their special Aboriginal relationship to the land and a distinctive culture and way of life that persist today;

AND WHEREAS the MNO was created to represent and advocate on behalf of a distinct group of Métis in Ontario based on the democratic mandate it receives from its registered citizens ("Citizens"), and the communities comprised of those Citizens, with respect to protecting and advancing collectively-held Métis rights within Ontario;

AND WHEREAS section 35 of the Constitution Act, 1982 provides for the recognition and protection of the "aboriginal and treaty rights" of the "aboriginal peoples of Canada" and Aboriginal peoples of Canada includes the Métis peoples of Canada;

AND WHEREAS there is no hierarchy of rights in respect of the constitutional recognition or protection of the "aboriginal and treaty rights" within section 35 of the *Constitution Act, 1982*;

AND WHEREAS on September 19th, 2003, the Supreme Court of Canada, in *R. v. Powley* ("*Powley*"), held that "the inclusion of the Métis in section 35 represents Canada's commitment to recognize and value the distinctive Métis cultures, which grew up in areas not yet open to colonization, and which the framers of the *Constitution Act, 1982* recognized can only survive if the Métis are protected along with other aboriginal communities";

AND WHEREAS the Supreme Court of Canada concluded in *Powley* that "the Métis community in and around Sault Ste. Marie have an aboriginal right to hunt for food under s. 35(1)" as a continuation of a historic Métis community and recognized that other Métis communities may possess similar rights based on established criteria, including the community's emergence prior to effective control, the community's customs, practices and traditions as well as the continuation of the community into the present day;

AND WHEREAS the Supreme Court of Canada in *Powley* also established criteria for the identification of individuals who may exercise a modern day Métis community's collectively-held harvesting right that includes: (1) self-identifying as Métis, (2) having an ancestral connection to the historic Métis community, and, (3) acceptance by the modern day Métis community that is a continuation of the historic community;

AND WHEREAS the MNO has adopted a policy ("the MNO Harvesting Policy") to regulate the harvesting activities of its Citizens within Ontario, and issues Harvesters Cards under this policy to its Citizens who have satisfied the MNO Registrar that the documentation in their respective files supports their claim to being able to exercise a collectively-held Métis right to harvest in Ontario;

AND WHEREAS on July 7th, 2004, the Parties agreed to points of agreement ("the July 2004 Points of Agreement") that, on an interim basis, recognized a limited number of Harvesters Cards until an independent and statistically representative third party evaluation of the MNO Harvesters Card system was performed based on the criteria set out by the Supreme Court of Canada in *Powley* and mutually agreeable terms of reference agreed to by the Parties ("the Independent Review");

AND WHEREAS on August 22nd, 2017, based on the Supreme Court of Canada's decision in *Powley* and the results of a collaborative process established between the Parties, the following seven historic Métis communities in Ontario—as further described in Schedule A to this Framework Agreement—have been identified ("the Historic Métis Communities"):

- The Rainy River / Lake of the Woods Historic Métis Community
- The Northern Lake Superior Historic Métis Community
- The Abitibi Inland Historic Métis Community
- The Sault Ste. Marie Historic Métis Community
- The Mattawa / Ottawa River Historic Métis Community
- The Killarney Historic Métis Community
- The Georgian Bay Historic Métis Community

AND WHEREAS on December 18th, 2017, the independent third party that was selected through a competitive process provided its final report on the Independent Review to the Parties and this report confirmed that the MNO has a reliable system for identifying its Citizens who may exercise Métis Harvesting Rights;

AND WHEREAS the Parties agree that additional and outstanding work remains, including ongoing work to verify that the modern day Métis communities represented by the MNO are the continuations of the identified Historic Métis Communities in Ontario, the types of Métis Harvesting Rights that exist in Ontario as well as the geographies associated with those Métis Harvesting Rights;

AND WHEREAS this Framework Agreement is meant to build on the work that has been accomplished to date and further advance reconciliation through: (1) recognizing Métis Harvesting Rights in Ontario based on the mutually agreeable criteria and processes set out in this Framework Agreement, and, (2) facilitating the additional and outstanding work and negotiations described in this Framework Agreement with a view to reaching a long-term and substantive agreement on Métis harvesting between the Parties:

AND WHEREAS the Parties remain committed to achieving the mutual goals of conservation and safety in harvesting and resource management in Ontario;

NOW THEREFORE the Parties agree as follows:

DEFINITIONS

For the purposes of this Framework Agreement, the following definitions apply:

"Citizen" means an individual who is registered as a member of the MNO based on the requirements established by the MNO.

"Harvesters Card" or "Harvesters Certificate" mean the same thing and refer to the identification issued by the MNO to its Citizens based on the requirements set out in its MNO Harvesting Policy, which are consistent with the criteria set out in *Powley* and this Framework Agreement.

"Harvesters Card Holder" means a Citizen who holds a valid Harvesters Card.

"Independent Review" means the third party review of the MNO Harvesters Card system completed on December 18th, 2017 based on mutually agreeable terms of reference and in fulfillment of the July 2004 Points of Agreement that confirmed that the MNO has a reliable system for identifying its Citizens who may exercise Métis Harvesting Rights.

"Interim Enforcement Policy" or "IEP" means the guidance the MNRF considers when reviewing violations involving Aboriginal persons.

"Métis Harvesting Rights" or "Métis Harvesting" means hunting, trapping, fishing and gathering of natural resources for food, social or ceremonial purposes. Métis Harvesting Rights and Métis Harvesting, for the purposes of this Framework Agreement, is limited to the definition set out above and does not include harvesting for commercial purposes. For greater certainty, the MNO asserts collectively-held Métis commercial harvesting rights as well as other Métis rights.

"Métis Harvesting Areas" means the areas set out in the interim assertion map that is attached as Schedule "C" to this Framework Agreement. This map was created and provided by the MNO and illustrates the MNO's asserted harvesting areas.

"MNO Captain of the Hunt" means a Citizen who has been duly appointed pursuant to the MNO Harvesting Policy and who is responsible to play a liaison and coordinating role within a given region as a part of the overall management of the Métis harvest as set out in the MNO Harvesting Policy as amended from time to time.

"MNO Harvesting Policy" means the policy adopted by the MNO to regulate the harvesting activities of its Citizens in Ontario and provides for the issuance of Harvesters Cards to eligible Citizens.

"Historic Métis Communities" means the community recognized by the Supreme Court of Canada in *Powley* as well as the six other historic Métis communities jointly identified by the MNO and Ontario and publicly announced on August 22nd, 2017,s as described in Schedule "A" to this Framework Agreement. The map in Schedule "B" to this Framework Agreement documents some of the historic information that informed the identification of these communities.

"Verified Métis Family Line" means the eighty-eight (88) Métis family line packages that were verified through the Independent Review as being a part of the Historic Métis Communities in Ontario as well as any additional Métis Family Line packages prepared by the MNO that are verified through the mechanism contemplated in section 7 of this Framework Agreement.

RECOGNITION OF MÉTIS HARVESTING RIGHTS IN ONTARIO

- 1. Ontario recognizes that collectively-held Métis Harvesting Rights, within the meaning of section 35 of the *Constitution Act, 1982*, exist in areas within the province.
- 2. The Parties agree that further collaborative work and negotiations, as urged by the Supreme Court of Canada in *Powley* and contemplated in section 16 of this Framework Agreement, are required to more clearly define Métis Harvesting Rights, including addressing the types of rights, the geography associated with those rights, and, activities that are necessarily incidental to those rights, in order to reach a long-term and substantive agreement on Métis harvesting.

- 3. On an interim basis and subject to the MNO upholding the terms of this Framework Agreement as well as participating in the collaborative work and negotiations contemplated under it, the MNRF will apply its IEP to valid Harvesters Card Holders who are undertaking Métis Harvesting within the Métis Harvesting Area identified on their Harvesters Card, pursuant to the safety and conservation values set out in the IEP and the MNO Harvesting Policy. The MNRF's application of the IEP shall be consistent with how the MNRF applies the IEP to First Nation harvesters within Ontario, while recognizing the unique governance and reporting systems set out in the MNO Harvesting Policy.
- 4. For greater certainty, the application of the IEP to Harvesters Card Holders is based on the MNO's current assertions in relation to Métis Harvesting Rights in Ontario as generally represented on the map attached as Schedule "C", the cooperative and ongoing work of the Parties, including the map attached as Schedule "B" as well as the Parties' ongoing commitment to advancing reconciliation through the work set out in this Framework Agreement. The Parties acknowledge that both of the above-mentioned maps will be modified in the future based on the work and negotiations contemplated under section 16 of this Framework Agreement.
- 5. Consistent with the MNO Harvesting Policy, this Framework Agreement applies to Citizens who have been issued a Harvesters Card based on the following criteria being met:
 - a. self-identification as Métis and as a member of a modern day Métis community represented by the MNO; and
 - b. providing documentation demonstrating they have a genealogical connection to a Métis Root Ancestor identified within a Verified Métis Family Line that was a part of one of the Historic Métis Communities as described in Schedule "A" to this Framework Agreement; and
 - being accepted by the contemporary Métis community represented by the MNO through meeting the requirements set out in the MNO Harvesting Policy.
- 6. Each Harvesters Card shall have one Métis Harvesting Area designated on it. The Métis Harvesting Area identified on an individual's Harvesters Card shall be that area to which the Harvesters Card Holder ancestrally connects, and which aligns with a Historic Métis Community as set out in Schedule "A" to this Framework Agreement.
- 7. Within six (6) months of this Framework Agreement coming into force, the Parties will develop a mutually agreeable mechanism to provide for the verification of additional Métis Family Lines under this Framework Agreement based on the same criteria used for the Independent Review.

CONSERVATION AND SUSTAINABLE RESOURCE MANAGEMENT

- 8. The Parties will prioritize and promote conservation and sustainable resource management to support healthy and sustainable fish and wildlife populations in the province, including pursuing focused management efforts where conservation concerns exist.
- 9. The MNO will provide bi-annual updates to the MNRF on the number of valid Harvesters Cards issued for each Métis Harvesting Area.
- 10. The information contemplated in section 9 of this Framework Agreement will be provided to the MNRF on a confidential basis. The MNO acknowledges that the number of Harvesters Cards for a given Métis Harvesting Area(s) may be used by the MNRF for natural resource management purposes. For greater certainty, the current or previous number of Harvesters Cards, in total or for a Métis Harvesting Area(s), shall not be publicly disclosed by the MNRF without the written consent of the MNO.
- 11. The Parties will share data and knowledge in advance of the harvesting seasons, in order to assist in timely and effective natural resource management and planning. This information-sharing will be guided by the MNO-MNRF Data Collection and Sharing Protocol, agreed to and attached as Schedule "D" to this Framework Agreement.
- 12. A key purpose of this joint information-sharing is to enable the Parties to identify and communicate regarding areas of the province where conservation and sustainability concerns exist based on population estimates and/or harvesting pressures.
- 13. The MNO will advise Harvesters Card Holders when MNO or MNRF fish and wildlife data and/or knowledge indicates that conservation concerns exist in order to enable responsible and sustainable harvesting by Harvesters Card Holders, and this may include working together to develop sustainable harvesting plans for those areas.
- 14. The Parties agree that the Métis Harvesting Rights contemplated herein shall be exercised, and priority allocation and potential restrictions shall be determined, in a manner consistent with section 35 of the *Constitution Act*, 1982 and decisions of the courts.
- 15. Where Métis Harvesting Rights co-exist with other Aboriginal and treaty rights in Ontario and/or there are documented pressures on the natural resources in those areas, the Parties acknowledge that specific cooperative management regimes may be required to be developed. These cooperative management regimes may take into account existing regimes as well as section 14 of this Framework Agreement.

A LONG-TERM AND SUBSTANTIVE AGREEMENT ON MÉTIS HARVESTING

- 16. In order to further the common goals of reconciliation, including the recognition of Métis Harvesting Rights in Ontario, the protection, conservation and sustainability of natural resources in Ontario, and, arriving at a long-term and substantive agreement on Métis harvesting, the Parties agree to work collaboratively to attempt to address and participate in negotiations related to:
 - a. Determining the geographic scope of Métis Harvesting Rights in Ontario, including the development of a mutually agreeable map within three (3) years that is premised on such things as historic evidence, Métis traditional land use and knowledge, the cooperative Historic Métis Community work of the MNO and Ontario, amongst other relevant documentation. The map will also take into account the trilateral Crown consultation related work being undertaken pursuant to section 3.6.2 of the MNO-Canada-Ontario Framework Agreement for Advancing Reconciliation.
 - b. Identifying the types of natural resources, activities and uses that are included in Métis Harvesting Rights, including activities that are necessarily incidental to the exercise of Métis Harvesting Rights, for the purposes of furthering this Framework Agreement or any future agreement.
 - c. Developing a field protocol that includes both the MNO Captains of the Hunt and MNRF enforcement officers and potentially other collaborative enforcement processes, including the development of cooperative processes to review infractions and consider appropriate sanctions.
 - d. Addressing issues related to mobility with respect to the exercise of Métis Harvesting Rights.
 - e. Arriving at mutually agreeable processes or arrangements for potential limitations being placed on Métis Harvesting Rights (where conservation, public health and safety and/or sustainability concerns exist), consistent with decisions of the courts.
 - f. Arriving at mutually agreeable and cooperative arrangements that support a sustainable harvest where multiple resources users have co-existing Aboriginal or treaty rights that have been recognized or asserted in the same area.
 - g. Considering other subject matters agreed to by the Parties.
- 17. While the desired goal of the Parties is to reach a long-term and substantive agreement on Métis harvesting that deals with some or all of the issues identified

- above, nothing precludes the Parties from entering into additional interim arrangements or agreements on these issues as common understandings are reached or achieved.
- 18. Nothing in this Framework Agreement shall be construed as limiting a modern day Métis community or communities represented by the MNO from potentially engaging in bilateral discussions or negotiations with the MNRF on Métis Harvesting Rights issues specific to a community or communities.

FUNDING

- 19. An annual contribution towards the implementation of this Framework Agreement will be provided by the MNRF subject to an agreed upon work plan jointly developed by the MNO and the MNRF.
- 20. All funding arrangements contemplated under this Framework Agreement are subject to appropriations by the Ontario Legislative Assembly, provincial policies and funding criteria, including transfer payment directives and guidelines where applicable.
- 21. Efforts will be made for multi-year workplans and contribution agreements to be achieved.
- 22. Nothing in this Framework Agreement shall be construed so as to limit or restrict access by the MNO to other sources of potential MNRF support and funding consistent with applicable policies and program and services criteria.

COMMENCEMENT, TERM AND TERMINATION

- 23. The term of this Framework Agreement shall commence upon its execution by the Parties and shall continue until it is replaced with a long-term and substantive agreement on Métis harvesting unless it is terminated earlier pursuant to paragraph 25.
- 24. This Framework Agreement may be amended from time to time by the mutual written consent of the Parties.
- 25. Either Party may terminate this Framework Agreement by providing 90 days written notice to the other Party.

GENERAL

26. While this Framework Agreement relies on the identification of the Historic Métis Communities set out in Schedule "A" to this Framework Agreement, the MNO and Ontario have agreed to consider additional historical research that may become available respecting the potential identification of other historic Métis

- communities or of new information that may change or expand these described Historic Métis Communities.
- 27. While this Framework Agreement relies on the Métis Harvesting Areas set out in the map at Schedule "C" to this Framework Agreement, the Parties acknowledge that this map does not conclusively define Métis harvesting areas or territories within Ontario. As contemplated by section 16(a) of this Framework Agreement, a further mutually agreeable map may be developed for this Framework Agreement or for a long-term and substantive agreement on Métis harvesting based on the additional work and negotiations contemplated under this Framework Agreement.
- 28. Nothing in this Framework Agreement shall be interpreted to alter the terms or conditions of existing commercial licenses or other authorizations issued by the MNRF that are held by Citizens. The MNO acknowledges that resource management decisions may be made having regard to information provided by the MNO that may have general (*i.e.*, not specific to Citizens) implications for commercial licenses or authorizations issued by the MNRF.
- 29. For greater certainty, nothing in this Framework Agreement is to be construed as abrogating or derogating from the protection provided for the rights of the Métis by the recognition and affirmation of those rights in section 35 of the *Constitution Act*, 1982.
- 30. Nothing in this Framework Agreement will preclude Ontario from taking measures to address a conservation concern, a public health concern, a public safety concern, or other emergency that requires immediate action.
- 31. Subject to sections 32, 33 and 34, all collaborative work and negotiations conducted under this Framework Agreement as well as all related documents are confidential, subject to settlement privilege and without prejudice to legal positions the Parties may have or may take in any legal proceeding, except where the Parties agree otherwise.
- 32. This Framework Agreement is not confidential and may be made public. It is not subject to settlement privilege and may be tendered as evidence in a court of law or other legal proceeding.
- 33. The information set out in section 9 and the information collected under section 11 may be tendered as evidence by Ontario in a court of law or other legal proceeding including a prosecution if it is determined by Ontario to be relevant and necessary to a MNRF resource management decision that is subject to a challenge based on the duty to consult, the honour of the Crown or any other applicable Crown duties or obligations. Prior to disclosing or tendering any of this information as evidence, the MNRF will make reasonable efforts to provide written notice to the MNO and the MNO may provide written submissions to the

MNRF with respect to the proposed disclosure. Where Ontario has discretion on whether to disclose this information, it shall take into account the objectives and commitments in this Framework Agreement as well as maintaining the MNO-Ontario relationship with respect to sharing this information in the future.

- 34. The Parties acknowledge that this Framework Agreement and the work contemplated within it may be used for the purposes of Crown consultation and, where required, accommodation. However, this Framework Agreement on its own is not intended to constitute Crown consultation that may be owed by Ontario or the MNRF to Métis communities represented by the MNO in relation to project-specific developments.
- 35. The MNO acknowledges that the MNRF is subject to the Ontario *Freedom of Information and Protection of Privacy Act* ("FIPPA"), and, that for the purposes of this Framework Agreement and the engagement and negotiations conducted under it, the MNO is an "Aboriginal organization" under section 15.1(2)(b) of FIPPA. In the event that there is a request made pursuant to FIPPA for any record, as defined in FIPPA, provided to the MNRF by the MNO in accordance with this Framework Agreement including the MNO-MNRF Data Collection and Sharing Protocol attached as Schedule "D", the MNRF will follow the procedures set out in FIPPA, including notifying the MNO of the request and affording the MNO the opportunity to make representations as an Aboriginal organization under FIPPA as to whether or not the information or record is exempt from disclosure.
- 36. This Framework Agreement is legally enforceable and justiciable.

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IN WITNESS WHEREOF this Framework Agreement has been executed as of the date written above.

MÉTIS NATION OF ONTARIO

Margaret Froh President

Chief Captain of the Hunt Métis Nation of Ontario

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

The Honourable Nathalie Des Rosiers

lothalis for Ke

Minister of Natural Resources and Forestry

Government of Ontario

Schedule A

The Historic Métis Communities and their related Métis Harvesting Area(s)¹

1. Rainy River / Lake of the Woods Historic Métis Community: The interconnected historic Métis populations in and around: Lac La Pluie (Fort Frances), Rat Portage (Kenora), Eagle Lake (Dryden/Wabigoon) and Hungry Hall (Rainy River). The Lake of the Woods area includes Rat Portage, White Fish Lake, Northwest Angle, Wabigoon and Long Sault.

MNO Harvesters Card holders who ancestrally connect to a Verified Métis Family Line for this Historic Métis Community can have their Métis Harvesting Area designated as: Lake of the Wood/Lac Seul, Rainy Lake/Rainy River or the Treaty #3 Halfbreed Adhesion² (if the Verified Métis Family Line was present in the Rainy Lake/Rainy River area prior to 1875).

2. Northern Lake Superior Historic Métis Community: The inter-connected historic Métis populations north of Lake Superior, including the Métis people who worked for period of time or settled at: Michipicoten, Pic River, Fort William, Nipigon House and Long Lake.

MNO Harvesters Card holders who ancestrally connect to a Verified Métis Family Line for this Historic Métis Community can have their Métis Harvesting Area designated as: Lakehead, Nipigon or Michipicoten.

3. Abitibi Inland Historic Métis Community: The inter-connected historic Métis populations at the inland posts between New Post and Timiskaming, including: Frederick House, Abitibi House, Kenogamissi, Flying Post, Mattagami and Matachewan as well as the historic Métis population at the Moose Factory Post and environs, several families of which were inter-related to members of the historic Abitibi Inland Community and migrated south to become a part of this community.

MNO Harvesters Card holders who ancestrally connect to a Verified Métis Family Line for this Historic Métis Community can have their Métis Harvesting Area designated as: James Bay or Abitibi/Temiscamingue.

The correlation of MNO Harvesting Areas and Historic Métis Communities in this Appendix is not an admission by either Party about the geographic areas (*i.e.*, traditional territory, harvesting area, *etc.*) or scope of the Historic Métis Communities and does not limit the rights of either Party in any way.

The Parties have not collaboratively assessed MNO's assertions in relation to the 1875 Adhesion of the "Halfbreeds of Rainy River and Lake" to Treaty 3. The description of the Rainy River / Lake of the Woods Historic Community and the inclusion of an MNO Harvesting Area identified as Treaty #3 Halfbreed Adhesion is not an admission by Ontario and is without prejudice to any position either Party may take in the future on this issue.

4. <u>Sault Ste. Marie Historic Métis Community:</u> The historic Métis population at Sault Ste. Marie and environs, which the courts recognized extended as far as "Batchewana, Goulais Bay, Garden River, Bruce Mines, Desbarates, Bar River, St. Joseph's Island, Sugar Island and into Northern Michigan."

MNO Harvesters Card holders who ancestrally connect to a Verified Métis Family Line for this Historic Métis Community can have their Métis Harvesting Area designated as: Historic Sault Ste. Marie or Michipicoten.

 Mattawa / Ottawa River Historic Métis Community: The historic Métis population centred at Mattawa and spanning the Ottawa River from Lac des Allumettes (Pembroke) to Timiskaming and environs.

MNO Harvesters Card holders who ancestrally connect to a Verified Métis Family Line for this Historic Métis Community can have their Métis Harvesting Area designated as: Mattawa/Lake Nipissing.

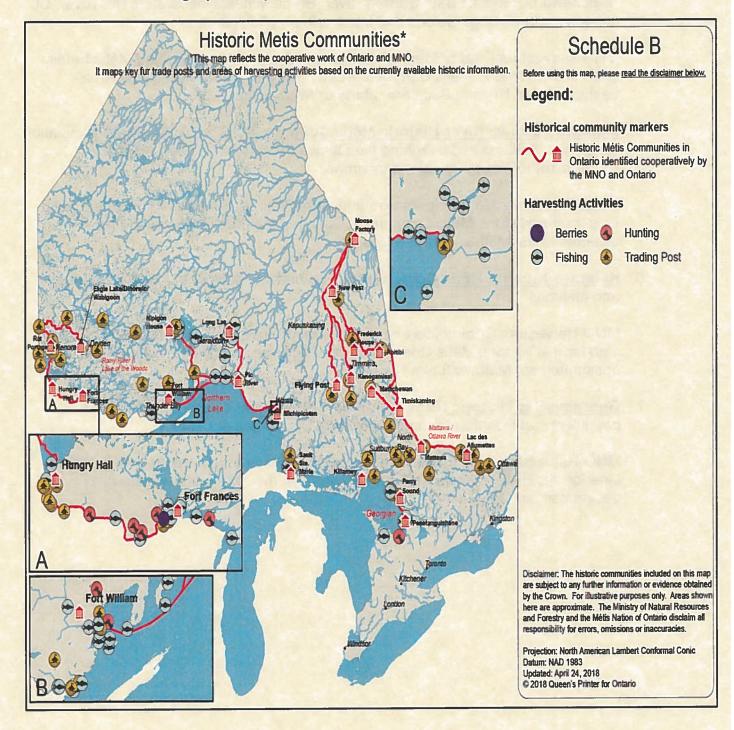
6. <u>Killarney Historic Métis Community:</u> The historic Métis population at Killarney and environs.

MNO Harvesters Card holders who ancestrally connect to a Verified Métis Family Line for this Historic Métis Community can have their Métis Harvesting Area designated as: Mattawa/Lake Nipissing.

7. Georgian Bay Historic Métis Community: The inter-connected historic Métis populations at Penetanguishene and Parry Sound and environs.

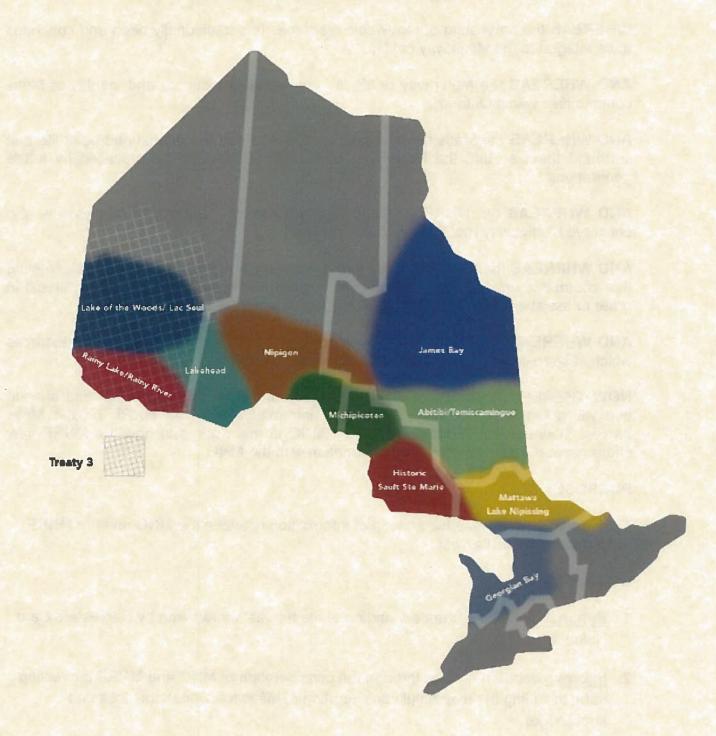
MNO Harvesters Card holders who ancestrally connect to a Verified Métis Family Line for this Historic Métis Community can have their Métis Harvesting Area designated as: Georgian Bay.

Schedule B Some Geographic Aspects of the Historic Métis Communities



Schedule C

Métis Nation of Ontario's Métis Harvesting Areas



Schedule D

Data Collection and Sharing Protocol

WHEREAS the harvesting of renewable resources has traditionally been and continues to be integral to the Métis way of life;

AND WHEREAS the Métis way of life is integral into the culture and identity of Métis communities within Ontario;

AND WHEREAS the Métis have respect for the land and the animal and plant life that surround them so that the Métis way of life can continue to be practiced by future generations;

AND WHEREAS the MNRF works to promote healthy, sustainable ecosystems and conserve biodiversity (the variety of life on earth);

AND WHEREAS the Parties entered into a Framework Agreement on Métis Harvesting that commits them to sharing information related and relevant to the Métis harvest in order to assist in effective natural resource management and planning;

AND WHEREAS the Parties each have knowledge of the land and natural resources which, if shared, can lead to improved resource management decisions;

NOW THEREFORE the Parties agree to this protocol for data collection and sharing that will guide how the MNO may share information with the MNRF on the Métis harvest, how the MNRF may support the MNO in this work, and how the MNRF may share harvest and harvest-related information with the MNO.

PURPOSE:

To promote and facilitate the sharing of information between the MNO and the MNRF related to the Métis harvest.

OBJECTIVES:

- 1. **Enhance** the MNRF's understanding of the harvest undertaken by Harvesters Card Holders;
- 2. <u>Improve</u> decision-making through the consideration of MNO and MNRF harvesting data, including the respectful consideration of Métis traditional practices and knowledge;
- 3. <u>Strengthen</u> relationships between the MNRF and the MNO through increased communication and knowledge-sharing; and

4. <u>Support</u> the development of a long-term and substantive agreement on Métis harvesting between the MNO and the MNRF.

GUIDING PRINCIPLES:

The following principles will guide the MNO and the MNRF in collecting and sharing information:

- 1. Sustainable Natural Resource Management, Safety and Conservation: Both the MNO and the MNRF share the mutual goals of conservation and safety in harvesting and sustainable resource management.
- 2. Knowledge Sharing: In addition to using standard harvest reporting methodologies, the MNO has developed its own unique approach to documenting Métis traditional knowledge. The MNRF values the contributions that Métis traditional knowledge can make to sustainable natural resource management planning. Sharing of differing knowledge systems supports the development of common understandings and innovative approaches.
- 3. **Respect and Relationship Building:** The MNO and the MNRF are committed to maintaining and enhancing a mutually respectful relationship.
- 4. **Transparency:** An open and transparent process will provide the MNO and the MNRF with a clear understanding of the approaches that may be used when collecting, storing and sharing information.

IMPLEMENTATION:

Terms of Reference for the Collection and Sharing of Harvest Data:

As required and with the aim of incorporating into a long-term and substantive agreement on Métis harvesting, the MNO and the MNRF will develop terms of reference for the collection and sharing of specific types of harvest data from Harvesters Card Holders that will include, but not be limited to:

- Species
- Geography
- Seasons

Methodology:

1. The MNO harvest data may be gathered by mail, on-line, telephone, and/or through workshops/knowledge forums, and/or a combination of any of these methods, or other methods as jointly deemed appropriate by the MNO and the MNRF.

- 2. The MNO harvest data to be shared with the MNRF will be collected on an anonymous and a voluntary basis, unless otherwise agreed to by the Parties.
- 3. The MNRF will provide information to the MNO to inform the MNO harvest (e.g., maps of wildlife management units with available population estimates and trends as well as regular updates on fish and wildlife management programs) and the Parties will aim to harmonize their data collection methodologies to the extent possible, so that the information gathered may be useful to both Parties, as well as facilitate cooperation and coordination.
- 4. The MNRF will provide information to support the MNO harvest in advance of MNO harvest seasons. The MNO will attempt to provide their harvesting data to the MNRF within timeframes that align with the MNRF's resource management requirements (e.g., no later than mid-February for moose to align with the MNRF's moose management program, etc.). Where such time-sensitive requirements exist, the MNRF will provide reasonable notification to the MNO of these requirements.

Process:

The MNO-MNRF Policy Dialogue Table (the "PDT") will initiate and oversee the work on data collection and sharing. The PDT is a bilateral process that enables the MNO and the MNRF to identify priority issues and build collaborative approaches to address them. The PDT also may convene task teams consisting of Table participants and others (e.g., appropriate MNO knowledge holders and MNRF staff) as needed. These teams may be assigned to identify gaps and/or implementation challenges and opportunities, as well as options and recommendations for moving forward. These teams may be required to prepare discussion/options papers or other materials for the review and consideration by the PDT. As well, the PDT may sponsor workshops or knowledge forums to promote more detailed discussions.

Data Ownership and Confidentiality:

The MNO maintains that it owns all traditional knowledge and harvest data that might be shared under this Protocol and contemplated Terms of Reference. To the extent that in law there can be ownership of traditional knowledge and the harvest data provided, the MNO provides to the MNRF a non-exclusive licence to use this information consistent with the terms of this Framework Agreement.

The MNRF agrees that the information and data being provided by the MNO for the purpose of collaboration with the MNRF is shared on a confidential basis. The MNO acknowledges that the data provided under this Protocol may be used by the MNRF for natural resource management purposes. For greater certainty, non-aggregated data shall not be publicly disclosed by the MNRF without the written consent of the MNO.

Supreme Court Reports

Supreme Court of Canada

Present: McLachlin C.J. and Gonthier, Iacobucci, Major, Bastarache, Binnie, Arbour, LeBel and Deschamps JJ.

Heard: March 17, 2003;

Judgment: September 19, 2003.

File No.: 28533.

[2003] 2 S.C.R. 207 | [2003] 2 R.C.S. 207 | [2003] S.C.J. No. 43 | [2003] A.C.S. no 43 | 2003 SCC 43

Her Majesty The Queen, appellant/respondent on cross-appeal; v. Steve Powley and Roddy Charles Powley, respondents/appellants on cross-appeal, and Attorney General of Canada, Attorney General of Quebec, Attorney General of New Brunswick, Attorney General of Manitoba, Attorney General of British Columbia, Attorney General for Saskatchewan, Attorney General of Alberta, Attorney General of Newfoundland and Labrador, Labrador Métis Nation, a body corporate, Congress of Aboriginal Peoples, Métis National Council ("MNC"), Métis Nation of Ontario ("MNO"), B.C. Fisheries Survival Coalition, Aboriginal Legal Services of Toronto Inc. ("ALST"), Ontario Métis and Aboriginal Association ("OMAA"), Ontario Federation of Anglers and Hunters ("OFAH"), Métis Chief Roy E. J. DeLaRonde, on behalf of the Red Sky Métis Independent Nation, and North Slave Métis Alliance, interveners.

(55 paras.)

Case Summary

Appeal From:

ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO

Catchwords:

Constitutional law — Aboriginal rights — Métis — Two members of a Métis community near Sault Ste. [page208] Marie charged with hunting contrary to provincial statute — Whether members of this Métis community have constitutional aboriginal right to hunt for food in environs of Sault Ste. Marie — If so, whether infringement justifiable — Constitution Act, 1982, s. 35 — Game and Fish Act, R.S.O. 1990, c. G.1, ss. 46, 47(1).

Summary:

The respondents, who are members of a Métis community near Sault Ste. Marie, were acquitted of unlawfully hunting a moose without a hunting licence and with knowingly possessing game hunted in contravention of ss. 46 and 47(1) of Ontario's Game and Fish Act. The trial judge found that the members of the Métis community in and around Sault Ste. Marie have, under s. 35(1) of the Constitution Act, 1982, an aboriginal right to hunt for food that is infringed without justification by the Ontario hunting legislation. The Superior Court of Justice and the Court of Appeal upheld the acquittals.

Held: The appeal and cross-appeal should be dismissed.

The term "Métis" in s. 35 of the Constitution Act, 1982 does not encompass all individuals with mixed Indian and European heritage; rather, it refers to distinctive peoples who, in addition to their mixed ancestry, developed their

own customs, and recognizable group identity separate from their Indian or Inuit and European forebears. A Métis community is a group of Métis with a distinctive collective identity, living together in the same geographical area and sharing a common way of life. The purpose of s. 35 is to protect practices that were historically important features of these distinctive communities and that persist in the present day as integral elements of their Métis culture. In applying the *Van der Peet* test to determine the Métis' s. 35 entitlements, the pre-contact aspect of the test must be adjusted to take into account the post-contact ethnogenesis and evolution of the Métis. A pre-control test establishing when Europeans achieved political and legal control in an area and focusing on the period after a particular Métis community arose and before it came under the control of European laws and customs is necessary to accommodate this history.

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Aboriginal rights are communal, grounded in the existence of a historic and present community, and exercisable by virtue of an individual's ancestrally based membership in the present community. The aboriginal right claimed in this case is the right to hunt for food in the environs of Sault Ste. Marie. To support a site-specific aboriginal rights claim, an identifiable Métis community with some degree of continuity and stability must be established through evidence of shared customs, traditions, and collective identity, as well as demographic evidence. The trial judge's findings of a historic Métis community and of a contemporary Métis community in and around Sault Ste. Marie are supported by the record and must be upheld.

The verification of a claimant's membership in the relevant contemporary community is crucial, since individuals are only entitled to exercise Métis aboriginal rights by virtue of their ancestral connection to and current membership in a Métis community. Self-identification, ancestral connection, and community acceptance are factors which define Métis identity for the purpose of claiming Métis rights under s. 35. Absent formal identification, courts will have to ascertain Métis identity on a case-by-case basis taking into account the value of community self-definition, the need for the process of identification to be objectively verifiable and the purpose of the constitutional guarantee. Here, the trial judge correctly found that the respondents are members of the Métis community that arose and still exists in and around Sault Ste. Marie. Residency on a reserve for a period of time by the respondents' ancestors did not, in the circumstances of this case, negate their Métis identity. An individual decision by a Métis person's ancestors to take treaty benefits does not necessarily extinguish that person's claim to Métis rights, absent collective adhesion by the Métis community to the treaty.

The view that Métis rights must find their origin in the pre-contact practices of their aboriginal ancestors must be rejected. This view in effect would deny to Métis their full status as distinctive rights-bearing peoples whose own integral practices are entitled to constitutional protection under s. 35(1). The historical record fully supports the trial judge's finding that the period just prior to 1850 is the appropriate date for finding effective European control in the Sault Ste. Marie area. The evidence also [page210] supports his finding that hunting for food was integral to the Métis way of life at Sault Ste. Marie in the period just prior to 1850. This practice has been continuous to the present.

Ontario's lack of recognition of any Métis right to hunt for food and the application of the challenged provisions infringes the Métis aboriginal right and conservation concerns did not justify the infringement. Even if the moose population in that part of Ontario were under threat, the Métis would still be entitled to a priority allocation to satisfy their subsistence needs. Further, the difficulty of identifying members of the Métis community should not be exaggerated so as to defeat constitutional rights. In the immediate future, the hunting rights of the Métis should track those of the Ojibway in terms of restrictions for conservation purposes and priority allocations. In the longer term, a combination of negotiation and judicial settlement will more clearly define the contours of the Métis right to hunt.

While the Court of Appeal had jurisdiction to issue a stay of its decision, which has now expired, no compelling reason existed for issuing an additional stay.

Cases Cited

Applied: R. v. Van der Peet, [1996] 2 S.C.R. 507; referred to: R. v. Sparrow, [1990] 1 S.C.R. 1075; Reference re Manitoba Language Rights, [1985] 1 S.C.R. 721.

Statutes and Regulations Cited

Constitution Act, 1982, s. 35.

Game and Fish Act, R.S.O. 1990, c. G.1, ss. 46, 47(1).

Authors Cited

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[page211]

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Peterson, Jacqueline. "Many roads to Red River: Métis genesis in the Great Lakes region, 1680-1815". In Jacqueline Peterson and Jennifer S. H. Brown, eds., The New Peoples: Being and Becoming Métis in North America. Winnipeg: University of Manitoba Press, 1985, 37.

Ray, Arthur J. "An Economic History of the Robinson Treaties Area Before 1860", March 17, 1998.

History and Disposition:

APPEAL and CROSS-APPEAL from a judgment of the Ontario Court of Appeal (2001), 53 O.R. (3d) 35, 196 D.L.R. (4th) 221, 141 O.A.C. 121, 152 C.C.C. (3d) 97, [2001] 2 C.N.L.R. 291, 40 C.R. (5th) 221, 80 C.R.R. (2d) 1, [2001] O.J. No. 607 (QL), affirming a decision of the Superior Court of Justice (2000), 47 O.R. (3d) 30, [2000] 1 C.N.L.R. 233, upholding a judgment of the Ontario Court (Provincial Division), [1999] 1 C.N.L.R. 153, 58 C.R.R. (2d) 149, [1998] O.J. No. 5310 (QL). Appeal and cross-appeal dismissed.

Counsel

Lori R. Sterling and Peter Lemmond, for the appellant/respondent on cross-appeal.

Jean Teillet and Arthur Pape, for the respondents/appellants on cross-appeal.

Filed: 20180507 EB-2017-0364 Appendix G Page 4 of 15

R. v. Powley, [2003] 2 S.C.R. 207

Ivan G. Whitehall, Q.C., Michael H. Morris and Barbara Ritzen, for the intervener the Attorney General of Canada.

René Morin, for the intervener the Attorney General of Quebec.

Gabriel Bourgeois, Q.C., and Pierre Castonguay, for the intervener the Attorney General of New Brunswick.

Deborah L. Carlson and Holly D. Penner, for the intervener the Attorney General of Manitoba.

Darlene A. Leavitt, for the intervener the Attorney General of British Columbia.

Written submissions only by P. Mitch McAdam, for the intervener the Attorney General for Saskatchewan.

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Margaret Unsworth and Kurt Sandstrom, for the intervener the Attorney General of Alberta.

Donald H. Burrage, Q.C., for the intervener the Attorney General of Newfoundland and Labrador.

D. Bruce Clarke, for the intervener the Labrador Métis Nation.

Joseph Eliot Magnet, for the intervener the Congress of Aboriginal Peoples.

Clem Chartier and Jason Madden, for the interveners the Métis National Council and the Métis Nation of Ontario.

Written submissions only by J. Keith Lowes, for the intervener the B.C. Fisheries Survival Coalition.

Written submissions only by Brian Eyolfson, for the intervener the Aboriginal Legal Services of Toronto Inc.

Robert MacRae, for the intervener the Ontario Métis and Aboriginal Association.

Written submissions only by Timothy S. B. Danson, for the intervener the Ontario Federation of Anglers and Hunters.

Alan Pratt and Carla M. McGrath, for the intervener the Métis Chief Roy E. J. DeLaRonde, on behalf of the Red Sky Métis Independent Nation.

Written submissions only by Janet L. Hutchison and Stuart C. B. Gilby, for the intervener the North Slave Métis Alliance.

The following is the judgment delivered by

THE COURT

I. Introduction

1 This case raises the issue of whether members of the Métis community in and around Sault Ste. Marie enjoy a constitutionally protected right to hunt for food under s. 35 of the *Constitution Act, 1982*. We conclude that they do.

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- **2** On the morning of October 22, 1993, Steve Powley and his son, Roddy, set out hunting. They headed north from their residence in Sault Ste. Marie, and at about 9 a.m., they shot and killed a bull moose near Old Goulais Bay Road.
- **3** Moose hunting in Ontario is subject to strict regulation. The Ministry of Natural Resources ("MNR") issues Outdoor Cards and validation stickers authorizing the bearer to harvest calf moose during open season. People wishing to harvest adult moose must enter a lottery to obtain a validation tag authorizing them to hunt either a bull or a cow in a particular area, as specified on the tag. The number of tags issued for a given season depends on the calculations of MNR biologists, who estimate the current adult moose population and the replacement rate for animals removed from the population. The validation tag requirement and seasonal restrictions are not enforced against Status Indians, and the MNR does not record Status Indians' annual harvest. (See *MNR Interim Enforcement Policy on Aboriginal Right to Hunt and Fish for Food* (1991).)
- **4** After shooting the bull moose near Old Goulais Bay Road, Steve and Roddy Powley transported it to their residence in Sault Ste. Marie. Neither of them had a valid Outdoor Card, a valid hunting licence to hunt moose, or a validation tag issued by the MNR. In lieu of these documents, Steve Powley affixed a handwritten tag to the ear of the moose. The tag indicated the date, time, and location of the kill, as required by the hunting regulations. It stated that the animal was to provide meat for the winter. Steve Powley signed the tag, and wrote his Ontario Métis and Aboriginal Association membership number on it.
- **5** Later that day, two conservation officers arrived at the Powleys' residence. The Powleys told the officers they had shot the moose. One week later, the Powleys were charged with unlawfully hunting moose and knowingly possessing game hunted [page214] in contravention of the *Game and Fish Act*, R.S.O. 1990, c. G-1. They both entered pleas of not guilty.
- **6** The facts are not in dispute. The Powleys freely admit that they shot, killed, and took possession of a bull moose without a hunting licence. However, they argue that, as Métis, they have an aboriginal right to hunt for food in the Sault Ste. Marie area that cannot be infringed by the Ontario government without proper justification. Because the Ontario government denies the existence of any special Métis right to hunt for food, the Powleys argue that subjecting them to the moose hunting provisions of the *Game and Fish Act* violates their rights under s. 35(1) of the *Constitution Act, 1982*, and cannot be justified.
- 7 The trial court, Superior Court, and Court of Appeal agreed with the Powleys. They found that the members of the Métis community in and around Sault Ste. Marie have an aboriginal right to hunt for food that is infringed without justification by the Ontario hunting regulations. Steve and Roddy Powley were therefore acquitted of unlawfully hunting and possessing the bull moose. Ontario appeals from these acquittals.
- **8** The question before us is whether ss. 46 and 47(1) of the *Game and Fish Act*, which prohibit hunting moose without a licence, unconstitutionally infringe the respondents' aboriginal right to hunt for food, as recognized in s. 35(1) of the *Constitution Act*, 1982.
 - II. Analysis
- **9** Section 35 of the Constitution Act, 1982 provides:
 - **35.** (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

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(2) In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.

10 The term "Métis" in s. 35 does not encompass all individuals with mixed Indian and European heritage; rather, it refers to distinctive peoples who, in addition to their mixed ancestry, developed their own customs, way of life, and recognizable group identity separate from their Indian or Inuit and European forebears. Métis communities evolved and flourished prior to the entrenchment of European control, when the influence of European settlers and political institutions became pre-eminent. The Royal Commission on Aboriginal Peoples describes this evolution as follows:

Intermarriage between First Nations and Inuit women and European fur traders and fishermen produced children, but the birth of new Aboriginal cultures took longer. At first, the children of mixed unions were brought up in the traditions of their mothers or (less often) their fathers. Gradually, however, distinct Métis cultures emerged, combining European and First Nations or Inuit heritages in unique ways. Economics played a major role in this process. The special qualities and skills of the Métis population made them indispensable members of Aboriginal/non-Aboriginal economic partnerships, and that association contributed to the shaping of their cultures... . As interpreters, diplomats, guides, couriers, freighters, traders and suppliers, the early Métis people contributed massively to European penetration of North America.

The French referred to the fur trade Métis as *coureurs de bois* (forest runners) and *bois brulés* (burnt-wood people) in recognition of their wilderness occupations and their dark complexions. The Labrador Métis (whose culture had early roots) were originally called "livyers" or "settlers", those who remained in the fishing settlements year-round rather than returning periodically to Europe or Newfoundland. The Cree people expressed the Métis character in the term *Otepayemsuak*, meaning the "independent ones".

(Report of the Royal Commission on Aboriginal Peoples: Perspectives and Realities, vol. 4, at pp. 199-200 ("RCAP Report"))

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The Métis developed separate and distinct identities, not reducible to the mere fact of their mixed ancestry: "What distinguishes Métis people from everyone else is that they associate themselves with a culture that is distinctly Métis" (*RCAP Report*, vol. 4, at p. 202).

- 11 The Métis of Canada share the common experience of having forged a new culture and a distinctive group identity from their Indian or Inuit and European roots. This enables us to speak in general terms of "the Métis". However, particularly given the vast territory of what is now Canada, we should not be surprised to find that different groups of Métis exhibit their own distinctive traits and traditions. This diversity among groups of Métis may enable us to speak of Métis "peoples", a possibility left open by the language of s. 35(2), which speaks of the "Indian, Inuit and Métis peoples of Canada".
- 12 We would not purport to enumerate the various Métis peoples that may exist. Because the Métis are explicitly included in s. 35, it is only necessary for our purposes to verify that the claimants belong to an identifiable Métis community with a sufficient degree of continuity and stability to support a site-specific aboriginal right. A Métis community can be defined as a group of Métis with a distinctive collective identity, living together in the same geographic area and sharing a common way of life. The respondents here claim membership in the Métis community centred in and around Sault Ste. Marie. It is not necessary for us to decide, and we did not receive submissions on, whether this community is also a Métis "people", or whether it forms part of a larger Métis people that extends over a wider area such as the Upper Great Lakes.
- 13 Our evaluation of the respondents' claim takes place against this historical and cultural backdrop. The overarching interpretive principle for our legal analysis is a purposive reading of s. 35. The inclusion of the Métis in s. 35 is based on a commitment [page217] to recognizing the Métis and enhancing their survival as distinctive communities. The purpose and the promise of s. 35 is to protect practices that were historically important features of these distinctive communities and that persist in the present day as integral elements of their Métis culture.

14 For the reasons elaborated below, we uphold the basic elements of the *Van der Peet* test (*R. v. Van der Peet*, [1996] 2 S.C.R. 507) and apply these to the respondents' claim. However, we modify certain elements of the precontact test to reflect the distinctive history and post-contact ethnogenesis of the Métis, and the resulting differences between Indian claims and Métis claims.

A. The Van der Peet Test

15 The core question in *Van der Peet* was: "How should the aboriginal rights recognized and affirmed by s. 35(1) of the *Constitution Act, 1982* be defined?" (para. 15, *per* Lamer C.J.). Lamer C.J. wrote for the majority, at para. 31:

[W]hat s. 35(1) does is provide the constitutional framework through which the fact that aboriginals lived on the land in distinctive societies, with their own practices, traditions and cultures, is acknowledged and reconciled with the sovereignty of the Crown. The substantive rights which fall within the provision must be defined in light of this purpose; the aboriginal rights recognized and affirmed by s. 35(1) must be directed towards the reconciliation of the pre-existence of aboriginal societies with the sovereignty of the Crown.

16 The emphasis on prior occupation as the primary justification for the special protection accorded aboriginal rights led the majority in *Van der Peet* to endorse a pre-contact test for identifying which customs, practices or traditions were integral to a particular aboriginal culture, and therefore entitled to constitutional protection. However, the majority recognized that the pre-contact test might prove inadequate to capture the range of Métis customs, [page218] practices or traditions that are entitled to protection, since Métis cultures by definition post-date European contact. For this reason, Lamer C.J. explicitly reserved the question of how to define Métis aboriginal rights for another day. He wrote at para. 67:

[T]he history of the Métis, and the reasons underlying their inclusion in the protection given by s. 35, are quite distinct from those of other aboriginal peoples in Canada. As such, the manner in which the aboriginal rights of other aboriginal peoples are defined is not necessarily determinative of the manner in which the aboriginal rights of the Métis are defined. At the time when this Court is presented with a Métis claim under s. 35 it will then, with the benefit of the arguments of counsel, a factual context and a specific Métis claim, be able to explore the question of the purposes underlying s. 35's protection of the aboriginal rights of Métis people, and answer the question of the kinds of claims which fall within s. 35(1)'s scope when the claimants are Métis. The fact that, for other aboriginal peoples, the protection granted by s. 35 goes to the practices, customs and traditions of aboriginal peoples prior to contact, is not necessarily relevant to the answer which will be given to that question.

17 As indicated above, the inclusion of the Métis in s. 35 is not traceable to their pre-contact occupation of Canadian territory. The purpose of s. 35 as it relates to the Métis is therefore different from that which relates to the Indians or the Inuit. The constitutionally significant feature of the Métis is their special status as peoples that emerged between first contact and the effective imposition of European control. The inclusion of the Métis in s. 35 represents Canada's commitment to recognize and value the distinctive Métis cultures, which grew up in areas not yet open to colonization, and which the framers of the *Constitution Act*, 1982 recognized can only survive if the Métis are protected along with other aboriginal communities.

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18 With this in mind, we proceed to the issue of the correct test to determine the entitlements of the Métis under s. 35 of the *Constitution Act, 1982*. The appropriate test must then be applied to the findings of fact of the trial judge. We accept *Van der Peet* as the template for this discussion. However, we modify the pre-contact focus of the *Van der Peet* test when the claimants are Métis to account for the important differences between Indian and Métis claims. Section 35 requires that we recognize and protect those customs and traditions that were historically important features of Métis communities prior to the time of effective European control, and that persist in the

present day. This modification is required to account for the unique post-contact emergence of Métis communities, and the post-contact foundation of their aboriginal rights.

(1) Characterization of the Right

- 19 The first step is to characterize the right being claimed: *Van der Peet, supra*, at para. 76. Aboriginal hunting rights, including Métis rights, are contextual and site-specific. The respondents shot a bull moose near Old Goulais Bay Road, in the environs of Sault Ste. Marie, within the traditional hunting grounds of that Métis community. They made a point of documenting that the moose was intended to provide meat for the winter. The trial judge determined that they were hunting for food, and there is no reason to overturn this finding. The right being claimed can therefore be characterized as the right to hunt for food in the environs of Sault Ste. Marie.
- **20** We agree with the trial judge that the periodic scarcity of moose does not in itself undermine the respondents' claim. The relevant right is not to hunt <u>moose</u> but to hunt for <u>food</u> in the designated territory.

[page220]

(2) Identification of the Historic Rights-Bearing Community

- 21 The trial judge found that a distinctive Métis community emerged in the Upper Great Lakes region in the mid-17th century, and peaked around 1850. We find no reviewable error in the trial judge's findings on this matter, which were confirmed by the Court of Appeal. The record indicates the following: In the mid-17th century, the Jesuits established a mission at Sainte-Marie-du-Sault, in an area characterized by heavy competition among fur traders. In 1750, the French established a fixed trading post on the south bank of the Saint Mary's River. The Sault Ste. Marie post attracted settlement by Métis -- the children of unions between European traders and Indian women, and their descendants (A. J. Ray, "An Economic History of the Robinson Treaties Area Before 1860" (1998) ("Ray Report"), at p. 17). According to Dr. Ray, by the early 19th century, "[t]he settlement at Sault Ste. Marie was one of the oldest and most important [Métis settlements] in the upper lakes area" (Ray Report, at p. 47). The Hudson Bay Company operated the Sault Ste. Marie's post primarily as a depot from 1821 onwards (Ray Report, at p. 51). Although Dr. Ray characterized the Company's records for this post as "scanty" (Ray Report, at p. 51), he was able to piece together a portrait of the community from existing records, including the 1824-25 and 1827-28 post journals of HBC Chief Factor Bethune, and the 1846 report of a government surveyor, Alexander Vidal (Ray Report, at pp. 52-53).
- 22 Dr. Ray's report indicates that the individuals named in the post journals "were overwhelmingly Métis", and that Vidal's report "provide[s] a crude indication of the rate of growth of the community and highlights the continuing dominance of Métis in it" (Ray Report, at p. 53). Dr. Victor P. Lytwyn characterized the Vidal report and accompanying map as "clear evidence of a distinct and cohesive Métis community at Sault Ste. Marie" (V. P. Lytwyn, [page221] "Historical Report on the Métis Community at Sault Ste. Marie" (1998) ("Lytwyn Report"), at p. 2) while Dr. Ray elaborated: "By the time of Vidal's visit to the Sault Ste. Marie area, the people of mixed ancestry living there had developed a distinctive sense of identity and Indians and Whites recognized them as being a separate people" (Ray Report, at p. 56).
- 23 In addition to demographic evidence, proof of shared customs, traditions, and a collective identity is required to demonstrate the existence of a Métis community that can support a claim to site-specific aboriginal rights. We recognize that different groups of Métis have often lacked political structures and have experienced shifts in their members' self-identification. However, the existence of an identifiable Métis community must be demonstrated with some degree of continuity and stability in order to support a site-specific aboriginal rights claim. Here, we find no basis for overturning the trial judge's finding of a historic Métis community at Sault Ste. Marie. This finding is supported by the record and must be upheld.

(3) Identification of the Contemporary Rights-Bearing Community

- **24** Aboriginal rights are communal rights: They must be grounded in the existence of a historic and present community, and they may only be exercised by virtue of an individual's ancestrally based membership in the present community. The trial judge found that a Métis community has persisted in and around Sault Ste. Marie despite its decrease in visibility after the signing of the Robinson-Huron Treaty in 1850. While we take note of the trial judge's determination that the Sault Ste. Marie Métis community was to a large extent an "invisible entity" ([1999] 1 C.N.L.R. 153, at para. 80) from the [page222] mid-19th century to the 1970s, we do not take this to mean that the community ceased to exist or disappeared entirely.
- **25** Dr. Lytwyn describes the continued existence of a Métis community in and around Sault Ste. Marie despite the displacement of many of the community's members in the aftermath of the 1850 treaties:

[T]he Métis continued to live in the Sault Ste. Marie region. Some drifted into the Indian Reserves which had been set apart by the 1850 Treaty. Others lived in areas outside of the town, or in back concessions. The Métis continued to live in much the same manner as they had in the past -- fishing, hunting, trapping and harvesting other resources for their livelihood.

(Lytwyn Report, at p. 31 (emphasis added); see also J. Morrison, "The Robinson Treaties of 1850: A Case Study", at p. 201.)

- 26 The advent of European control over this area thus interfered with, but did not eliminate, the Sault Ste. Marie Métis community and its traditional practices, as evidenced by census data from the 1860s through the 1890s. Dr. Lytwyn concluded from this census data that "[a]Ithough the Métis lost much of their traditional land base at Sault Ste. Marie, they continued to live in the region and gain their livelihood from the resources of the land and waters" (Lytwyn Report, at p. 32). He also noted a tendency for underreporting and lack of information about the Métis during this period because of their "removal to the peripheries of the town", and "their own disinclination to be identified as Métis" in the wake of the Riel rebellions and the turning of Ontario public opinion against Métis rights through government actions and the media (Lytwyn Report, at p. 33).
- 27 We conclude that the evidence supports the trial judge's finding that the community's lack of visibility [page223] was explained and does not negate the existence of the contemporary community. There was never a lapse; the Métis community went underground, so to speak, but it continued. Moreover, as indicated below, the "continuity" requirement puts the focus on the continuing practices of members of the community, rather than more generally on the community itself, as indicated below.
- **28** The trial judge's finding of a contemporary Métis community in and around Sault Ste. Marie is supported by the evidence and must be upheld.
 - (4) <u>Verification of the Claimant's Membership in the Relevant Contemporary Community</u>
- 29 While determining membership in the Métis community might not be as simple as verifying membership in, for example, an Indian band, this does not detract from the status of Métis people as full-fledged rights-bearers. As Métis communities continue to organize themselves more formally and to assert their constitutional rights, it is imperative that membership requirements become more standardized so that legitimate rights-holders can be identified. In the meantime, courts faced with Métis claims will have to ascertain Métis identity on a case-by-case basis. The inquiry must take into account both the value of community self-definition, and the need for the process of identification to be objectively verifiable. In addition, the criteria for Métis identity under s. 35 must reflect the purpose of this constitutional guarantee: to recognize and affirm the rights of the Métis held by virtue of their direct relationship to this country's original inhabitants and by virtue of the continuity between their customs and traditions and those of their Métis predecessors. This is not an insurmountable task.
- **30** We emphasize that we have not been asked, and we do not purport, to set down a comprehensive definition of who is Métis for the purpose of asserting a claim under s. 35. We therefore limit [page224] ourselves to indicating

the important components of a future definition, while affirming that the creation of appropriate membership tests <u>before</u> disputes arise is an urgent priority. As a general matter, we would endorse the guidelines proposed by Vaillancourt Prov. J. and O'Neill J. in the courts below. In particular, we would look to three broad factors as indicia of Métis identity for the purpose of claiming Métis rights under s. 35: self-identification, ancestral connection, and community acceptance.

- **31** First, the claimant must <u>self-identify</u> as a member of a Métis community. This self-identification should not be of recent vintage: While an individual's self-identification need not be static or monolithic, claims that are made belatedly in order to benefit from a s. 35 right will not satisfy the self-identification requirement.
- 32 Second, the claimant must present evidence of an <u>ancestral connection</u> to a historic Métis community. This objective requirement ensures that beneficiaries of s. 35 rights have a real link to the historic community whose practices ground the right being claimed. We would not require a minimum "blood quantum", but we would require some proof that the claimant's ancestors belonged to the historic Métis community by birth, adoption, or other means. Like the trial judge, we would abstain from further defining this requirement in the absence of more extensive argument by the parties in a case where this issue is determinative. In this case, the Powleys' Métis ancestry is not disputed.
- 33 Third, the claimant must demonstrate that he or she is accepted by the modern community whose continuity with the historic community provides the legal foundation for the right being claimed. Membership in a Métis political organization may be relevant to the question of community acceptance, but it is not sufficient in the absence of a [page225] contextual understanding of the membership requirements of the organization and its role in the Métis community. The core of community acceptance is past and ongoing participation in a shared culture, in the customs and traditions that constitute a Métis community's identity and distinguish it from other groups. This is what the community membership criterion is all about. Other indicia of community acceptance might include evidence of participation in community activities and testimony from other members about the claimant's connection to the community and its culture. The range of acceptable forms of evidence does not attenuate the need for an objective demonstration of a solid bond of past and present mutual identification and recognition of common belonging between the claimant and other members of the rights-bearing community.
- **34** It is important to remember that, no matter how a contemporary community defines membership, only those members with a demonstrable ancestral connection to the historic community can claim a s. 35 right. Verifying membership is crucial, since individuals are only entitled to exercise Métis aboriginal rights by virtue of their ancestral connection to and current membership in a Métis community.
- 35 In this case, there is no reason to overturn the trial judge's finding that the Powleys are members of the Métis community that arose and still exists in and around Sault Ste. Marie. We agree with the Court of Appeal that, in the circumstances of this case, the fact that the Powleys' ancestors lived on an Indian reserve for a period of time does not negate the Powleys' Métis identity. As the Court of Appeal indicated, "E.B. Borron, commissioned in 1891 by the province to report on annuity payments to the Métis, was of the view that Métis who had taken treaty benefits remained Métis and he recommended that they be removed from the treaty annuity lists" ((2001), 53 O.R. (3d) 35, at para. 139, per Sharpe J.A.). We emphasize that the individual decision by a Métis person's ancestors to take treaty [page226] benefits does not necessarily extinguish that person's claim to Métis rights. It will depend, in part, on whether there was a collective adhesion by the Métis community to the treaty. Based on the record, it was open to the trial judge to conclude that the rights of the Powleys' ancestors did not merge into those of the Indian band.

(5) Identification of the Relevant Time Frame

36 As indicated above, the pre-contact aspect of the *Van der Peet* test requires adjustment in order to take account of the post-contact ethnogenesis of the Métis and the purpose of s. 35 in protecting the historically important customs and traditions of these distinctive peoples. While the fact of prior occupation grounds aboriginal rights claims for the Inuit and the Indians, the recognition of Métis rights in s. 35 is not reducible to the Métis' Indian

ancestry. The unique status of the Métis as an Aboriginal people with post-contact origins requires an adaptation of the pre-contact approach to meet the distinctive historical circumstances surrounding the evolution of Métis communities.

- 37 The pre-contact test in *Van der Peet* is based on the constitutional affirmation that aboriginal communities are entitled to continue those practices, customs and traditions that are integral to their distinctive existence or relationship to the land. By analogy, the test for Métis practices should focus on identifying those practices, customs and traditions that are integral to the Métis community's distinctive existence and relationship to the land. This unique history can most appropriately be accommodated by a post-contact but pre-control test that identifies the time when Europeans effectively established political and [page227] legal control in a particular area. The focus should be on the period after a particular Métis community arose and before it came under the effective control of European laws and customs. This pre-control test enables us to identify those practices, customs and traditions that predate the imposition of European laws and customs on the Métis.
- **38** We reject the appellant's argument that Métis rights must find their origin in the pre-contact practices of the Métis' aboriginal ancestors. This theory in effect would deny to Métis their full status as distinctive rights-bearing peoples whose own integral practices are entitled to constitutional protection under s. 35(1). The right claimed here was a practice of both the Ojibway and the Métis. However, as long as the practice grounding the right is distinctive and integral to the pre-control Métis community, it will satisfy this prong of the test. This result flows from the constitutional imperative that we recognize and affirm the aboriginal rights of the Métis, who appeared after the time of first contact.
- **39** The pre-control test requires us to review the trial judge's findings on the imposition of European control in the Sault Ste. Marie area. Although Europeans were clearly present in the Upper Great Lakes area from the early days of exploration, they actually discouraged settlement of this region. J. Peterson explains:

With the exception of Detroit, Kaskaskia and Cahokia, the French colonial administration established no farming communities in the Great Lakes region. After 1763, only partly in response to the regionwide resistance [page228] movement known as Pontiac's Rebellion, the British likewise discouraged settlement west of Lake Ontario. Desire to keep the peace and to monopolize the profits of the Great Lakes Indian trade were the overriding considerations favouring this policy. To have simultaneously encouraged an influx of white farmers would have upset both the diplomatic alliance with the native inhabitants inherited from the French and the ratio between humans and animals on the ground, straining the fur-bearing capacities of the region.

(J. Peterson, "Many roads to Red River: Métis genesis in the Great Lakes region, 1680-1815", in *The New Peoples: Being and Becoming Métis in North America* (1985), 37, at p. 40)

This policy changed in the mid-19th century, as British economic needs and plans evolved. The British sent William B. Robinson to negotiate treaties with the Indian tribes in the regions of Lake Huron and Lake Superior. One of his objectives as Treaty Commissioner was to obtain land in order to allow mining, timber and other development, including the development of a town at Sault Ste. Marie (Lytwyn Report, *supra*, at p. 29).

40 The historical record indicates that the Sault Ste. Marie Métis community thrived largely unaffected by European laws and customs until colonial policy shifted from one of discouraging settlement to one of negotiating treaties and encouraging settlement in the mid-19th century. The trial judge found, and the parties agreed in their pleadings before the lower courts, that "effective control [of the Upper Great Lakes area] passed from the Aboriginal peoples of the area (Ojibway and Metis) to European control" in the period between 1815 and 1850 (para. 90). The record fully supports the finding that the period just prior to 1850 is the appropriate date for finding effective control in this geographic area, which the Crown agreed was the critical date in its pleadings below.

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(6) Determination of Whether the Practice is Integral to the Claimants' Distinctive Culture

- **41** The practice of subsistence hunting and fishing was a constant in the Métis community, even though the availability of particular species might have waxed and waned. The evidence indicates that subsistence hunting was an important aspect of Métis life and a defining feature of their special relationship to the land (Peterson, *supra*, at p. 41; Lytwyn Report, *supra*, at p. 6). A major part of subsistence was the practice at issue here, hunting for food.
- 42 Peterson describes the Great Lakes Métis communities as follows at p. 41:

These people were neither adjunct relative-members of tribal villages nor the standard bearers of European civilization in the wilderness. Increasingly, they stood apart or, more precisely, in between. By the end of the last struggle for empire in 1815, their towns, which were visually, ethnically and culturally distinct from neighbouring Indian villages and "white towns" along the eastern seaboard, stretched from Detroit and Michilimackinac at the east to the Red River at the northwest.

...

- ... [R]esidents [of these trading communities] ... drew upon a local subsistence base rather than on European imports [S]uch towns grew as a result of and were increasingly dominated by the offspring of Canadian trade employees and Indian women who, having reached their majority, were intermarrying among themselves and rearing successive generations of métis. In both instances, these communities did not represent an extension of French, and later British colonial culture, but were rather "adaptation[s] to the Upper Great Lakes environment." [Emphasis added.]
- 43 Dr. Ray emphasized in his report that a key feature of Métis communities was that "their members earned a substantial part of their livelihood off of [page230] the land" (Ray Report, *supra*, at p. 56 (emphasis deleted)). Dr. Lytwyn concurred: "The Métis of Sault Ste. Marie lived off the resources of the land. They obtained their livelihood from hunting, fishing, gathering and cultivating" (Lytwyn Report, at p. 2). He reported that "[w]hile Métis fishing was prominent in the written accounts, hunting was also an important part of their livelihood", and that "[a] traditional winter hunting area for the Sault Métis was the Goulais Bay area" (Lytwyn Report, at pp. 4-5). He elaborated at p. 6:

In the mid-19th century, the Métis way of life incorporated many resource harvesting activities. These activities, especially hunting and trapping, were done within traditional territories located within the hinterland of Sault Ste. Marie. The Métis engaged in these activities for generations and, on the eve of the 1850 treaties, hunting, fishing, trapping and gathering were integral activities to the Métis community at Sault Ste. Marie.

44 This evidence supports the trial judge's finding that hunting for food was integral to the Métis way of life at Sault Ste. Marie in the period just prior to 1850.

(7) Establishment of Continuity Between the Historic Practice and the Contemporary Right Asserted

- **45** Although s. 35 protects "existing" rights, it is more than a mere codification of the common law. Section 35 reflects a new promise: a constitutional commitment to protecting practices that were historically important features of particular aboriginal communities. A certain margin of flexibility might be required to ensure that aboriginal practices can evolve and develop over time, but it is not necessary to define or to rely on that margin in this case. Hunting for food was an important feature of the Sault Ste. Marie Métis community, and the practice has been continuous to the present. Steve and Roddy Powley claim a Métis aboriginal right to hunt for food. The right claimed by the Powleys [page231] falls squarely within the bounds of the historical practice grounding the right.
 - (8) Determination of Whether or Not the Right Was Extinguished

46 The doctrine of extinguishment applies equally to Métis and to First Nations claims. There is no evidence of extinguishment here, as determined by the trial judge. The Crown's argument for extinguishment is based largely on the Robinson-Huron Treaty of 1850, from which the Métis as a group were explicitly excluded.

(9) If There Is a Right, Determination of Whether There Is an Infringement

47 Ontario currently does not recognize any Métis right to hunt for food, or any "special access rights to natural resources" for the Métis whatsoever (appellant's record, at p. 1029). This lack of recognition, and the consequent application of the challenged provisions to the Powleys, infringe their aboriginal right to hunt for food as a continuation of the protected historical practices of the Sault Ste. Marie Métis community.

(10) Determination of Whether the Infringement Is Justified

- **48** The main justification advanced by the appellant is that of conservation. Although conservation is clearly a very important concern, we agree with the trial judge that the record here does not support this justification. If the moose population in this part of Ontario were under threat, and there was no evidence that it is, the Métis would still be entitled to a priority allocation to satisfy their subsistence needs in accordance with the criteria set out in *R. v. Sparrow*, [1990] 1 S.C.R. 1075. While preventative measures might be required for conservation purposes in the future, we have not been presented with evidence to support such measures here. The Ontario authorities can make out a case for [page232] regulation of the aboriginal right to hunt moose for food if and when the need arises. On the available evidence and given the current licensing system, Ontario's blanket denial of any Métis right to hunt for food cannot be justified.
- **49** The appellant advances a subsidiary argument for justification based on the alleged difficulty of identifying who is Métis. As discussed, the Métis identity of a particular claimant should be determined on proof of self-identification, ancestral connection, and community acceptance. The development of a more systematic method of identifying Métis rights-holders for the purpose of enforcing hunting regulations is an urgent priority. That said, the difficulty of identifying members of the Métis community must not be exaggerated as a basis for defeating their rights under the Constitution of Canada.
- **50** While our finding of a Métis right to hunt for food is not species-specific, the evidence on justification related primarily to the Ontario moose population. The justification of other hunting regulations will require adducing evidence relating to the particular species affected. In the immediate future, the hunting rights of the Métis should track those of the Ojibway in terms of restrictions for conservation purposes and priority allocations where threatened species may be involved. In the longer term, a combination of negotiation and judicial settlement will more clearly define the contours of the Métis right to hunt, a right that we recognize as part of the special aboriginal relationship to the land.

B. The Request for a Stay

- 51 With respect to the cross-appeal, we affirm that the Court of Appeal had jurisdiction to issue a stay of its decision in these circumstances. This power should continue to be used only in exceptional [page233] situations in which a court of general jurisdiction deems that giving immediate effect to an order will undermine the very purpose of that order or otherwise threaten the rule of law: Reference re Manitoba Language Rights, [1985] 1 S.C.R. 721. We note that the Powleys' acquittal would have remained valid notwithstanding the stay. It was, however, within the Court of Appeal's discretion to suspend the application of its ruling to other members of the Métis community in order to foster cooperative solutions and ensure that the resource in question was not depleted in the interim, thereby negating the value of the right.
- **52** The initial stay expired on February 23, 2002, and more than a year has passed since that time. The Court of Appeal's decision has been the law of Ontario in the interim, and chaos does not appear to have ensued. We see

no compelling reason to issue an additional stay. We also note that it is particularly important to have a clear justification for a stay where the effect of that stay would be to suspend the recognition of a right that provides a defence to a criminal charge, as it would here.

III. Conclusion

- **53** Members of the Métis community in and around Sault Ste. Marie have an aboriginal right to hunt for food under s. 35(1). This is determined by their fulfillment of the requirements set out in *Van der Peet*, modified to fit the distinctive purpose of s. 35 in protecting the Métis.
- 54 The appeal is dismissed with costs to the respondents. The cross-appeal is dismissed.
- **55** The constitutional question is answered as follows:

Are ss. 46 and 47(1) of the *Game and Fish Act*, R.S.O. 1990, c. G.1, as they read on October 22, 1993, of no force or effect with respect to the respondents, being [page234] Métis, in the circumstances of this case, by reason of their aboriginal rights under s. 35 of the *Constitution Act*, 1982?

Answer: Yes.

APPENDIX

Relevant Constitutional and Statutory Provisions

Game and Fish Act, R.S.O. 1990, c. G.1, ss. 46 and 47(1)

- **46.** No person shall knowingly possess any game hunted in contravention of this Act or the regulations.
- **47.** (1) Except under the authority of a licence and during such times and on such terms and conditions and in such parts of Ontario as are prescribed in the regulations, no person shall hunt black bear, polar bear, caribou, deer, elk or moose.

Constitution Act, 1982

- **35.** (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.
- (2) In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.

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Solicitors for the intervener the Ontario Federation of Anglers and Hunters: Danson, Recht & Voudouris, Toronto.

Solicitor for the intervener the Métis Chief Roy E. J. DeLaRonde, on behalf of the Red Sky Métis Independent Nation: Alan Pratt, Dunrobin, Ontario.

Solicitors for the intervener the North Slave Métis Alliance: Chamberlain Hutchison, Edmonton; Burchell Green Hayman Parish, Halifax.

End of Document

HISTORIC MÉTIS COMMUNITIES IN ONTARIO

THE HISTORIC SAULT STE. MARIE MÉTIS COMMUNITY

The Supreme Court of Canada in *R. v. Powley*, 2003 SCC 43 ("*Powley*") determined that a historic Métis community developed from the inter-connected Métis populations at Sault Ste. Marie and its environs, which included "Batchewana, Goulais Bay, Garden River, Bruce Mines, Desbarates, Bar River, St. Joseph's Island, Sugar Island and into Northern Michigan" (the "Historic Sault Ste. Marie Métis Community"). This summary was prepared based on the factual findings and conclusion of the courts in *Powley*.

Identifying the Historic Métis Communities in Ontario

In *Powley*, the Supreme Court of Canada held that Métis rights—protected by section 35 of the *Constitution Act, 1982*—exist in Ontario. This case established the framework for the recognition of Métis rights.

The Métis within section 35 refers to distinctive peoples or communities who, in addition to their mixed First Nation and European ancestry, developed their own customs, way of life, and recognizable group identity separate from their forebearers.

In order for a contemporary Métis community to possess section 35 rights it must have its roots in an identifiable historic Métis community that emerged prior to the time when Europeans established effective political and legal control in the area. It is therefore crucial to identify such historic Métis communities.

Identifying a historic Metis community requires demographic evidence that the population was identified as distinctive, evidence that the community had its own collective identity, and, evidence that the community had its own shared customs, practices and traditions.

Sault Ste. Marie Timeline

Mid 1700s	The Jesuits establish a mission at Sainte-Marie-du-Sault. There is heavy competition among fur traders in this area during this time.	
1750	The French establish a trading post on the south bank of the Saint Mary's River, and many people of mixed European and Aboriginal ancestry settled there.	
1821	The Hudson's Bay Company (HBC) operates a depot post at Sault Ste. Marie, which attracted Métis employees and their families.	
1849	A group of Anishinaabeg and Métis protest the Québec Mining Company at Mica Bay on Lake Superior in response to what was considered an unauthorized intrusion on their traditional lands, thereby precipitating the negotiations of the Robinson Huron Treaty.	
1850	The Robinson Treaties are signed. Despite their attempts to have their rights recognized, the Métis were excluded—as a distinct Aboriginal group—from the Robinson Treaties.	
1860s	Sault Ste. Marie is increasingly settled by Europeans and Americans during this decade.	

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Late 1800s

After the signing of the Robinson-Huron Treaty in 1850, Métis people still reside in Sault Ste. Marie and in the areas outside of town and continue to engage in their traditional practices, including hunting, fishing, trapping, and harvesting.

Demographics

The Métis populations in and around Sault Ste. Marie largely arose as a result of intermarriages between Ojibway women and the French and Jesuit fur traders who began to arrive and work in the area in the mid-17th century. These families continued to grow and reside in and close to Sault Ste. Marie. By the mid-19th century, most of the inhabitants at Sault Ste. Marie were Métis.

In the *Powley* trial, the evidence showed that well-known Métis families were identified as such—for successive generations—in post journals, census records and government created reports. One of the experts at trial concluded that the "individuals named in the post journals 'were overwhelmingly Métis', and that Vidal's report [another expert report used at trial] 'provide[s] a crude indication of the rate of growth of the community and highlights the continuing dominance of Métis in it'" in the period prior to 1850.

After the signing of the Robinson-Huron Treaty in 1850, members of the Métis population relocated to towns and areas in and around Sault Ste. Marie or on to Indian reserves where they continued to be identified as Métis, in addition to a substantial Métis population that remained in Sault Ste. Marie. Although Sault Ste. Marie itself maintained a Métis population, the distinctive community also extended to "Batchewana, Goulais Bay, Garden River, Bruce Mines, Desbarates, Bar River, St. Joseph's Island, Sugar Island and into Northern Michigan" as recognized in *Powley*.

Vocation and Cultural Practices

These inter-connected Métis populations shared a number of customs, traditions, and common vocations, including:

Hunting, Fishing, and Trapping:

Subsistence harvesting, including hunting, fishing, and trapping, were very important to the Historic Sault Ste. Marie Métis Community's economy, and the relative importance and prevalence of each activity would vary with the game, fish, and fur cycles. These activities continued to form an important part of Métis life, both practically for economic and subsistence reasons, and culturally, as they maintained the Métis Community's connection to the land. In the *Powley* trial, "[t]he evidence indicated that the Ojibway and Metis had always hunted and that this activity was a[n] integral part of their culture prior to the intervention of European control" and the SCC concluded that the "evidence indicates that subsistence hunting was an important aspect of Métis life and a defining feature of their special relationship to the land."

• Niche Employment:

Even while maintaining the skills and harvesting practices of their Ojibway ancestors, the Métis in the Sault Ste. Marie area also occupied a distinctive niche in the fur trade economy, often working as labourers, independent traders, skilled tradespeople, and farmers.

Distinct Culture:

Based on the evidence, the trial judge in *Powley* concluded that the Métis population at Sault Ste. Marie developed its "own community structures, musical tradition, mode of dress, and language—Michif—a blending of French, English and aboriginal sources."

Distinct Collective Identity

The historic record shows that prior to the 1830s, the British treated the Métis similar to other Aboriginal peoples, continuing French practice of providing them with annual presents to cement their alliances.

The Métis in the Sault Ste. Marie area were consistently acknowledged as separate and distinctive from other Aboriginal communities in the area. The Ojibway, for example, attempted to arrange for their separate inclusion in the annual gifts and in the Robinson Treaties. Non-Aboriginal communities were known to have viewed the Métis as being distinct from themselves and other Aboriginal communities in the area (i.e., First Nations). The text of the Robinson-Huron Treaty of 1850 specifically enumerates and distinguishes "Indians" from the "half-breeds" with respect to the populations at Sault Ste. Marie. Moreover, at the time of the making of the Robinson-Huron Treaty, the Métis asked to be included as a distinct group, but were refused because Commissioner Robinson indicated he only had a mandate to deal with the Indians.

In *Powley*, the trial judge concluded, "[i]t is clear from the totality of the historical documentation and evidence in connection thereto that the Metis people were a recognizable group that was closely associated with the local Indians. The Metis had created a distinctive lifestyle that was recognized by others" and "that the Metis were visually, culturally and ethnically distinct."

About this Document

This summary was prepared collaboratively by the Métis Nation of Ontario ("MNO") and the Ontario Government ("Ontario"). Many of the expert reports that were relied on in the *Powley* case are available online at: http://www.metisnation.org/registry/citizenship/historicresources/.

Identifying historic Métis communities is a necessary part of the legal requirements for establishing Métis rights, protected by section 35 of the *Constitution Act*, 1982, however, the identification of historic Métis communities alone does not define contemporary rights-bearing Métis communities, determine who in Ontario is Métis, who holds Métis rights, or define Métis harvesting areas or territories.

This summary does not necessarily address the claims of other self-identifying Métis communities not represented by the MNO. The conclusions in this summary do not limit the potential for other historic Métis communities to be identified or the expansion of recognition historic Métis communities in the future based on additional historic research.

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Métis Nation of Ontario Community Charter Agreement

The seal, an impression whereof is stamped in the margin hereof, shall be the seal of the Métis Nation of Ontario Secretariat ("MNO").

This Agreement is made in triplicate this ______ day of _____, in the year _____,

BETWEEN:

Métis Nation of Ontario

["MNO"]

AND:

Métis Nation of Ontario Secretariat Inc.

A corporation duly incorporated under the laws of Ontario

["Secretariat"]

AND:

Historical Sault Ste. Marie Métis Council

["Community Council"]

WHEREAS the Métis people joined together long ago to form a new nation which Louis Riel called the Métis Nation;

AND WHEREAS the Métis Nation continues today to be the embodiment of our past, our present and our hopes and aspirations for the future;

AND WHEREAS the Métis people who live in Ontario, desiring to bind our people together to collectively promote a common cultural, social, political and economic well-being, have founded the MNO to be our representative body;

AND WHEREAS the existing Aboriginal and Treaty rights of the Métis people, as one of the Aboriginal peoples of Canada, are recognized and affirmed under section 35 of the *Constitution Act*, 1982;

AND WHEREAS the Métis people, as one of the Aboriginal peoples of Canada, has the inherent right of self-determination and self-government;

AND WHEREAS the MNO wishes to establish democratic institutions based on that inherent right of self-government;

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AND WHEREAS the MNO wishes to promote and foster community development within the Métis Nation:

AND WHEREAS the MNO wishes to develop prosperity and economic self-sufficiency within the communities of the Métis Nation;

AND WHEREAS the MNO has incorporated under the laws of Ontario a body known as the Secretariat for the purposes of implementing community development and democratic institutions, until such time as they may be governed by their own self-government;

AND WHEREAS the MNO may incorporate under the laws of Ontario other bodies for the purposes of implementing community development;

AND WHEREAS the Community Council declares itself to be the democratic representative of the citizens of the MNO who live within the geographic territory of described in this Agreement;

AND WHEREAS the Community Council declares that it wishes to enter into an agreement with the MNO in order that it may represent the Métis citizens of the community under the values, principles and laws of the MNO as amended from time to time;

AND WHEREAS the MNO recognizes the Community Council as the only legitimate representative of the Métis citizens of the MNO who live within the boundaries of the Community;

AND WHEREAS the MNO wishes to enter into an agreement with the Community Council to further the interests of the Métis citizens who are represented by the Community Council;

NOW THEREFORE in consideration of the respective covenants and agreements of the parties contained in this Agreement, the MNO, the Secretariat and the Community Council agree as follows:

1. Name of this Agreement

1.1 This agreement shall be called the *Métis Nation of Ontario Community Charter Agreement*. ¹

2. Definitions

- 2.1 All words and phrases in this Agreement have the same meaning as in the Secretariat's bylaws. In the event of any conflict the definitions in the by-laws of the MNO shall prevail to the extent of the conflict.
- 2.2 "Community Charter" means the certificate granted by the MNO to the Community Council under the terms of this agreement.
- 2.3 "Executive Council" means the Executive Council of the Secretariat as defined in the Secretariat's by-laws.

¹ This entire Charter document is an amended version of the Sault Ste. Marie Community Charter Agreement, dated October 11th, 1995.

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3. The Community Council

Criteria for Community Council

- 3.1 The Community Council declares that it represents the citizens of the MNO who live within the specified geographic area described in paragraph 3.10.
- 3.2 The Community Council declares that it represents only the Métis citizens who meet the criteria of, and are registered with, the MNO.
- 3.3 The Community Council declares that it currently represents and will maintain a minimum of 15 citizens who are eligible to vote in the MNO.
- 3.4 The Community Council subscribes to the principles of the MNO as stated in the *Statement of Purpose*, a copy of which is attached as Appendix A to this Agreement, and agrees to be bound by it.
- 3.5 The Community Council shall adopt a Community Code, which shall contain but is not limited to the following:
 - a) a statement of purpose;
 - b) the rights and responsibilities of the citizens;
 - c) the responsibilities and duties of the Community Council;
 - d) rules of fiscal management;
 - e) rules pertaining to the calling and conduct of meetings;
 - f) accountability of the Community Council to the citizens and to the Executive Council; and
 - g) a dispute resolution mechanism;
- 3.6 The Community Code shall be submitted to the Secretariat as it is adopted or amended. The Community Council shall notify the Secretariat of any changes in its Council or to its Community Code within 30 days of such change.
- 3.7 The Community Council may modify and adopt the MNO by-laws as its Community Code. The MNO by-laws shall govern in any matter not specifically provided for in the Community Code. The Community Council shall revise, within thirty days, after receiving written notice, any provisions in its Community Code which are found to be in conflict with the MNO by-laws.
- 3.8 The Community Council shall not represent the interests of non-aboriginal persons, those who self-identify as Inuit, or those who are registered as Indians under the *Indian Act, R.S.C. 1985*, *c.* 6 as amended from time to time.

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3.9 The Community Council shall not enter into an agreement with governments or other bodies where that agreement is inconsistent with the by-laws, regulations, policies or guidelines, as amended from time to time.

Description of Community Council

3.10 The Community represented by the Community Council is described geographically as follows²:

Northern Boundary: Beginning on the shores of Lake Superior at Montreal River, follow the Montreal River East to the Northeastern tip of the Aubinadong River.

Eastern Boundary: Beginning at Desbarats, in a Northern direction draw a horizontal line to Leebrun. From Leebrun draw a line in a Northeast direction to where Hwy 556 intersects with Hwy 129 at Ranger Lake. From the intersection of Hwy 556 and Hwy 129 follow the Aubinadong River North to the Northeastern tip of the Montreal River.

Southern Boundary: Beginning at Gros Cap, follow the Canadian/U.S. border through the St. Mary's River, into Lake George at Echo Bay, past Sugar Island into the waters of Lake Huron. Follow the shoreline of St. Joseph Island beginning at Richards Landing, around the Southern tip of St. Joseph Island, past Hilton Beach and ending at Desbarats.

Western Boundary: Beginning at Gros Cap follows the shoreline of Lake Superior, North to the Montreal River.

3.11 The address of the Community Council is as follows:

26 Queen St. E. Sault Ste. Marie ON, P6A 1Y3

Decision Making in the Community Council

3.12 In decision-making, the Community Council shall strive for consensus. If consensus cannot be achieved, then a vote may be taken. If voting is used for decision making then majority rule shall obtain.

4. Community Charter

- 4.1 The MNO and the Secretariat shall grant a Community Charter upon execution of this Agreement.
- 4.2 Provided the Community Council is not in breach of any term of this Agreement, the Community Council:

Boundary Changed by Resolution at the Historic Sault Ste. Marie Metis Council December 2016 AGM: Northern Boundary: Starting point of Montreal River, follow the Montreal River East to North Western corner of Algoma Headwaters Provincial Park. Eastern Boundary: From the North Western corner of Algoma Headwaters Provincial Park proceed South along the Western boundary of Algoma Headwaters Provincial Park, through Megisan Lake, follow the Megisan River South to Ranger Lake. From Ranger Lake follow Garden River South, then South West to St. Mary's River at Payment. Southern Boundary: Starting at Payment follow the St. Mary's River West to Point Aux Pines. Western Boundary: Starting at Point Aux Pines follow the shoreline of Lake Superior, North to the Montreal River.

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- a) is a non-voting member of the Secretariat;
- b) has all the rights, privileges, responsibilities, liabilities and duties as defined within or arising out of, this Agreement and the MNO by-laws;
- c) is entitled to use the incorporation number of the Secretariat or of any of the Secretariat's subsidiaries or wholly owned companies, subject to the terms and conditions in this Agreement and any other terms and conditions that may be established by the Secretariat or the MNO from time to time.

5. Financial

- 5.1 Community Council funds shall be used only for the benefit of the Métis citizens who are represented by the Community Council. Expenditures shall be consistent with the financial ability of the Community Council and may include, but are not limited to:
 - a) the purpose of assisting Métis citizens of the MNO;
 - b) salaries, offices or administration;
 - c) obligations arising from agreements entered into for the benefit of the Métis citizens represented by the MNO;
 - d) other activities that fall within the purposes of the MNO as stated in the Statement of Purpose (Appendix A).
- 5.2 The Community Council and any of its committees, subsidiaries, institutions or other entities shall:
 - a) have a fiscal end of March 31st:
 - b) keep its financial records in accordance with generally accepted accounting procedures;
 - c) cause an annual financial statement of its books and records and funds to be created within 90 days of the end of the fiscal year;
 - d) within 30 days of its completion, submit the financial statement to the Secretariat;
 - e) within 30 days of its completion, provide on request, the financial statement to its citizens.
- 5.3 In the event that a copy of the annual financial statement is not submitted, pursuant to paragraph 5.2(d), the Secretariat may cause an audit to be made, at the expense of the Community Council.

6. Revocation or Suspension of Community Council Charter

- 6.1 In the event that a Community Charter is revoked or suspended under this Agreement, or the Community Council disbands, the Community Charter and all books and records shall be delivered to the Secretariat within 10 days after a demand is made by the Secretariat.
- 6.2 Serious violations of this Agreement and will be subject to an inquiry by the Executive Council of the Secretariat. Serious violations of this Agreement include but are not limited to the following:
 - a) making a false statement or withholding material information when applying for a Community Charter, government programs or grants;

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- b) failure to comply with any decision or order of the MNO or the Secretariat;
- c) any willful action which defeats or impedes activities of the MNO, the Secretariat or any of its Community Councils in furtherance of the purposes of the MNO;
- d) misappropriating money or property of the MNO, the Secretariat or the moneys or property held or managed by the Community Council for the benefit of the citizens of the Community Council;
- e) incorporation under the laws of Ontario or Canada of the Community Council or other any committees, subsidiaries, institutions or other entities of the Community Council for any purpose whatsoever;

7. Dispute Resolution

- 7.1 Any dispute or inquiry that arises out of this Agreement shall be referred to the Community Council for resolution.
- 7.2 If resolution is not possible under paragraph 7.1 an inquiry panel may be called by the Secretariat for that purpose.
- 7.3 The Executive Council may call for a sitting of an inquiry panel upon request or upon its own initiative.
- 7.4 The inquiry panel will be composed of a Chair who is appointed by the Executive Council and who is not a sitting member of the Executive Council, one Executive Council member and one Community Council member.
- 7.5 Where a dispute is referred to the Executive Council or where the Executive Council, upon its own initiative calls for an inquiry, the Secretariat shall give 30 days notice in writing to all parties. Such notice shall include the reasons for the inquiry and the materials and persons, which the parties shall provide for the assistance of the inquiry panel. The inquiry shall be held within 90 days of issuing the notice.
- 7.6 At any inquiry, called pursuant to paragraph 7.2 the panel shall hear representations from persons or entities concerned in the dispute. The inquiry panel may decide whether the representations are to be made orally or in writing. Any written submission must be received at least 30 days before the date of the inquiry.
- 7.7 Upon termination of the inquiry the panel shall either:
 - a) issue a recommendation as to costs
 - b) issue a recommendation regarding the substantive issue in dispute; or
 - c) issue a recommended procedure on how to resolve the dispute; or
 - d) issue a judgment on the merits of the issue in dispute.
- 7.8 A judgment on the merits of the issue in dispute may be either:
 - a) to uphold the Community Charter; or

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MNO Community Charter Agreement

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- b) to revoke the Community Charter permanently; or
- c) to place the Community Charter in the care of trustees; or
- d) to suspend the Community Charter temporarily, pending the completion of specified actions by the Community Council and/or any of its committees, subsidiaries, institutions or other entities.
- 7.9 Where an inquiry is held, the panel shall set out its decision in writing. The written decision shall be made available to the parties within 30 days of the inquiry.

Appeals

- 7.10 A decision of the inquiry panel arising from this Agreement may be appealed to a specially convened Senators Council which shall be called together for this purpose by the Executive Council. The Senators Council shall consist of at least three Métis Senators.
- 7.11 At any appeal pursuant to paragraph 7.10, the Senators Council may hear representations from the parties. The Senators Council may decide whether the representations are to be made orally or in writing. Any written submission must be received at least 30 days before the date of the inquiry.
- 7.12 Upon termination of the appeal the Senators Council shall:
 - a) issue a decision as to costs
 - b) issue a judgment on the merits of the issue in dispute.
- 7.13 A judgment on the merits of the issue in dispute may be either:
 - a) to uphold the Community Charter; or
 - b) to revoke the Community Charter permanently; or
 - c) to place the Community Charter in the care of trustees; or
 - d) to suspend the Community Charter temporarily, pending the completion of specified actions by the Community Council and/or any of its committees, subsidiaries, institutions or other entities.
- 7.14 The Senators Council shall set out its decision in writing. The written decision shall be made available to the parties within 30 days of the appeal.
- 7.15 A decision of the Senators Council shall be final and binding on the parties.

8. Role of the MNO Secretariat

8.1 Where the Community Council uses the incorporation number of the Secretariat, notice of any contract or agreement which the Community Council or any of its committees, subsidiaries, institutions or other entities, enters into which incurs liabilities for the Secretariat or any of the Secretariat's committees, subsidiaries, institutions or other entities under its control, shall be subject to the approval of, and given in writing to, the Secretariat.

February 2002

- 8.2 The Secretariat shall not be liable under contracts entered into pursuant to paragraph 8.1 unless the Community Council and its committees, subsidiaries, institutions or other entities has received authorization in writing by the Secretariat.
- 8.3 The Secretariat or any of its committees, subsidiaries, institutions or other entities under its control shall maintain a supervisory function with respect to all contracts, tasks, privileges and responsibilities which the Community Council or any of its committees, subsidiaries, institutions or other entities enters into which incur liability for the Secretariat.

9. No Incorporation Rule

- 9.1 The Community Council shall not be or remain incorporated under the laws of Ontario or Canada for any purpose whatsoever.
- 9.2 In the event that the Community Council has committees, subsidiaries, institutions or other entities under its control which were incorporated under the laws of Ontario or Canada prior to entering into this Agreement, the Community Council agrees to work with the Secretariat towards bringing those entities within the spirit of this Agreement and the parties shall sign a Memorandum of Understanding to that effect which shall be attached to and form part of this Agreement.
 - 9.2.1 Paragraph 6.2(e) will not apply to the Community Council provided a Memorandum of Understanding is signed pursuant to Paragraph 9.2, which covers all committees, subsidiaries, institutions or other entities under its control that were incorporated under the laws of Ontario or Canada prior to entering into this Agreement.
- 9.3 Notwithstanding 9.1, the Community Council may incorporate under the laws of Ontario or Canada, an entity which shall not be or become the Community Council itself, and such entity shall be a for-profit development corporation which shall be incorporated on the following terms and conditions:
 - a) the Community Council shall inform the PCMNO in writing of their intention to incorporate a development corporation;
 - b) the Community Council shall work with MNO's legal counsel to draft the by-laws and articles of incorporation for the development corporation;
 - c) the articles of incorporation and the by-laws of the development corporation shall stipulate that at times:
 - i) 100% of the members of the Board of Directors shall be citizens of the MNO;
 - ii) 100% of the shares of the development corporation shall be held by citizens of the MNO resident in the geographic territory described in paragraph 3.10; and
 - iii) the purpose, services and any profits of the development corporation shall be solely for the benefit of the citizens of MNO.
- 9.4 Any violation of the terms of paragraph 9.3 shall constitute a fundamental breach of this Community Charter Agreement.

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10. Termination of this Agreement

10.1 This Agreement may be terminated by any party if another party does not perform its obligations under this Agreement for a period of thirty (30) days after receiving written notice of such default from the party seeking to terminate.

11. Agreement Without Prejudice

11.1 This Agreement creates only the rights and a privilege expressly described herein and is without prejudice to other existing legal rights of the parties including for greater certainty any Aboriginal or Treaty rights of the individual Métis represented by the Community Council, the Community Council, the Secretariat or the MNO.

12. Applicable Law

12.1 This Agreement shall be governed by and construed in accordance with the laws of the MNO.

13. Endurement

13.1 This Agreement shall endure to the benefit of and be binding upon the parties and their respective successors and assigns.

14. Not Transferable

14.1 This Agreement is not transferable to any other party.

15. Transmission by Facsimile

15.1 The parties hereto agree that this Agreement may be transmitted by facsimile or such similar device and that the reproduction of signatures by facsimile or such similar device will be treated as binding as if originals and each party hereto undertakes to provide each and every other part hereto with a copy of the Agreement bearing original signatures forthwith upon demand.

16. Amendments to this Agreement

16.1 This Agreement may be amended at any time with the consent of the parties. The amendment shall be ratified by the Executive Council and by resolution passed at a meeting of the Community represented by the Community Council. Amendments shall be in writing, signed by both parties and attached to this Agreement and after effective date will form part of this Agreement.

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MNO Community Charter Agreement

February 2002

47 50	to att as Bata			
17. Eff	17.1 This Agreement has an effective date of theday of, in the year 2003.			
	IN WITNESS WHEREOF the Métis Nation of Ontario, the MNO Secretariat and the Communit Council has executed this <i>MNO Community Charter Agreement</i> .			
	Signing Authority for the Community Council	Date		
	Tony Belcourt, President on behalf of the Métis Nation of Ontario	Date		

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MNO Community Chart	February 2002		
Signing Authority on behalf of the MNO Secretariat	Date		

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Métis Nation of Ontario Community Charter Agreement

The seal, an impression whereof is stamped in the margin hereof, shall be the seal of the Métis Nation of Ontario Secretariat ("MNO").

This Agreement is made in triplicate this 5th day of May in the year 2009,

BETWEEN:

Métis Nation of Ontario

["MNO"]

AND:

Métis Nation of Ontario Secretariat Inc.

A corporation duly incorporated under the laws of Ontario ["Secretariat"]

AND:

North Channel Métis Council

["Community Council"]

WHEREAS the Métis people joined together long ago to form a new nation which Louis Riel called the Métis Nation;

AND WHEREAS the Métis Nation continues today to be the embodiment of our past, our present and our hopes and aspirations for the future;

AND WHEREAS the Métis people who live in Ontario, desiring to bind our people together to collectively promote a common cultural, social, political and economic well-being, have founded the MNO to be our representative body;

AND WHEREAS the existing Aboriginal and Treaty rights of the Métis people, as one of the Aboriginal peoples of Canada, are recognized and affirmed under section 35 of the *Constitution Act*, 1982;

AND WHEREAS the Métis people, as one of the Aboriginal peoples of Canada, has the inherent right of self-determination and self-government;

AND WHEREAS the MNO wishes to establish democratic institutions based on that inherent right of self-government;

February 2002

AND WHEREAS the MNO wishes to promote and foster community development within the Métis Nation:

AND WHEREAS the MNO wishes to develop prosperity and economic self-sufficiency within the communities of the Métis Nation;

AND WHEREAS the MNO has incorporated under the laws of Ontario a body known as the Secretariat for the purposes of implementing community development and democratic institutions, until such time as they may be governed by their own self-government;

AND WHEREAS the MNO may incorporate under the laws of Ontario other bodies for the purposes of implementing community development;

AND WHEREAS the Community Council declares itself to be the democratic representative of the citizens of the MNO who live within the geographic territory of described in this Agreement;

AND WHEREAS the Community Council declares that it wishes to enter into an agreement with the MNO in order that it may represent the Métis citizens of the community under the values, principles and laws of the MNO as amended from time to time;

AND WHEREAS the MNO recognizes the Community Council as the only legitimate representative of the Métis citizens of the MNO who live within the boundaries of the Community;

AND WHEREAS the MNO wishes to enter into an agreement with the Community Council to further the interests of the Métis citizens who are represented by the Community Council;

NOW THEREFORE in consideration of the respective covenants and agreements of the parties contained in this Agreement, the MNO, the Secretariat and the Community Council agree as follows:

1. Name of this Agreement

1.1 This agreement shall be called the *Métis Nation of Ontario Community Charter Agreement*.¹

2. Definitions

2.1 All words and phrases in this Agreement have the same meaning as in the Secretariat's bylaws. In the event of any conflict the definitions in the by-laws of the MNO shall prevail to the extent of the conflict.

- 2.2 "Community Charter" means the certificate granted by the MNO to the Community Council under the terms of this agreement.
- 2.3 "Executive Council" means the Executive Council of the Secretariat as defined in the Secretariat's by-laws.

¹ This entire Charter document is an amended version of the Thessalon Community Charter Agreement, dated October 24th, 1995.

February 2002

3. The Community Council

Criteria for Community Council

- 3.1 The Community Council declares that it represents the citizens of the MNO who live within the specified geographic area described in paragraph 3.10.
- 3.2 The Community Council declares that it represents only the Métis citizens who meet the criteria of, and are registered with, the MNO.
- 3.3 The Community Council declares that it currently represents and will maintain a minimum of 15 citizens who are eligible to vote in the MNO.
- 3.4 The Community Council subscribes to the principles of the MNO as stated in the *Statement of Purpose*, a copy of which is attached as Appendix A to this Agreement, and agrees to be bound by it.
- 3.5 The Community Council shall adopt a Community Code, which shall contain but is not limited to the following:
 - a) a statement of purpose;
 - b) the rights and responsibilities of the citizens;
 - c) the responsibilities and duties of the Community Council;
 - d) rules of fiscal management;
 - e) rules pertaining to the calling and conduct of meetings;
 - f) accountability of the Community Council to the citizens and to the Executive Council; and
 - g) a dispute resolution mechanism;
- 3.6 The Community Code shall be submitted to the Secretariat as it is adopted or amended. The Community Council shall notify the Secretariat of any changes in its Council or to its Community Code within 30 days of such change.
- 3.7 The Community Council may modify and adopt the MNO by-laws as its Community Code. The MNO by-laws shall govern in any matter not specifically provided for in the Community Code. The Community Council shall revise, within thirty days, after receiving written notice, any provisions in its Community Code which are found to be in conflict with the MNO by-laws.
- 3.8 The Community Council shall not represent the interests of non-aboriginal persons, those who self-identify as Inuit, or those who are registered as Indians under the *Indian Act, R.S.C. 1985*, *c.* 6 as amended from time to time.
- 3.9 The Community Council shall not enter into an agreement with governments or other bodies where that agreement is inconsistent with the by-laws, regulations, policies or guidelines, as amended from time to time.

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3.10 Description of Community Council

The Community represented by the Community Council is described geographically as follows²:

Northern Boundary: Beginning from the Southwestern tip of Rocky Island Lake where the Mississagi River intersects with the Wenebegon River in an Eastern direction to the North Eastern Tip of Rocky Island Lake, continuing in an Eastern direction, follow the shoreline of Rocky Island Lake in a Northeastern direction through the river system to Bark Lake.

Eastern Boundary: Beginning from the most south easterly tip of Bark lake follow the Mississagi River in a Southern direction until the river intersects with Hwy 810. Follow Hwy 810 South to Hwy 553 through Massey to the shores of the North Channel.

Southern Boundary: Beginning just East of Desbarats at Portlock, in an Eastern direction follow the North Channel Shoreline through Nestorville, Thessalon, Blind River and Spanish, then continue South/Eastern direction to the Southern tip of Sagamoke.

Western Boundary: Beginning just East of Desbarats at Portlock, travel North through Plummer, continue north to Ophir to Poplar Dale. From Poplar Dale draw a horizontal line Northeast to where the Mississagi River intersects with the Wenebegon River at the Southwestern tip of Rocky Island Lake.

3.11 The address of the Community Council is as follows:

P.O. Box 1408 Blind River ON; P0R1B0

Decision Making in the Community Council

3.12 In decision-making, the Community Council shall strive for consensus. If consensus cannot be achieved, then a vote may be taken. If voting is used for decision making then majority rule shall obtain.

4. Community Charter

- 4.1 The MNO and the Secretariat shall grant a Community Charter upon execution of this Agreement.
- 4.2 Provided the Community Council is not in breach of any term of this Agreement, the Community Council:

Boundary Change made during the North Channel Metis Council May 28, 2017 AGM: Northern Boundary: East of Ranger Lake in an Eastern direction to the South Eastern Tip of Rocky Island Lake. Eastern Boundary: From the most Southeasterly tip of Rocky Island Lake proceeding in a Southeasterly direction to the Junction of Highway #546 & Highway #639. Then in a Southerly direction to the Northwest corner of the limit of the City of Elliot Lake. Southerly along the Westerly Limit of the City of Elliot Lake to the South Westerly Corner of that City Limit. Then Easterly along the Southern limit of that City Limit to Highway #17. Then a line continuing Due South from that Junction to the North Channel shoreline being the North Shore of Lake Huron. Southern Boundary: Follow the North Channel Shoreline west through Thessalon and Nestorville, then continue south along the shoreline of St. Joes Island to the Southern tip. Western Boundary: Starting at the Southern tip of St. Joesph Island, follow the shoreline in a North Western direction following the St. Mary's River to the Eastern boundary of Payment. From Payment follow the Garden River North to the East of Ranger Lake.

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- a) is a non-voting member of the Secretariat;
- b) has all the rights, privileges, responsibilities, liabilities and duties as defined within or arising out of, this Agreement and the MNO by-laws;
- c) is entitled to use the incorporation number of the Secretariat or of any of the Secretariat's subsidiaries or wholly owned companies, subject to the terms and conditions in this Agreement and any other terms and conditions that may be established by the Secretariat or the MNO from time to time.

5. Financial

- 5.1 Community Council funds shall be used only for the benefit of the Métis citizens who are represented by the Community Council. Expenditures shall be consistent with the financial ability of the Community Council and may include, but are not limited to:
 - a) the purpose of assisting Métis citizens of the MNO;
 - b) salaries, offices or administration;
 - c) obligations arising from agreements entered into for the benefit of the Métis citizens represented by the MNO;
 - d) other activities that fall within the purposes of the MNO as stated in the Statement of Purpose (Appendix A).
- 5.2 The Community Council and any of its committees, subsidiaries, institutions or other entities shall:
 - a) have a fiscal end of March 31st:
 - b) keep its financial records in accordance with generally accepted accounting procedures;
 - c) cause an annual financial statement of its books and records and funds to be created within 90 days of the end of the fiscal year;
 - d) within 30 days of its completion, submit the financial statement to the Secretariat;
 - e) within 30 days of its completion, provide on request, the financial statement to its citizens.
- 5.3 In the event that a copy of the annual financial statement is not submitted, pursuant to paragraph 5.2(d), the Secretariat may cause an audit to be made, at the expense of the Community Council.

6. Revocation or Suspension of Community Council Charter

- 6.1 In the event that a Community Charter is revoked or suspended under this Agreement, or the Community Council disbands, the Community Charter and all books and records shall be delivered to the Secretariat within 10 days after a demand is made by the Secretariat.
- 6.2 Serious violations of this Agreement and will be subject to an inquiry by the Executive Council of the Secretariat. Serious violations of this Agreement include but are not limited to the following:
 - a) making a false statement or withholding material information when applying for a Community Charter, government programs or grants;

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- b) failure to comply with any decision or order of the MNO or the Secretariat;
- c) any willful action which defeats or impedes activities of the MNO, the Secretariat or any of its Community Councils in furtherance of the purposes of the MNO;
- d) misappropriating money or property of the MNO, the Secretariat or the moneys or property held or managed by the Community Council for the benefit of the citizens of the Community Council;
- e) incorporation under the laws of Ontario or Canada of the Community Council or other any committees, subsidiaries, institutions or other entities of the Community Council for any purpose whatsoever;

7. Dispute Resolution

- 7.1 Any dispute or inquiry that arises out of this Agreement shall be referred to the Community Council for resolution.
- 7.2 If resolution is not possible under paragraph 7.1 an inquiry panel may be called by the Secretariat for that purpose.
- 7.3 The Executive Council may call for a sitting of an inquiry panel upon request or upon its own initiative.
- 7.4 The inquiry panel will be composed of a Chair who is appointed by the Executive Council and who is not a sitting member of the Executive Council, one Executive Council member and one Community Council member.
- 7.5 Where a dispute is referred to the Executive Council or where the Executive Council, upon its own initiative calls for an inquiry, the Secretariat shall give 30 days notice in writing to all parties. Such notice shall include the reasons for the inquiry and the materials and persons, which the parties shall provide for the assistance of the inquiry panel. The inquiry shall be held within 90 days of issuing the notice.
- 7.6 At any inquiry, called pursuant to paragraph 7.2 the panel shall hear representations from persons or entities concerned in the dispute. The inquiry panel may decide whether the representations are to be made orally or in writing. Any written submission must be received at least 30 days before the date of the inquiry.
- 7.7 Upon termination of the inquiry the panel shall either:
 - a) issue a recommendation as to costs
 - b) issue a recommendation regarding the substantive issue in dispute; or
 - c) issue a recommended procedure on how to resolve the dispute; or
 - d) issue a judgment on the merits of the issue in dispute.
- 7.8 A judgment on the merits of the issue in dispute may be either:
 - a) to uphold the Community Charter; or

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- b) to revoke the Community Charter permanently; or
- c) to place the Community Charter in the care of trustees; or
- d) to suspend the Community Charter temporarily, pending the completion of specified actions by the Community Council and/or any of its committees, subsidiaries, institutions or other entities.
- 7.9 Where an inquiry is held, the panel shall set out its decision in writing. The written decision shall be made available to the parties within 30 days of the inquiry.

Appeals

- 7.10 A decision of the inquiry panel arising from this Agreement may be appealed to a specially convened Senators Council which shall be called together for this purpose by the Executive Council. The Senators Council shall consist of at least three Métis Senators.
- 7.11 At any appeal pursuant to paragraph 7.10, the Senators Council may hear representations from the parties. The Senators Council may decide whether the representations are to be made orally or in writing. Any written submission must be received at least 30 days before the date of the inquiry.
- 7.12 Upon termination of the appeal the Senators Council shall:
 - a) issue a decision as to costs
 - b) issue a judgment on the merits of the issue in dispute.
- 7.13 A judgment on the merits of the issue in dispute may be either:
 - a) to uphold the Community Charter; or
 - b) to revoke the Community Charter permanently; or
 - c) to place the Community Charter in the care of trustees; or
 - d) to suspend the Community Charter temporarily, pending the completion of specified actions by the Community Council and/or any of its committees, subsidiaries, institutions or other entities.
- 7.14 The Senators Council shall set out its decision in writing. The written decision shall be made available to the parties within 30 days of the appeal.
- 7.15 A decision of the Senators Council shall be final and binding on the parties.

8. Role of the MNO Secretariat

8.1 Where the Community Council uses the incorporation number of the Secretariat, notice of any contract or agreement which the Community Council or any of its committees, subsidiaries, institutions or other entities, enters into which incurs liabilities for the Secretariat or any of the Secretariat's committees, subsidiaries, institutions or other entities under its control, shall be subject to the approval of, and given in writing to, the Secretariat.

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- 8.2 The Secretariat shall not be liable under contracts entered into pursuant to paragraph 8.1 unless the Community Council and its committees, subsidiaries, institutions or other entities has received authorization in writing by the Secretariat.
- 8.3 The Secretariat or any of its committees, subsidiaries, institutions or other entities under its control shall maintain a supervisory function with respect to all contracts, tasks, privileges and responsibilities which the Community Council or any of its committees, subsidiaries, institutions or other entities enters into which incur liability for the Secretariat.

9. No Incorporation Rule

- 9.1 The Community Council shall not be or remain incorporated under the laws of Ontario or Canada for any purpose whatsoever.
- 9.2 In the event that the Community Council has committees, subsidiaries, institutions or other entities under its control which were incorporated under the laws of Ontario or Canada prior to entering into this Agreement, the Community Council agrees to work with the Secretariat towards bringing those entities within the spirit of this Agreement and the parties shall sign a Memorandum of Understanding to that effect which shall be attached to and form part of this Agreement.
 - 9.2.1 Paragraph 6.2(e) will not apply to the Community Council provided a Memorandum of Understanding is signed pursuant to Paragraph 9.2, which covers all committees, subsidiaries, institutions or other entities under its control that were incorporated under the laws of Ontario or Canada prior to entering into this Agreement.
- 9.3 Notwithstanding 9.1, the Community Council may incorporate under the laws of Ontario or Canada, an entity which shall not be or become the Community Council itself, and such entity shall be a for-profit development corporation which shall be incorporated on the following terms and conditions:
 - a) the Community Council shall inform the PCMNO in writing of their intention to incorporate a development corporation;
 - b) the Community Council shall work with MNO's legal counsel to draft the by-laws and articles of incorporation for the development corporation;
 - c) the articles of incorporation and the by-laws of the development corporation shall stipulate that at times:
 - i) 100% of the members of the Board of Directors shall be citizens of the MNO;
 - ii) 100% of the shares of the development corporation shall be held by citizens of the MNO resident in the geographic territory described in paragraph 3.10; and
 - iii) the purpose, services and any profits of the development corporation shall be solely for the benefit of the citizens of MNO.
- 9.4 Any violation of the terms of paragraph 9.3 shall constitute a fundamental breach of this Community Charter Agreement.

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10. Termination of this Agreement

10.1 This Agreement may be terminated by any party if another party does not perform its obligations under this Agreement for a period of thirty (30) days after receiving written notice of such default from the party seeking to terminate.

11. Agreement Without Prejudice

11.1 This Agreement creates only the rights and a privilege expressly described herein and is without prejudice to other existing legal rights of the parties including for greater certainty any Aboriginal or Treaty rights of the individual Métis represented by the Community Council, the Community Council, the Secretariat or the MNO.

12. Applicable Law

12.1 This Agreement shall be governed by and construed in accordance with the laws of the MNO.

13. Endurement

13.1 This Agreement shall endure to the benefit of and be binding upon the parties and their respective successors and assigns.

14. Not Transferable

14.1 This Agreement is not transferable to any other party.

15. Transmission by Facsimile

15.1 The parties hereto agree that this Agreement may be transmitted by facsimile or such similar device and that the reproduction of signatures by facsimile or such similar device will be treated as binding as if originals and each party hereto undertakes to provide each and every other part hereto with a copy of the Agreement bearing original signatures forthwith upon demand.

16. Amendments to this Agreement

16.1 This Agreement may be amended at any time with the consent of the parties. The amendment shall be ratified by the Executive Council and by resolution passed at a meeting of the Community represented by the Community Council. Amendments shall be in writing, signed by both parties and attached to this Agreement and after effective date will form part of this Agreement.

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MNO Community Charter Agreement

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17. Effective I	Date
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17.1 This Agreement has an effective date of the 5th day of May, in the year 2009.

IN WITNESS WHEREOF the Métis Nation of Ontario, the MNO Secretariat and the Community Council has executed this *MNO Community Charter Agreement*.

Signing Authority for the Community Council Date: May 5, 2009

Gary Lipinski, President on behalf of the Date: May 5, 2009

Métis Nation of Ontario

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Signing Authority on behalf of the MNO Secretariat

Date: May 5, 2009

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Métis Nation of Ontario Community Charter Agreement

The seal, an impression whereof is stamped in the margin hereof, shall be the seal of the Métis Nation of Ontario Secretariat ("MNO").

This Agreement is made in triplicate this 4th day of June, in the year 2009

BETWEEN:

Métis Nation of Ontario

["MNO"]

AND:

Métis Nation of Ontario Secretariat Inc.

A corporation duly incorporated under the laws of Ontario ["Secretariat"]

AND:

Superior North Shore Métis Council

["Community Council"]

WHEREAS the Métis people joined long ago to form a new nation, which Louis Riel called the Métis Nation;

AND WHEREAS the Métis Nation continues today to be the embodiment of our past, our present and our hopes and aspirations for the future;

AND WHEREAS the Métis people who live in Ontario, desiring to bind our people together to collectively promote a common cultural, social, political and economic well-being, have founded the MNO to be our representative body;

AND WHEREAS the existing Aboriginal and Treaty rights of the Métis people, as one of the Aboriginal peoples of Canada, are recognized and affirmed under section 35 of the *Constitution Act*, 1982;

AND WHEREAS the Métis people, as one of the Aboriginal peoples of Canada, has the inherent right of self-determination and self-government;

AND WHEREAS the MNO wishes to establish democratic institutions based on that inherent right of self-government;

AND WHEREAS the MNO wishes to promote and foster community development within the Métis Nation;

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MNO Community Charter Agreement

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AND WHEREAS the MNO wishes to develop prosperity and economic self-sufficiency within the communities of the Métis Nation;

AND WHEREAS the MNO has incorporated under the laws of Ontario a body known as the Secretariat for the purposes of implementing community development and democratic institutions, until such time as they may be governed by their own self-government;

AND WHEREAS the MNO may incorporate under the laws of Ontario other bodies for the purposes of implementing community development;

AND WHEREAS the Community Council declares itself the democratic representative of the citizens of the MNO who live within the geographic territory of described in this Agreement;

AND WHEREAS the Community Council declares that it wishes to enter into an agreement with the MNO in order that it may represent the Métis citizens of the community under the values, principles and laws of the MNO as amended from time to time;

AND WHEREAS the MNO recognizes the Community Council as the only legitimate representative of the Métis citizens of the MNO who live within the boundaries of the Community;

AND WHEREAS the MNO wishes to enter into an agreement with the Community Council to further the interests of the Métis citizens who are represented by the Community Council;

NOW THEREFORE in consideration of the respective covenants and agreements of the parties contained in this Agreement, the MNO, the Secretariat and the Community Council agree as follows:

1. Name of this Agreement

1.1 This agreement shall be called the *Métis Nation of Ontario Community Charter Agreement*

2. Definitions

- 2.1 All words and phrases in this Agreement have the same meaning as in the Secretariat's bylaws. In the event of any conflict, the definitions in the by-laws of the MNO shall prevail to the extent of the conflict.
- 2.2 "Community Charter" means the certificate granted by the MNO to the Community Council under the terms of this agreement.
- 2.3 "Executive Council" means the Executive Council of the Secretariat as defined in the Secretariat's by-laws.

3. The Community Council

Criteria for Community Council

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- 3.1 The Community Council declares that it represents the citizens of the MNO who live within the specified geographic area described in paragraph 3.10.
- 3.2 The Community Council declares that it represents only the Métis citizens who meet the criteria of, and are registered with, the MNO.
- 3.3 The Community Council declares that it currently represents and will maintain a minimum of 15 citizens who are eligible to vote in the MNO.
- 3.4 The Community Council subscribes to the principles of the MNO as stated in the *Statement of Purpose*, a copy of which is attached as Appendix A to this Agreement, and agrees to be bound by it.
- 3.5 The Community Council shall adopt a Community Code, which shall contain but is not limited to the following:
 - a) a statement of purpose;
 - b) the rights and responsibilities of the citizens;
 - c) the responsibilities and duties of the Community Council;
 - d) rules of fiscal management;
 - e) rules pertaining to the calling and conduct of meetings;
 - f) accountability of the Community Council to the citizens and to the Executive Council; and
 - g) a dispute resolution mechanism;
- 3.6 The Community Code shall be submitted to the Secretariat as it is adopted or amended. The Community Council shall notify the Secretariat of any changes in its Council or to its Community Code within 30 days of such change.
- 3.7 The Community Council may modify and adopt the MNO by-laws as its Community Code. The MNO by-laws shall govern in any matter not specifically provided for in the Community Code. The Community Council shall revise, within thirty days, after receiving written notice, any provisions in its Community Code, which are found to be in conflict with the MNO by-laws.
- 3.8 The Community Council shall not represent the interests of non-aboriginal persons, those who self-identify as Inuit, or those who are registered as Indians under the *Indian Act, R.S.C. 1985*, *c.* 6 as amended from time to time.
- 3.9 The Community Council shall not enter into an agreement with governments or other bodies where that agreement is inconsistent with the by-laws, regulations, policies or guidelines, as amended from time to time.
- 3.10 **Description of Community Council**

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The Community represented by the Community Council is described geographically as follows: East: Starting from Hattie Cove follow the White River North through Pic Mobert South, through Hwy 17 into White Lake.

North: Starting from the Northern tip of White Lake, draw a vertical line Northwest to Manitouwadge. From Manitouwadge draw a horizontal line West through the Little Pic River, continue through the Steel River, through the Southern tip of Lake Roslyn, through the Northern Tip of Cosgrave Lake onto Orient Bay.

West: From Orient Bay follow Hwy 11 South to Lake Helen.

South: From Lake Helen follow Hwy 17 east along the shoreline of Lake Superior including St. Ignace Island, Simpson Island and Wilson Island through Schiber, Terrace Bay and Marathon. At Marathon continue following the Lake Superior shoreline Southeast through heron Bay and Pic River until you reach Hattie Cove.

3.11 The address of the Community Council is as follows:

Superior North Shore Métis Council 26 Princess Ave. Terrace Bay, ON POT 2WO

3.12 **Decision Making in the Community Council**

In decision-making, the Community Council shall strive for consensus. If consensus cannot be achieved, then a vote may be taken. If voting is used for decision-making then majority rule shall obtain.

4. Community Charter

- 4.1 The MNO and the Secretariat shall grant a Community Charter upon execution of this Agreement.
- 4.2 Provided the Community Council is not in breach of any term of this Agreement, the Community Council:
 - a) is a non-voting member of the Secretariat;
 - b) has all the rights, privileges, responsibilities, liabilities and duties as defined within or arising out of, this Agreement and the MNO by-laws;
 - c) is entitled to use the incorporation number of the Secretariat or of any of the Secretariat's subsidiaries or wholly owned companies, subject to the terms and conditions in this Agreement and any other terms and conditions that may be established by the Secretariat or the MNO from time to time.

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5. Financial

- 5.1 Community Council funds shall be used only for the benefit of the Métis citizens who are represented by the Community Council. Expenditures shall be consistent with the financial ability of the Community Council and may include, but are not limited to:
 - a) the purpose of assisting Métis citizens of the MNO;
 - b) salaries, offices or administration;
 - c) obligations arising from agreements entered into for the benefit of the Métis citizens represented by the MNO;
 - d) other activities that fall within the purposes of the MNO as stated in the Statement of Purpose (Appendix A).
- 5.2 The Community Council and any of its committees, subsidiaries, institutions or other entities shall;
 - a) have a fiscal end of March 31st;
 - b) keep its financial records in accordance with generally accepted accounting procedures;
 - c) cause an annual financial statement of its books and records and funds to be created within 90 days of the end of the fiscal year;
 - d) within 30 days of its completion, submit the financial statement to the Secretariat;
 - e) within 30 days of its completion, provide on request, the financial statement to its citizens.
- 5.3 In the event that a copy of the annual financial statement is not submitted, pursuant to paragraph 5.2(d), the Secretariat may cause an audit to be made, at the expense of the Community Council.

6. Revocation or Suspension of Community Council Charter

- 6.1 In the event that a Community Charter is revoked or suspended under this Agreement, or the Community Council disbands, the Community Charter and all books and records shall be delivered to the Secretariat within 10 days after a demand is made by the Secretariat.
- 6.2 Serious violations of this Agreement and will be subject to an inquiry by the Executive Council of the Secretariat. Serious violations of this Agreement include but are not limited to the following:
 - a) making a false statement or withholding material information when applying for a Community Charter, government programs or grants;
 - b) failure to comply with any decision or order of the MNO or the Secretariat;
 - c) any willful action which defeats or impedes activities of the MNO, the Secretariat or any of its Community Councils in furtherance of the purposes of the MNO;
 - d) misappropriating money or property of the MNO, the Secretariat or the moneys or property held or managed by the Community Council for the benefit of the citizens of the Community Council;

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e) incorporation under the laws of Ontario or Canada of the Community Council or other any committees, subsidiaries, institutions or other entities of the Community Council for any purpose whatsoever;

7. Dispute Resolution

- 7.1 Any dispute or inquiry that arises out of this Agreement shall be referred to the Community Council for resolution.
- 7.2 If resolution is not possible under paragraph 7.1 an inquiry panel may be called by the Secretariat for that purpose.
- 7.3 The Executive Council may call for a sitting of an inquiry panel upon request or upon its own initiative.
- 7.4 The inquiry panel will be composed of a Chair who is appointed by the Executive Council and who is not a sitting member of the Executive Council, one Executive Council member and one Community Council member.
- 7.5 Where a dispute is referred to the Executive Council or where the Executive Council, upon its own initiative calls for an inquiry, the Secretariat shall give 30 days notice in writing to all parties. Such notice shall include the reasons for the inquiry and the materials and persons, which the parties shall provide for the assistance of the inquiry panel. The inquiry shall be held within 90 days of issuing the notice.
- 7.6 At any inquiry, called pursuant to paragraph 7.2 the panel shall hear representations from persons or entities concerned in the dispute. The inquiry panel may decide whether the representations are to be made orally or in writing. Any written submission must be received at least 30 days before the date of the inquiry.
- 7.7 Upon termination of the inquiry the panel shall either:
 - a) issue a recommendation as to costs
 - b) issue a recommendation regarding the substantive issue in dispute; or
 - c) issue a recommended procedure on how to resolve the dispute; or
 - d) issue a judgment on the merits of the issue in dispute.
- 7.8 A judgment on the merits of the issue in dispute may be either:
 - a) to uphold the Community Charter; or
 - b) to revoke the Community Charter permanently; or
 - c) to place the Community Charter in the care of trustees; or
 - d) to suspend the Community Charter, pending the completion of specified actions by the Community Council and/or any of its committees, subsidiaries, institutions or other entities.

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7.9 Where an inquiry is held, the panel shall set out its decision in writing. The written decision shall be made available to the parties within 30 days of the inquiry.

Appeals

- 7.10 A decision of the inquiry panel arising from this Agreement may be appealed to a specially convened Senators Council, which shall be called together for this purpose by the Executive Council. The Senators Council shall consist of at least three Métis Senators.
- 7.11 At any appeal pursuant to paragraph 7.10, the Senators Council may hear representations from the parties. The Senators Council may decide whether the representations are to be made orally or in writing. Any written submission must be received at least 30 days before the date of the inquiry.
- 7.12 Upon termination of the appeal the Senators Council shall:
 - a) issue a decision as to costs
 - b) issue a judgment on the merits of the issue in dispute.
- 7.13 A judgment on the merits of the issue in dispute may be either:
 - a) to uphold the Community Charter; or
 - b) to revoke the Community Charter permanently; or
 - c) to place the Community Charter in the care of trustees; or
 - d) to suspend the Community Charter, pending the completion of specified actions by the Community Council and/or any of its committees, subsidiaries, institutions or other entities.
- 7.14 The Senators Council shall set out its decision in writing. The written decision shall be made available to the parties within 30 days of the appeal.
- 7.15 A decision of the Senators Council shall be final and binding on the parties.

8. Role of the MNO Secretariat

- 8.1 Where the Community Council uses the incorporation number of the Secretariat, notice of any contract or agreement which the Community Council or any of its committees, subsidiaries, institutions or other entities, enters into which incurs liabilities for the Secretariat or any of the Secretariat's committees, subsidiaries, institutions or other entities under its control, shall be subject to the approval of, and given in writing to, the Secretariat.
- 8.2 The Secretariat shall not be liable under contracts entered into pursuant to paragraph 8.1 unless the Community Council and its committees, subsidiaries, institutions or other entities has received authorization in writing by the Secretariat.
- 8.3 The Secretariat or any of its committees, subsidiaries, institutions or other entities under its control shall maintain a supervisory function with respect to all contracts, tasks, privileges and

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responsibilities which the Community Council or any of its committees, subsidiaries, institutions or other entities enters into which incur liability for the Secretariat.

9. No Incorporation Rule

- 9.1 The Community Council shall not be or remain incorporated under the laws of Ontario or Canada for any purpose whatsoever.
- 9.2 In the event that the Community Council has committees, subsidiaries, institutions or other entities under its control which were incorporated under the laws of Ontario or Canada prior to entering into this Agreement, the Community Council agrees to work with the Secretariat towards bringing those entities within the spirit of this Agreement and the parties shall sign a Memorandum of Understanding to that effect which shall be attached to and form part of this Agreement.
 - 9.2.1 Paragraph 6.2(e) will not apply to the Community Council provided a Memorandum of Understanding is signed pursuant to Paragraph 9.2, which covers all committees, subsidiaries, institutions or other entities under its control that were incorporated under the laws of Ontario or Canada prior to entering into this Agreement.
- 9.3 Notwithstanding 9.1, the Community Council may incorporate under the laws of Ontario or Canada, an entity that shall not be or become the Community Council itself, and such entity shall be a for-profit development corporation, which shall be incorporated on the following terms and conditions:
 - a) the Community Council shall inform the PCMNO in writing of their intention to incorporate a development corporation;
 - b) the Community Council shall work with MNO's legal counsel to draft the by-laws and articles of incorporation for the development corporation;
 - c) the articles of incorporation and the by-laws of the development corporation shall stipulate that at times:
 - i) 100% of the members of the Board of Directors shall be citizens of the MNO;
 - ii) 100% of the shares of the development corporation shall be held by citizens of the MNO resident in the geographic territory described in paragraph 3.10; and
 - iii) the purpose, services and any profits of the development corporation shall be solely for the benefit of the citizens of MNO.
- 9.4 Any violation of the terms of paragraph 9.3 shall constitute a fundamental breach of this Community Charter Agreement.

10. Termination of this Agreement

10.1 This Agreement may be terminated by any party if another party does not perform its obligations under this Agreement for a period of thirty (30) days after receiving written notice of such default from the party seeking to terminate.

June 4, 2009

11. Agreement Without Prejudice

11.1 This Agreement creates only the rights and a privilege expressly described herein and is without prejudice to other existing legal rights of the parties including for greater certainty any Aboriginal or Treaty rights of the individual Métis represented by the Community Council, the Community Council, the Secretariat or the MNO.

12. Applicable Law

12.1 This Agreement shall be governed by and construed in accordance with the laws of the MNO.

13. Endurement

13.1 This Agreement shall endure to the benefit of and be binding upon the parties and their respective successors and assigns.

14. Not Transferable

14.1 This Agreement is not transferable to any other party.

15. Transmission by Facsimile

15.1 The parties hereto agree that this Agreement may be transmitted by facsimile or such similar device and that the reproduction of signatures by facsimile or such similar device will be treated as binding as if originals and each party hereto undertakes to provide each and every other part hereto with a copy of the Agreement bearing original signatures forthwith upon demand.

16. Amendments to this Agreement

16.1 This Agreement may be amended at any time with the consent of the parties. The amendment shall be ratified by the Executive Council and by resolution passed at a meeting of the Community represented by the Community Council. Amendments shall be in writing, signed by both parties, attached to this Agreement, and after effective date will form part of this Agreement.

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June 4, 2009

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17.1 This Agreement has an effective date of the 4th day of June in the year 2009.

IN WITNESS WHEREOF the Métis Nation of Ontario, the MNO Secretariat and the Community Council has executed this *MNO Community Charter Agreement*.

Signing Authority for the Community Council

Gary Lipinski, President on behalf of the Métis Nation of Ontario

Date: June 4, 2009

Mission of Ontario

Date: June 4, 2009

Date: June 4, 2009

Date: June 4, 2009

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Métis Nation of Ontario Community Charter Agreement

The seal, an impression whereof is stamped in the margin hereof, shall be the seal of the Métis Nation of Ontario Secretariat ("MNO").

This Agreement is made in triplicate this 11th day of April, 2011,

BETWEEN:

Métis Nation of Ontario

["MNO"]

AND:

Métis Nation of Ontario Secretariat Inc.

A corporation duly incorporated under the laws of Ontario ["Secretariat"]

AND:

Greenstone Métis Council

["Community Council"]

WHEREAS the Métis people joined together long ago to form a new nation which Louis Riel called the Métis Nation;

AND WHEREAS the Métis Nation continues today to be the embodiment of our past, our present and our hopes and aspirations for the future;

AND WHEREAS the Métis people who live in Ontario, desiring to bind our people together to collectively promote a common cultural, social, political and economic well-being, have founded the MNO to be our representative body;

AND WHEREAS the existing Aboriginal and Treaty rights of the Métis people, as one of the Aboriginal peoples of Canada, are recognized and affirmed under section 35 of the *Constitution Act*, 1982;

AND WHEREAS the Métis people, as one of the Aboriginal peoples of Canada, has the inherent right of self-determination and self-government;

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MNO Community Charter Agreement

February, 2011

AND WHEREAS the MNO wishes to establish democratic institutions based on that inherent right of self-government;

AND WHEREAS the MNO wishes to promote and foster community development within the Métis Nation;

AND WHEREAS the MNO wishes to develop prosperity and economic self-sufficiency within the communities of the Métis Nation;

AND WHEREAS the MNO has incorporated under the laws of Ontario a body known as the Secretariat for the purposes of implementing community development and democratic institutions, until such time as they may be governed by their own self-government;

AND WHEREAS the MNO may incorporate under the laws of Ontario other bodies for the purposes of implementing community development;

AND WHEREAS the Community Council declares itself to be the democratic representative of the citizens of the MNO who live within the geographic territory of described in this Agreement;

AND WHEREAS the Community Council declares that it wishes to enter into an agreement with the MNO in order that it may represent the Métis citizens of the community under the values, principles and laws of the MNO as amended from time to time;

AND WHEREAS the MNO recognizes the Community Council as the only legitimate representative of the Métis citizens of the MNO who live within the boundaries of the Community;

AND WHEREAS the MNO wishes to enter into an agreement with the Community Council to further the interests of the Métis citizens who are represented by the Community Council;

NOW THEREFORE in consideration of the respective covenants and agreements of the parties contained in this Agreement, the MNO, the Secretariat and the Community Council agree as follows:

1. Name of this Agreement

1.1 This agreement shall be called the *Métis Nation of Ontario Community Charter Agreement*.

2. Definitions

- 2.1 All words and phrases in this Agreement have the same meaning as in the Secretariat's bylaws. In the event of any conflict the definitions in the by-laws of the MNO shall prevail to the extent of the conflict.
- 2.2 "Community Charter" means the certificate granted by the MNO to the Community Council under the terms of this agreement.

February, 2011

2.3 "Executive Council" means the Executive Council of the Secretariat as defined in the Secretariat's by-laws.

3. The Community Council

Criteria for Community Council

- 3.1 The Community Council declares that it represents the citizens of the MNO who live within the specified geographic area described in paragraph 3.10.
- 3.2 The Community Council declares that it represents only the Métis citizens who meet the criteria of, and are registered with, the MNO.
- 3.3 The Community Council declares that it currently represents and will maintain a minimum of 15 citizens who are eligible to vote in the MNO.
- 3.4 The Community Council subscribes to the principles of the MNO as stated in the *Statement of Purpose*, a copy of which is attached as Appendix A to this Agreement, and agrees to be bound by it.
- 3.5 The Community Council shall adopt a Community Code, which shall contain but is not limited to the following:
 - a) a statement of purpose;
 - b) the rights and responsibilities of the citizens;
 - c) the responsibilities and duties of the Community Council;
 - d) rules of fiscal management;
 - e) rules pertaining to the calling and conduct of meetings;
 - f) accountability of the Community Council to the citizens and to the Executive Council; and
 - g) a dispute resolution mechanism;
- 3.6 The Community Code shall be submitted to the Secretariat as it is adopted or amended. The Community Council shall notify the Secretariat of any changes in its Council or to its Community Code within 30 days of such change.
- 3.7 The Community Council may modify and adopt the MNO by-laws as its Community Code. The MNO by-laws shall govern in any matter not specifically provided for in the Community Code. The Community Council shall revise, within thirty days, after receiving written notice, any provisions in its Community Code which are found to be in conflict with the MNO by-laws.
- 3.8 The Community Council shall not represent the interests of non-aboriginal persons, those who self-identify as Inuit, or those who are registered as Indians under the *Indian Act, R.S.C. 1985*, *c.* 6 as amended from time to time.

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3.9 The Community Council shall not enter into an agreement with governments or other bodies where that agreement is inconsistent with the by-laws, regulations, policies or guidelines, as amended from time to time.

Description of Community Council

3.10 The Greenstone Métis Council is described geographically as follows:

Northern Boundary: Beginning at Armstrong proceed east along rail-line through Ferland, Auden, Cavell and Aroland to Hwy 643. Follow Hwy 643 east to Nakina, turning slightly southeast across the southern tip of Lower Twin Lake to the Region 2-3 border.

Eastern Boundary: From the southern tip of Lower Twin Lake, proceed in a southeasterly direction across to the top of Chipman Lake, from here follow a straight southerly line to Manitowadge.

Southern Boundary: From Manitowadge draw a horizontal line west to Orient Bay.

Western Boundary: From Orient Bay follow a straight line northwesterly to Armstrong.

The address of the Community Council is as follows:

Greenstone Métis Council 205 Clark Ave. E. Geraldton, ON POT 1M0 T: 807-854-1172

Decision Making in the Community Council

3.12 In decision-making, the Community Council shall strive for consensus. If consensus cannot be achieved, then a vote may be taken. If voting is used for decision making then majority rule shall obtain.

4. Community Charter

- 4.1 The MNO and the Secretariat shall grant a Community Charter upon execution of this Agreement.
- 4.2 Provided the Community Council is not in breach of any term of this Agreement, the Community Council:
 - a) is a non-voting member of the Secretariat;
 - b) has all the rights, privileges, responsibilities, liabilities and duties as defined within or arising out of, this Agreement and the MNO by-laws;
 - c) is entitled to use the incorporation number of the Secretariat or of any of the Secretariat's subsidiaries or wholly owned companies, subject to the terms and conditions in this

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MNO Community Charter Agreement

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Agreement and any other terms and conditions that may be established by the Secretariat or the MNO from time to time.

5. Financial

- 5.1 Community Council funds shall be used only for the benefit of the Métis citizens who are represented by the Community Council. Expenditures shall be consistent with the financial ability of the Community Council and may include, but are not limited to:
 - a) the purpose of assisting Métis citizens of the MNO;
 - b) salaries, offices or administration;
 - c) obligations arising from agreements entered into for the benefit of the Métis citizens represented by the MNO;
 - d) other activities that fall within the purposes of the MNO as stated in the Statement of Purpose (Appendix A).
- 5.2 The Community Council and any of its committees, subsidiaries, institutions or other entities shall:
 - a) have a fiscal end of March 31st;
 - b) keep its financial records in accordance with generally accepted accounting procedures;
 - c) cause an annual financial statement of its books and records and funds to be created within 90 days of the end of the fiscal year;
 - d) within 30 days of its completion, submit the financial statement to the Secretariat;
 - e) within 30 days of its completion, provide on request, the financial statement to its citizens.
- 5.3 In the event that a copy of the annual financial statement is not submitted, pursuant to paragraph 5.2(d), the Secretariat may cause an audit to be made, at the expense of the Community Council.

6. Revocation or Suspension of Community Council Charter

- 6.1 In the event that a Community Charter is revoked or suspended under this Agreement, or the Community Council disbands, the Community Charter and all books and records shall be delivered to the Secretariat within 10 days after a demand is made by the Secretariat.
- 6.2 Serious violations of this Agreement and will be subject to an inquiry by the Executive Council of the Secretariat. Serious violations of this Agreement include but are not limited to the following:
 - a) making a false statement or withholding material information when applying for a Community Charter, government programs or grants;
 - b) failure to comply with any decision or order of the MNO or the Secretariat;
 - c) any willful action which defeats or impedes activities of the MNO, the Secretariat or any of its Community Councils in furtherance of the purposes of the MNO;

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- d) misappropriating money or property of the MNO, the Secretariat or the moneys or property held or managed by the Community Council for the benefit of the citizens of the Community Council;
- e) incorporation under the laws of Ontario or Canada of the Community Council or other any committees, subsidiaries, institutions or other entities of the Community Council for any purpose whatsoever;

7. Dispute Resolution

- 7.1 Any dispute or inquiry that arises out of this Agreement shall be referred to the Community Council for resolution.
- 7.2 If resolution is not possible under paragraph 7.1 an inquiry panel may be called by the Secretariat for that purpose.
- 7.3 The Executive Council may call for a sitting of an inquiry panel upon request or upon its own initiative.
- 7.4 The inquiry panel will be composed of a Chair who is appointed by the Executive Council and who is not a sitting member of the Executive Council, one Executive Council member and one Community Council member.
- 7.5 Where a dispute is referred to the Executive Council or where the Executive Council, upon its own initiative calls for an inquiry, the Secretariat shall give 30 days notice in writing to all parties. Such notice shall include the reasons for the inquiry and the materials and persons, which the parties shall provide for the assistance of the inquiry panel. The inquiry shall be held within 90 days of issuing the notice.
- 7.6 At any inquiry, called pursuant to paragraph 7.2 the panel shall hear representations from persons or entities concerned in the dispute. The inquiry panel may decide whether the representations are to be made orally or in writing. Any written submission must be received at least 30 days before the date of the inquiry.
- 7.7 Upon termination of the inquiry the panel shall either:
 - a) issue a recommendation as to costs
 - b) issue a recommendation regarding the substantive issue in dispute; or
 - c) issue a recommended procedure on how to resolve the dispute; or
 - d) issue a judgment on the merits of the issue in dispute.
- 7.8 A judgment on the merits of the issue in dispute may be either:
 - a) to uphold the Community Charter; or
 - b) to revoke the Community Charter permanently; or
 - c) to place the Community Charter in the care of trustees; or

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- d) to suspend the Community Charter temporarily, pending the completion of specified actions by the Community Council and/or any of its committees, subsidiaries, institutions or other entities.
- 7.9 Where an inquiry is held, the panel shall set out its decision in writing. The written decision shall be made available to the parties within 30 days of the inquiry.

Appeals

- 7.10 A decision of the inquiry panel arising from this Agreement may be appealed to a specially convened Senators Council which shall be called together for this purpose by the Executive Council. The Senators Council shall consist of at least three Métis Senators.
- 7.11 At any appeal pursuant to paragraph 7.10, the Senators Council may hear representations from the parties. The Senators Council may decide whether the representations are to be made orally or in writing. Any written submission must be received at least 30 days before the date of the inquiry.
- 7.12 Upon termination of the appeal the Senators Council shall:
 - a) issue a decision as to costs
 - b) issue a judgment on the merits of the issue in dispute.
- 7.13 A judgment on the merits of the issue in dispute may be either:
 - a) to uphold the Community Charter; or
 - b) to revoke the Community Charter permanently; or
 - c) to place the Community Charter in the care of trustees; or
 - d) to suspend the Community Charter temporarily, pending the completion of specified actions by the Community Council and/or any of its committees, subsidiaries, institutions or other entities.
- 7.14 The Senators Council shall set out its decision in writing. The written decision shall be made available to the parties within 30 days of the appeal.
- 7.15 A decision of the Senators Council shall be final and binding on the parties.

8. Role of the MNO Secretariat

8.1 Where the Community Council uses the incorporation number of the Secretariat, notice of any contract or agreement which the Community Council or any of its committees, subsidiaries, institutions or other entities, enters into which incurs liabilities for the Secretariat or any of the Secretariat's committees, subsidiaries, institutions or other entities under its control, shall be subject to the approval of, and given in writing to, the Secretariat.

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- 8.2 The Secretariat shall not be liable under contracts entered into pursuant to paragraph 8.1 unless the Community Council and its committees, subsidiaries, institutions or other entities has received authorization in writing by the Secretariat.
- 8.3 The Secretariat or any of its committees, subsidiaries, institutions or other entities under its control shall maintain a supervisory function with respect to all contracts, tasks, privileges and responsibilities which the Community Council or any of its committees, subsidiaries, institutions or other entities enters into which incur liability for the Secretariat.

9. No Incorporation Rule

- 9.1 The Community Council shall not be or remain incorporated under the laws of Ontario or Canada for any purpose whatsoever.
- 9.2 In the event that the Community Council has committees, subsidiaries, institutions or other entities under its control which were incorporated under the laws of Ontario or Canada prior to entering into this Agreement, the Community Council agrees to work with the Secretariat towards bringing those entities within the spirit of this Agreement and the parties shall sign a Memorandum of Understanding to that effect which shall be attached to and form part of this Agreement.
 - 9.2.1 Paragraph 6.2(e) will not apply to the Community Council provided a Memorandum of Understanding is signed pursuant to Paragraph 9.2, which covers all committees, subsidiaries, institutions or other entities under its control that were incorporated under the laws of Ontario or Canada prior to entering into this Agreement.
- 9.3 Notwithstanding 9.1, the Community Council may incorporate under the laws of Ontario or Canada, an entity which shall not be or become the Community Council itself, and such entity shall be a for-profit development corporation which shall be incorporated on the following terms and conditions:
 - a) the Community Council shall inform the PCMNO in writing of their intention to incorporate a development corporation;
 - b) the Community Council shall work with MNO's legal counsel to draft the by-laws and articles of incorporation for the development corporation;
 - c) the articles of incorporation and the by-laws of the development corporation shall stipulate that at times:
 - i) 100% of the members of the Board of Directors shall be citizens of the MNO;
 - ii) 100% of the shares of the development corporation shall be held by citizens of the MNO resident in the geographic territory described in paragraph 3.10; and
 - iii) the purpose, services and any profits of the development corporation shall be solely for the benefit of the citizens of MNO.
- 9.4 Any violation of the terms of paragraph 9.3 shall constitute a fundamental breach of this Community Charter Agreement.

February, 2011

10. Termination of this Agreement

10.1 This Agreement may be terminated by any party if another party does not perform its obligations under this Agreement for a period of thirty (30) days after receiving written notice of such default from the party seeking to terminate.

11. Agreement Without Prejudice

11.1 This Agreement creates only the rights and a privilege expressly described herein and is without prejudice to other existing legal rights of the parties including for greater certainty any Aboriginal or Treaty rights of the individual Métis represented by the Community Council, the Community Council, the Secretariat or the MNO.

12. Applicable Law

12.1 This Agreement shall be governed by and construed in accordance with the laws of the MNO.

13. Endurement

13.1 This Agreement shall endure to the benefit of and be binding upon the parties and their respective successors and assigns.

14. Not Transferable

14.1 This Agreement is not transferable to any other party.

15. Transmission by Facsimile

15.1 The parties hereto agree that this Agreement may be transmitted by facsimile or such similar device and that the reproduction of signatures by facsimile or such similar device will be treated as binding as if originals and each party hereto undertakes to provide each and every other part hereto with a copy of the Agreement bearing original signatures forthwith upon demand.

16. Amendments to this Agreement

16.1 This Agreement may be amended at any time with the consent of the parties. The amendment shall be ratified by the Executive Council and by resolution passed at a meeting of the Community represented by the Community Council. Amendments shall be in writing, signed by both parties and attached to this Agreement and after effective date will form part of this Agreement.

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MNO Community Charter Agreement

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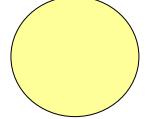
Effective Date 17.1 This Agreement has an effective date of t	he day of, in the year 2011.
IN WITNESS WHEREOF the Métis Nation of Council has executed this MNO Community Cha	
Signing Authority for the Community Council	Date
Gary Lipinski, President on behalf of the Métis Nation of Ontario	Date
Signing Authority on behalf of the	 Date

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Métis Nation of Ontario Community Charter Agreement

The seal, an impression whereof is stamped in the margin hereof, shall be the seal of the Métis Nation of Ontario Secretariat ("MNO").



This Agreement is made in triplicate this day of , 2011,

BETWEEN:

Métis Nation of Ontario

["MNO"]

AND:

Métis Nation of Ontario Secretariat Inc.

A corporation duly incorporated under the laws of Ontario ["Secretariat"]

AND:

Thunder Bay Métis Council

["Community Council"]

WHEREAS the Métis people joined together long ago to form a new nation which Louis Riel called the Métis Nation;

AND WHEREAS the Métis Nation continues today to be the embodiment of our past, our present and our hopes and aspirations for the future;

AND WHEREAS the Métis people who live in Ontario, desiring to bind our people together to collectively promote a common cultural, social, political and economic well-being, have founded the MNO to be our representative body;

AND WHEREAS the existing Aboriginal and Treaty rights of the Métis people, as one of the Aboriginal peoples of Canada, are recognized and affirmed under section 35 of the *Constitution Act*, 1982;

AND WHEREAS the Métis people, as one of the Aboriginal peoples of Canada, has the inherent right of self-determination and self-government;

AND WHEREAS the MNO wishes to establish democratic institutions based on that inherent right of self-government;

February, 2011

AND WHEREAS the MNO wishes to promote and foster community development within the Métis Nation;

AND WHEREAS the MNO wishes to develop prosperity and economic self-sufficiency within the communities of the Métis Nation;

AND WHEREAS the MNO has incorporated under the laws of Ontario a body known as the Secretariat for the purposes of implementing community development and democratic institutions, until such time as they may be governed by their own self-government;

AND WHEREAS the MNO may incorporate under the laws of Ontario other bodies for the purposes of implementing community development;

AND WHEREAS the Community Council declares itself to be the democratic representative of the citizens of the MNO who live within the geographic territory of described in this Agreement;

AND WHEREAS the Community Council declares that it wishes to enter into an agreement with the MNO in order that it may represent the Métis citizens of the community under the values, principles and laws of the MNO as amended from time to time;

AND WHEREAS the MNO recognizes the Community Council as the only legitimate representative of the Métis citizens of the MNO who live within the boundaries of the Community;

AND WHEREAS the MNO wishes to enter into an agreement with the Community Council to further the interests of the Métis citizens who are represented by the Community Council;

NOW THEREFORE in consideration of the respective covenants and agreements of the parties contained in this Agreement, the MNO, the Secretariat and the Community Council agree as follows:

1. Name of this Agreement

1.1 This agreement shall be called the *Métis Nation of Ontario Community Charter Agreement*.

2. Definitions

- 2.1 All words and phrases in this Agreement have the same meaning as in the Secretariat's bylaws. In the event of any conflict the definitions in the by-laws of the MNO shall prevail to the extent of the conflict.
- 2.2 "Community Charter" means the certificate granted by the MNO to the Community Council under the terms of this agreement.
- 2.3 "Executive Council" means the Executive Council of the Secretariat as defined in the Secretariat's by-laws.

February, 2011

3. The Community Council

Criteria for Community Council

- 3.1 The Community Council declares that it represents the citizens of the MNO who live within the specified geographic area described in paragraph 3.10.
- 3.2 The Community Council declares that it represents only the Métis citizens who meet the criteria of, and are registered with, the MNO.
- 3.3 The Community Council declares that it currently represents and will maintain a minimum of 15 citizens who are eligible to vote in the MNO.
- 3.4 The Community Council subscribes to the principles of the MNO as stated in the *Statement of Purpose*, a copy of which is attached as Appendix A to this Agreement, and agrees to be bound by it.
- 3.5 The Community Council shall adopt a Community Code, which shall contain but is not limited to the following:
 - a) a statement of purpose;
 - b) the rights and responsibilities of the citizens;
 - c) the responsibilities and duties of the Community Council;
 - d) rules of fiscal management;
 - e) rules pertaining to the calling and conduct of meetings;
 - f) accountability of the Community Council to the citizens and to the Executive Council; and
 - g) a dispute resolution mechanism;
- 3.6 The Community Code shall be submitted to the Secretariat as it is adopted or amended. The Community Council shall notify the Secretariat of any changes in its Council or to its Community Code within 30 days of such change.
- 3.7 The Community Council may modify and adopt the MNO by-laws as its Community Code. The MNO by-laws shall govern in any matter not specifically provided for in the Community Code. The Community Council shall revise, within thirty days, after receiving written notice, any provisions in its Community Code which are found to be in conflict with the MNO by-laws.
- 3.8 The Community Council shall not represent the interests of non-aboriginal persons, those who self-identify as Inuit, or those who are registered as Indians under the *Indian Act, R.S.C. 1985*, *c.* 6 as amended from time to time.
- 3.9 The Community Council shall not enter into an agreement with governments or other bodies where that agreement is inconsistent with the by-laws, regulations, policies or guidelines, as amended from time to time.

February, 2011

Description of Community Council

3.10 The Thunder Bay Metis Community Council is described geographically as follows:

Western Boundary: Beginning at the English River, follow a vertical line straight south along the Region 1-2 border all the way south to Saganaga Lake. Proceed south through Saganaga Lake to the Canada-US border.

Southern Boundary: From Saganaga Lake on the Canada-US border follow the international border in an easterly direction through to the mouth of the Pigeon River on Lake Superior. From the mouth of the Pigeon River follow a straight line to Puff Island Provincial Natural Reserve on Lake Superior which is located just south of Simpson Island on Lake Superior.

Eastern Boundary: From Puff Island follow a vertical line north to Lake Helen, continue north following Hwy 11 to Orient Bay. Continue northwesterly to Armstrong.

Northern Boundary: From Armstrong follow a vertical line to Gull Bay. Continue in a southwesterly direction to the English River.

The address of the Community Council is as follows:

Thunder Bay Métis Council 226 May Street South Thunder Bay, ON P7E 1B4

T: 807-624-5018

TF: 800-265-2595 (This area only)

F: 807-623-4311

Decision Making in the Community Council

3.12 In decision-making, the Community Council shall strive for consensus. If consensus cannot be achieved, then a vote may be taken. If voting is used for decision making then majority rule shall obtain.

4. Community Charter

- 4.1 The MNO and the Secretariat shall grant a Community Charter upon execution of this Agreement.
- 4.2 Provided the Community Council is not in breach of any term of this Agreement, the Community Council:
 - a) is a non-voting member of the Secretariat;
 - b) has all the rights, privileges, responsibilities, liabilities and duties as defined within or arising out of, this Agreement and the MNO by-laws;
 - c) is entitled to use the incorporation number of the Secretariat or of any of the Secretariat's subsidiaries or wholly owned companies, subject to the terms and conditions in this

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MNO Community Charter Agreement

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Agreement and any other terms and conditions that may be established by the Secretariat or the MNO from time to time.

5. Financial

- 5.1 Community Council funds shall be used only for the benefit of the Métis citizens who are represented by the Community Council. Expenditures shall be consistent with the financial ability of the Community Council and may include, but are not limited to:
 - a) the purpose of assisting Métis citizens of the MNO;
 - b) salaries, offices or administration;
 - c) obligations arising from agreements entered into for the benefit of the Métis citizens represented by the MNO;
 - d) other activities that fall within the purposes of the MNO as stated in the Statement of Purpose (Appendix A).
- 5.2 The Community Council and any of its committees, subsidiaries, institutions or other entities shall:
 - a) have a fiscal end of March 31st;
 - b) keep its financial records in accordance with generally accepted accounting procedures;
 - c) cause an annual financial statement of its books and records and funds to be created within 90 days of the end of the fiscal year;
 - d) within 30 days of its completion, submit the financial statement to the Secretariat;
 - e) within 30 days of its completion, provide on request, the financial statement to its citizens.
- 5.3 In the event that a copy of the annual financial statement is not submitted, pursuant to paragraph 5.2(d), the Secretariat may cause an audit to be made, at the expense of the Community Council.

6. Revocation or Suspension of Community Council Charter

- 6.1 In the event that a Community Charter is revoked or suspended under this Agreement, or the Community Council disbands, the Community Charter and all books and records shall be delivered to the Secretariat within 10 days after a demand is made by the Secretariat.
- 6.2 Serious violations of this Agreement and will be subject to an inquiry by the Executive Council of the Secretariat. Serious violations of this Agreement include but are not limited to the following:
 - a) making a false statement or withholding material information when applying for a Community Charter, government programs or grants;
 - b) failure to comply with any decision or order of the MNO or the Secretariat;
 - c) any willful action which defeats or impedes activities of the MNO, the Secretariat or any of its Community Councils in furtherance of the purposes of the MNO;

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MNO Community Charter Agreement

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- d) misappropriating money or property of the MNO, the Secretariat or the moneys or property held or managed by the Community Council for the benefit of the citizens of the Community Council;
- e) incorporation under the laws of Ontario or Canada of the Community Council or other any committees, subsidiaries, institutions or other entities of the Community Council for any purpose whatsoever;

7. Dispute Resolution

- 7.1 Any dispute or inquiry that arises out of this Agreement shall be referred to the Community Council for resolution.
- 7.2 If resolution is not possible under paragraph 7.1 an inquiry panel may be called by the Secretariat for that purpose.
- 7.3 The Executive Council may call for a sitting of an inquiry panel upon request or upon its own initiative.
- 7.4 The inquiry panel will be composed of a Chair who is appointed by the Executive Council and who is not a sitting member of the Executive Council, one Executive Council member and one Community Council member.
- 7.5 Where a dispute is referred to the Executive Council or where the Executive Council, upon its own initiative calls for an inquiry, the Secretariat shall give 30 days notice in writing to all parties. Such notice shall include the reasons for the inquiry and the materials and persons, which the parties shall provide for the assistance of the inquiry panel. The inquiry shall be held within 90 days of issuing the notice.
- 7.6 At any inquiry, called pursuant to paragraph 7.2 the panel shall hear representations from persons or entities concerned in the dispute. The inquiry panel may decide whether the representations are to be made orally or in writing. Any written submission must be received at least 30 days before the date of the inquiry.
- 7.7 Upon termination of the inquiry the panel shall either:
 - a) issue a recommendation as to costs
 - b) issue a recommendation regarding the substantive issue in dispute; or
 - c) issue a recommended procedure on how to resolve the dispute; or
 - d) issue a judgment on the merits of the issue in dispute.
- 7.8 A judgment on the merits of the issue in dispute may be either:
 - a) to uphold the Community Charter; or
 - b) to revoke the Community Charter permanently; or
 - c) to place the Community Charter in the care of trustees; or

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- d) to suspend the Community Charter temporarily, pending the completion of specified actions by the Community Council and/or any of its committees, subsidiaries, institutions or other entities.
- 7.9 Where an inquiry is held, the panel shall set out its decision in writing. The written decision shall be made available to the parties within 30 days of the inquiry.

Appeals

- 7.10 A decision of the inquiry panel arising from this Agreement may be appealed to a specially convened Senators Council which shall be called together for this purpose by the Executive Council. The Senators Council shall consist of at least three Métis Senators.
- 7.11 At any appeal pursuant to paragraph 7.10, the Senators Council may hear representations from the parties. The Senators Council may decide whether the representations are to be made orally or in writing. Any written submission must be received at least 30 days before the date of the inquiry.
- 7.12 Upon termination of the appeal the Senators Council shall:
 - a) issue a decision as to costs
 - b) issue a judgment on the merits of the issue in dispute.
- 7.13 A judgment on the merits of the issue in dispute may be either:
 - a) to uphold the Community Charter; or
 - b) to revoke the Community Charter permanently; or
 - c) to place the Community Charter in the care of trustees; or
 - d) to suspend the Community Charter temporarily, pending the completion of specified actions by the Community Council and/or any of its committees, subsidiaries, institutions or other entities.
- 7.14 The Senators Council shall set out its decision in writing. The written decision shall be made available to the parties within 30 days of the appeal.
- 7.15 A decision of the Senators Council shall be final and binding on the parties.

8. Role of the MNO Secretariat

- 8.1 Where the Community Council uses the incorporation number of the Secretariat, notice of any contract or agreement which the Community Council or any of its committees, subsidiaries, institutions or other entities, enters into which incurs liabilities for the Secretariat or any of the Secretariat's committees, subsidiaries, institutions or other entities under its control, shall be subject to the approval of, and given in writing to, the Secretariat.
- 8.2 The Secretariat shall not be liable under contracts entered into pursuant to paragraph 8.1 unless the Community Council and its committees, subsidiaries, institutions or other entities has received authorization in writing by the Secretariat.

MNO Community Charter Agreement

February, 2011

8.3 The Secretariat or any of its committees, subsidiaries, institutions or other entities under its control shall maintain a supervisory function with respect to all contracts, tasks, privileges and responsibilities which the Community Council or any of its committees, subsidiaries, institutions or other entities enters into which incur liability for the Secretariat.

9. No Incorporation Rule

- 9.1 The Community Council shall not be or remain incorporated under the laws of Ontario or Canada for any purpose whatsoever.
- 9.2 In the event that the Community Council has committees, subsidiaries, institutions or other entities under its control which were incorporated under the laws of Ontario or Canada prior to entering into this Agreement, the Community Council agrees to work with the Secretariat towards bringing those entities within the spirit of this Agreement and the parties shall sign a Memorandum of Understanding to that effect which shall be attached to and form part of this Agreement.
 - 9.2.1 Paragraph 6.2(e) will not apply to the Community Council provided a Memorandum of Understanding is signed pursuant to Paragraph 9.2, which covers all committees, subsidiaries, institutions or other entities under its control that were incorporated under the laws of Ontario or Canada prior to entering into this Agreement.
- 9.3 Notwithstanding 9.1, the Community Council may incorporate under the laws of Ontario or Canada, an entity which shall not be or become the Community Council itself, and such entity shall be a for-profit development corporation which shall be incorporated on the following terms and conditions:
 - a) the Community Council shall inform the PCMNO in writing of their intention to incorporate a development corporation;
 - b) the Community Council shall work with MNO's legal counsel to draft the by-laws and articles of incorporation for the development corporation;
 - c) the articles of incorporation and the by-laws of the development corporation shall stipulate that at times:
 - i) 100% of the members of the Board of Directors shall be citizens of the MNO;
 - ii) 100% of the shares of the development corporation shall be held by citizens of the MNO resident in the geographic territory described in paragraph 3.10; and
 - iii) the purpose, services and any profits of the development corporation shall be solely for the benefit of the citizens of MNO.
- 9.4 Any violation of the terms of paragraph 9.3 shall constitute a fundamental breach of this Community Charter Agreement.

MNO Community Charter Agreement

February, 2011

10. Termination of this Agreement

10.1 This Agreement may be terminated by any party if another party does not perform its obligations under this Agreement for a period of thirty (30) days after receiving written notice of such default from the party seeking to terminate.

11. Agreement Without Prejudice

11.1 This Agreement creates only the rights and a privilege expressly described herein and is without prejudice to other existing legal rights of the parties including for greater certainty any Aboriginal or Treaty rights of the individual Métis represented by the Community Council, the Community Council, the Secretariat or the MNO.

12. Applicable Law

12.1 This Agreement shall be governed by and construed in accordance with the laws of the MNO.

13. Endurement

13.1 This Agreement shall endure to the benefit of and be binding upon the parties and their respective successors and assigns.

14. Not Transferable

14.1 This Agreement is not transferable to any other party.

15. Transmission by Facsimile

15.1 The parties hereto agree that this Agreement may be transmitted by facsimile or such similar device and that the reproduction of signatures by facsimile or such similar device will be treated as binding as if originals and each party hereto undertakes to provide each and every other part hereto with a copy of the Agreement bearing original signatures forthwith upon demand.

16. Amendments to this Agreement

16.1 This Agreement may be amended at any time with the consent of the parties. The amendment shall be ratified by the Executive Council and by resolution passed at a meeting of the Community represented by the Community Council. Amendments shall be in writing, signed by both parties and attached to this Agreement and after effective date will form part of this Agreement.

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February, 2011

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17.1 This Agreement has an effective date of the day of , in the year 2011.

IN WITNESS WHEREOF the Métis Nation of Ontario, the MNO Secretariat and the Community Council has executed this *MNO Community Charter Agreement*.

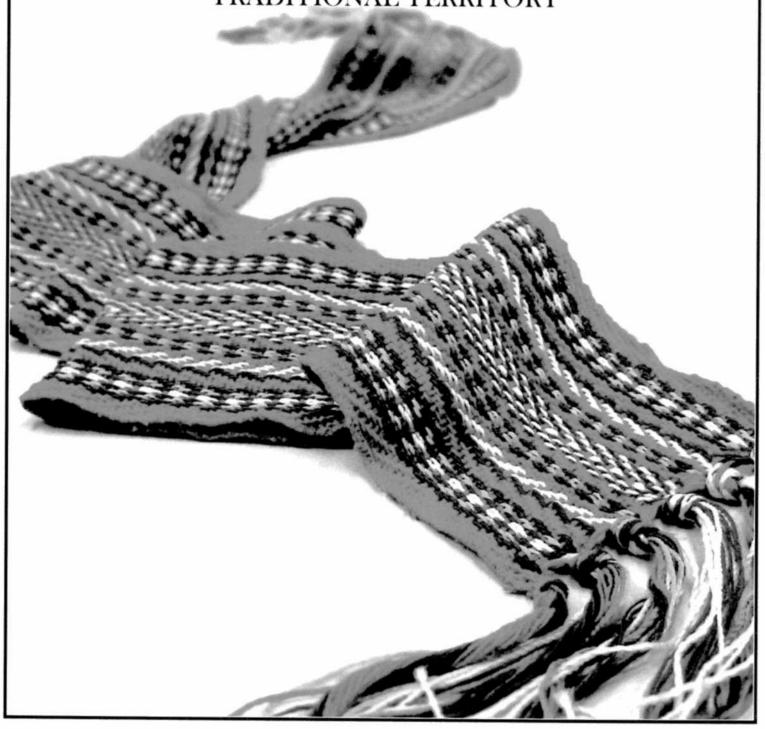
Signing Authority for the Community Council	Date
Gary Lipinski, President on behalf of the Métis Nation of Ontario	Date
Signing Authority on behalf of the MNO Secretariat	Date

Métis Nation Ontario

SIGNED ON THE 26TH OF MAY IN THE YEAR 2012

CONSULTATION PROTOCOL

for
LAKEHEAD/NIPIGON/MICHIPICOTEN
TRADITIONAL TERRITORY





Consultation Protocol Lakehead/Nipigon/Michipicoten Traditional Territories

This Protocol is executed in triplicate this 26th day of May in the year 2012.

BETWEEN:

Metis Nation of Ontario

["MNO"]

AND:

The Thunder Bay Métis Council
a Chartered Community Council of the Métis Nation of Ontario
["Thunder Bay Métis Council"]

AND:

The Greenstone Métis Council
a Chartered Community Council of the Métis Nation of Ontario
["Greenstone Métis Council"]

AND:

The Superior Northshore Métis Council
a Chartered Community Council of the Métis Nation of Ontario
["Superior Northshore Métis Council"]

WHEREAS the Metis people joined together long ago to form a new nation – the Métis Nation;

AND WHEREAS the Metis Nation continues today to be the embodiment of our past, our present and our hopes and aspirations for the future;

AND WHEREAS the Metis, as one of the constitutionally recognized Aboriginal peoples of Canada, has the inherent right of self-determination and self-government;

AND WHEREAS the citizens of the Métis Nation who live in Ontario, desiring to bind our people together to collectively promote a common cultural, social, political and economic well-being, have created the MNO to be their representative body;

AND WHEREAS the MNO, as the representative government of the Métis people and rights-bearing Métis communities in Ontario, negotiates and enters into Community Charter Agreements with Community Councils, which authorize democratically elected Community Councils to represent MNO citizens, within a defined geographic territory, pursuant to the roles and responsibilities set out in those Charter Agreements;

AND WHEREAS there are MNO citizens, who live in locations throughout Ontario, who are not currently represented by a MNO Chartered Community Council, but whose local and regional interests continue to be represented by the MNO's overall governance structure;

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AND WHEREAS MNO Charter Agreements are negotiated and executed for internal governance purposes, and, do not define, constrain or limit the geographic scope of rights-bearing Métis communities in Ontario or the traditional territories of those communities;

AND WHEREAS the Crown has a duty to consult, and, where appropriate, accommodate rights-bearing Métis communities on planning, developments, projects and policies that have the potential to affect Métis rights, interests and way of life, flowing from the honour of the Crown and s. 35 of the *Constitution Act, 1982*;

AND WHEREAS there are projects and developments in the Lakehead, Nipigon and Michipicoten Métis traditional harvesting territory, which have the potential to affect the rights, interests and way of life of the rights-bearing Métis community;

AND WHEREAS the MNO, along with its Chartered Community Councils, want to work together to ensure that the Crown fulfills its duty to consult, and, where appropriate, accommodate the rights, interests and way of life of the rights-bearing Métis community;

NOW THEREFORE in consideration of the above, the Parties agree as follows:

1. Name of this Agreement

1.1 This agreement shall be called the *Metis Nation of Ontario – Consultation Protocol* for the *Lakehead/Nipigon/Michipicoten Traditional Territories* [hereinafter referred to as "the Protocol"].

2. Definitions

- 2.1 All words and phrases in this Protocol have the same meaning as in the MNO's bylaws and the MNO Community Council Charter Agreements. To the extent of any conflict, the definitions in the by-laws of the MNO and the Charter Agreement shall prevail.
- 2.2 "Community Charter Agreement" means the agreements executed between the MNO and the MNO Chartered Community Councils, which set out the Parties respective jurisdiction, roles and responsibilities.
- 2.3 "Crown" means Her Majesty the Queen in Right of Canada and Ontario.
- 2.4 "Crown's consultation duties" means the Crown's constitutional obligations flowing from s. 35 of the *Constitution Act, 1982* and the honour of the Crown to consult, and, where appropriate, accommodate rights-bearing Métis communities on projects, developments and policies that have the potential to affect Métis rights, interests and way of life.
- 2.5 "Métis Traditional Territory" means the Lakehead, Nipigon and Michipicoten traditional territories, which is set out as a part of the MNO Harvesters Policy and have been recognized and accommodated by the Crown.
- 2.5 "MNO-Ontario harvesting agreement" means the four point agreement reached between the MNO President and the Ontario Minister for Natural Resources in July 2004.
- 2.5 "MNO" means the Métis Nation of Ontario, as the representative government of the Métis people in Ontario.
- 2.6 "Community Councils" means the Thunder Bay Métis Council, the Superior North Shore Métis Council and the Greenstone Métis Council, which democratically represent the interests of MNO citizens within the geographic territories defined by the respective Community Charter Agreements.
- 2.7 "Parties" means the MNO, the Thunder Bay Métis Council, the Superior North Shore Métis Council and the Greenstone Métis Council.

2.8 "Projects" means all projects or developments that are being considered, planned, pursued, reviewed and/or implemented within the Lakehead, Nipigon and Michipicoten traditional territories, but are outside the specific geographic territory of a MNO Chartered Community Council.

3. Purpose

- 3.1 The purpose of this Protocol is to:
 - a) protect Métis rights, land use, harvesting practices, traditional knowledge, sacred places as well as the rights-bearing Métis community's special relationship to the land within the Lakehead, Nipigon and Michipicoten traditional territories,
 - b) ensure the Crown's consultation duties to the rights-bearing Métis community which resides throughout, relies on, and, extensively uses, the Lakehead, Nipigon and Michipicoten traditional territories are fulfilled, in relation to any Projects,
 - c) establish a mutually agreeable process between the Parties which ensures all MNO citizens and members of the rights-bearing Métis community are effectively engaged and consulted on the Projects,
 - d) build the capacities of MNO Chartered Community Councils in relation to consultation,
 - e) strengthen the MNO's overall self-government structures and representativeness through collaboration and cooperation between the various levels of Métis government, including, MNO Chartered Community Councils, MNO Regional Councillors, the MNO Captains of the Hunt and the Provincial Council of the Métis Nation of Ontario.

4. Responsibilities of MNO and Community Council

- 4.1 The Parties assert that the Crown's constitutional duties are owed to the entire regional rights-bearing Métis community, which is not defined, limited or constrained by the geographic areas identified within MNO Community Council Charter Agreements or by the MNO's Regions.
- 4.2 The MNO, as the representative government of the Métis Nation and its regional rights-bearing communities in Ontario, has the ultimate responsibility to ensure the entire rights-bearing Métis community is consulted on the Projects.
- 4.3 The Community Councils, through their democratic mandates and their Charter Agreements with the MNO, have the responsibility to ensure the MNO citizens they represent are effectively consulted on the Projects.
- 4.4 The Parties have the responsibility to collaborate and cooperate in order to ensure the regional rights-bearing community is effectively consulted and represented within any Crown consultation processes, regulatory or environmental reviews, engagement with proponents, etc.
- 4.5 The Parties have the responsibility to work together in order to ensure the democratically elected local, regional and provincial governance structures of the Métis people in Ontario are consulted and respected by the Crown, proponents and other relevant groups.

5. Consultation Committee and Consultation Workplan

- 5.1 A four person Consultation Committee shall be established, which will include the MNO Regional Councilor and one representative designated by each of the MNO Community Councils.
- 5.2. The regional Captain of the Hunt shall be an ex-officio member of the Consultation Committee to provide advice and support to the Committee.

- 5.3 The MNO Regional Councilor shall act as the Chair of the Consultation Committee and shall only vote if consensus is not achieved or in the event of a tie.
- 5.4 MNO shall designate a staff person to work with the Consultation Committee in order to provide technical advice and support.
- 5.5 The Consultation Committee shall strive for all decisions to be made by consensus.
- 5.6 The Consultation Committee will work together to develop and implement a mutually agreeable Consultation Workplan to ensure the Crown's constitutional duties to the rights-bearing Métis community are fulfilled in relation to any Projects. This Consultation Workplan will include, but will not be limited to, the following:
 - a) an overview of the Projects;
 - b) terms of reference for the Consultation Committee,
 - c) activities, timelines, roles and responsibilities of the Parties,
 - d) a local and regional MNO citizen engagement plan, which would include meetings with MNO Chartered Community Councils, public meetings, etc.,
 - e) the identification of research and studies required,
 - f) staffing and administration requirements for the Community Councils,
 - g) a communications plan, and
 - h) appropriate budgets.
- 5.7 The Consultation Committee shall meet in person or via conference call as required and determined by the Consultation Committee.
- 5.8 Members of the Consultation Committee shall be remunerated for their work based on the MNO's policies and procedures, with the exception of Consultation Committee members who are employees of the MNO.
- 5.9 The Parties to this Protocol agree to jointly retain legal counsel advise them and to represent the rights-bearing Métis community in Crown consultation processes, regulatory and environmental reviews, negotiations with proponents, etc.

6. Communications with MNO Citizens

- 6.1 The Parties will work to ensure that all potentially affected MNO citizens are engaged and communicated with in a fair, transparent and open manner.
- 6.2 In order to ensure all MNO citizens have access to information related to Projects, the Parties agree to use the MNO's print and on-line communications tools.
- 6.3 The Consultation Committee shall report regularly to all MNO citizens and their respective Community Councils through Council meetings, local meetings as well as regional meetings.

7. Communications with the Crown and Proponents

- 7.1 The Consultation Committee shall provide direction for all written letters and submissions to the Crown, regulatory bodies and/or proponents in relation to any Projects.
- 7.2 Written letters and submissions in relation to the Project, on behalf of the rights-bearing community, shall be from the Chair of the Consultation Committee or his/her designate.
- 7.3 All written letters and submissions shall be provided to all members of the Consultation Committee as well as the Presidents of the Parties, including, the President of the MNO.

8. Dispute Resolution

- 8.1 Any dispute or inquiry that arises out of this Protocol shall first be referred to Presidents of the Community Councils for resolution.
- 8.2 If resolution is not possible under paragraph 9.1, an Inquiry Panel may be called.
- 8.3 The Inquiry Panel will be composed of a Chair who is a Senator and mutually agreed to by the Parties, an appointee by the MNO Executive Council, and an appointee by the Community Councils.
- Where a dispute is referred to and Inquiry Panel, the MNO Secretariat shall give 30 days notice in writing to all parties. Such notice shall include the reasons for the inquiry and the materials and persons, which the parties shall provide for the assistance of the inquiry panel. The inquiry shall be held within 90 days of issuing the notice.
- 8.5 At any inquiry, called pursuant to paragraph 8.2 the panel shall hear representations from persons or entities concerned in the dispute. The inquiry panel may decide whether the representations are to be made orally or in writing. Any written submission must be received at least 30 days before the date of the inquiry.
- 8.6 Upon termination of the inquiry the panel shall either:
 - a) issue a recommendation as to costs
 - b) issue a recommendation regarding the substantive issue in dispute; or
 - c) issue a recommended procedure on how to resolve the dispute; or
 - d) issue a judgment on the merits of the issue in dispute.
- Where an inquiry is held, the panel shall set out its decision in writing. The written decision shall be made available to the parties within 30 days of the inquiry.
- 8.8 All decisions of the Inquiry Panel shall be final.

9. Communications Between The Parties

9.1 For the purposes of this Protocol, the contact information below will be used by the Parties,

For the MNO:

500 Old St. Patrick Road Ottawa, Ontario, K1N 9G4 613-798-1488

T:

F: 613-722-4225

ATTN.:

Gary Lipinski, President

For MNO Regional Councillor:

Cameron Burgess c/o Thunder Bay Métis Council 226 May St. S. Thunder Bay, ON P7E 1B4 807-624-5018

For the Thunder Bay Métis Council:

Jean Camirand, President 226 May Street South Thunder Bay, ON P7E 1B4

807-624-5018 T: F: 807-623-4311

For the Greenstone Métis Council:
William Gordon, President
PO Box 825 211-401R 4th Ave
Geraldton, ON POT 1M0
T: 807-854-1172

For the Superior Northshore Métis Council:

Trent Desaulniers
26 Princess Ave.
Terrace Bay, On POT 2WO
T: 807-825-9082

10. General

- 10.1 This Protocol may be amended in writing at any time by agreement of the Parties.
- 10.2 This Protocol may be terminated by either Party by sending written notice to the other Party. Termination shall take effect thirty (30) days after receipt of said written notice.
- 10.3 Nothing in this Protocol limits or shall be interpreted as limiting the ability of the MNO President, the MNO Executive Council or the Provisional Council of the Métis Nation of Ontario to represent the interests of all MNO citizens in bilateral or tripartite discussions with governments, agencies or other organizations.
- 10.4 Nothing in this Protocol limits or shall be interpreted as limiting the ability of the Community Councils in representing the interests of the MNO citizens they represent or leading and engaging in consultation related discussions with the Crown on Projects and developments that are within the geographic scope of the Community Council, which do not have potential regional impacts on the rights-bearing Métis community.
- 10.5 Nothing in this Protocol amends, limits or alters the mandates, roles, responsibilities and jurisdictions set out in the MNO's by-laws, existing and future MNO Community Council Charter Agreements, the MNO Rules or Order or other MNO policies and procedures, as amended from time to time.
- 10.6 This Protocol shall enure to the benefit of and be binding upon the Parties and their respective successors and assigns.
- 10.7 This Protocol is not transferable to any other party.
- 10.8 This Protocol comes into effective upon its execution and shall remain in place until amended or terminated pursuant to the terms set out in this Protocol.

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IN WITNESS WHEREOF the Parties have executed this Protocol on the 26th day of May, in the year 2012.

Gary Lipinski

President

Metis Nation of Ontario

Witness

Cam Burgess

Region 2 Councillor Metis Nation of Ontario Witness

Jean Camirand

President

Thunder Bay Métis Council

William Gordon

President

Greenstone Métis Council

Witness

Witness

Trent Desaulniers

President

Superior Northshore Métis Council

Witness

Note Changes

All reference to "Geraldton" changed to "Greenstone" Date of execution changed from November 3, 2008 to May 26, 2012

President for Thunder Bay changed from Wendy Landry to Jean Camirand

- 2.6 Superior Northshore Métis Council added
- 2.7 Superior Northshore Métis Council added
- 5.1 Number on committee changed from three to four

Métis Nation of Ontario

SIGNED ON THE 5TH OF MAY IN THE YEAR 2009

CONSULTATION PROTOCOL

for
HISTORIC SAULT STE. MARIE
TRADITIONAL TERRITORY





Consultation Protocol Historic Sault Ste. Marie Traditional Territory

This Protocol is executed in triplicate this 19th day of February in the year 2009.

BETWEEN:

Metis Nation of Ontario ["MNO"]

AND:

The Historic Sault Ste. Marie Métis Council
a Chartered Community Council of the Métis Nation of Ontario
["Historic Sault Ste. Marie Métis Council"]

AND:

The North Channel Métis Council
a Chartered Community Council of the Métis Nation of Ontario
["North Channel Métis Council"]

WHEREAS the Metis people joined together long ago to form a new nation - the Métis Nation;

AND WHEREAS the Metis Nation continues today to be the embodiment of our past, our present and our hopes and aspirations for the future;

AND WHEREAS the Metis, as one of the constitutionally recognized Aboriginal peoples of Canada, have the inherent right of self-determination and self-government;

AND WHEREAS the citizens of the Métis Nation who live in Ontario, desiring to bind our people together to collectively promote a common cultural, social, political and economic well-being, have created the MNO to be their representative body;

AND WHEREAS the MNO, as the representative government of the Métis people and rights-bearing Métis communities in Ontario, negotiates and enters into Community Charter Agreements with Community Councils, which authorize democratically elected Community Councils to represent MNO citizens, within a defined geographic territory, pursuant to the roles and responsibilities set out in those Charter Agreements;

AND WHEREAS there are MNO citizens, who live in locations throughout Ontario, who are not currently represented by a MNO Chartered Community Council, but whose local and regional interests continue to be represented by the MNO's overall governance structure;

AND WHEREAS MNO Charter Agreements are negotiated and executed for internal governance purposes, and, do not define, constrain or limit the geographic scope of rights-bearing Métis communities in Ontario or the traditional territories of those communities;

AND WHEREAS the Crown has a duty to consult, and, where appropriate, accommodate rights-bearing Métis communities on planning, developments, projects and policies that have the potential to affect Métis rights, interests and way of life, flowing from the honour of the Crown and s. 35 of the Constitution Act, 1982;

AND WHEREAS there are projects and developments in the Historic Sault Ste. Marie Métis traditional harvesting territory, which have the potential to affect the rights, interests and way of life of the rights-bearing Métis community;

AND WHEREAS the MNO, along with its Chartered Community Councils, want to work together to ensure that the Crown fulfills its duty to consult, and, where appropriate, accommodate the rights, interests and way of life of the rights-bearing Métis community;

NOW THEREFORE in consideration of the above, the Parties agree as follows:

1. Name of this Agreement

1.1 This agreement shall be called the *Metis Nation of Ontario - Consultation Protocol* for the Historic Sault Ste. Marie Traditional Territory [hereinafter referred to as "the Protocol"].

2. Definitions

- 2.1 All words and phrases in this Protocol have the same meaning as in the MNO's bylaws and the MNO Community Council Charter Agreements. To the extent of any conflict, the definitions in the by-laws of the MNO and the Charter Agreement shall prevail.
- 2.2 "Community Charter Agreement" means the agreements executed between the MNO and the MNO Chartered Community Councils, which set out the Parties respective jurisdiction, roles and responsibilities.
- 2.3 "Crown" means Her Majesty the Queen in Right of Canada and Ontario.
- 2.4 "Crown's consultation duties" means the Crown's constitutional obligations flowing from s. 35 of the *Constitution Act, 1982* and the honour of the Crown to consult, and, where appropriate, accommodate rights-bearing Métis communities on projects, developments and policies that have the potential to affect Métis rights, interests and way of life.
- 2.5 "Métis Traditional Territory" means the Historic Sault Ste. Marie traditional territory, which is set out as a part of the MNO Harvesters Policy and have been recognized and accommodated by the Crown.
- 2.5 "MNO-Ontario harvesting agreement" means the four point agreement reached between the MNO President and the Ontario Minister for Natural Resources in July 2004.
- 2.5 "MNO" means the Métis Nation of Ontario, as the representative government of the Métis people in Ontario.
- 2.6 "Community Councils" means the Historic Sault Ste. Marie Métis Council and the North Channel Métis Council, which democratically represent the interests of MNO citizens within the geographic territories defined by the respective Community Charter Agreements.
- 2.7 "Parties" means the MNO, the Historic Sault Ste. Marie Métis Council and the North Channel Métis Council.
- 2.8 "Projects" means all projects or developments that are being considered, planned, pursued, reviewed and/or implemented within the Historic Sault Ste. Marie traditional territory, but are outside the specific geographic territory of a MNO Chartered Community Council.

3. Purpose

- 3.1 The purpose of this Protocol is to:
 - a) protect Métis rights, land use, harvesting practices, traditional knowledge, sacred places as well as the rights-bearing Métis community's special relationship to the land within the Historic Sault Ste. Marie traditional territory,

- b) ensure the Crown's consultation duties to the rights-bearing Métis community which resides throughout, relies on, and, extensively uses, the Historic Sault Ste. Marie traditional territory are fulfilled, in relation to any Projects,
- c) establish a mutually agreeable process between the Parties which ensures all MNO citizens and members of the rights-bearing Métis community are effectively engaged and consulted on the Projects,
- d) build the capacities of MNO Chartered Community Councils in relation to consultation,
- e) strengthen the MNO's overall self-government structures and representativeness through collaboration and cooperation between the various levels of Métis government, including, MNO Chartered Community Councils, MNO Regional Councillors, the MNO Captains of the Hunt and the Provincial Council of the Métis Nation of Ontario.

4. Responsibilities of MNO and Community Council

- 4.1 The Parties assert that the Crown's constitutional duties are owed to the entire regional rights-bearing Métis community, which is not defined, limited or constrained by the geographic areas identified within MNO Community Council Charter Agreements or by the MNO's Regions.
- 4.2 The MNO, as the representative government of the Métis Nation and its regional rights-bearing communities in Ontario, has the ultimate responsibility to ensure the entire rights-bearing Métis community is consulted on the Projects.
- 4.3 The Community Councils, through their democratic mandates and their Charter Agreements with the MNO, have the responsibility to ensure the MNO citizens they represent are effectively consulted on the Projects.
- 4.4 The Parties have the responsibility to collaborate and cooperate in order to ensure the regional rights-bearing community is effectively consulted and represented within any Crown consultation processes, regulatory or environmental reviews, engagement with proponents, etc.
- 4.5 The Parties have the responsibility to work together in order to ensure the democratically elected local, regional and provincial governance structures of the Métis people in Ontario are consulted and respected by the Crown, proponents and other relevant groups.

5. Consultation Committee and Consultation Workplan

- 5.1 A three person Consultation Committee shall be established, which will include the MNO Regional Councilor and one representative designated by each of the MNO Community Councils.
- 5.2. The regional Captain of the Hunt shall be an ex-officio member of the Consultation Committee to provide advice and support to the Committee.
- 5.3 The MNO Regional Councilor shall act as the Chair of the Consultation Committee and shall only vote if consensus is not achieved or in the event of a tie.
- 5.4 MNO shall designate a staff person to work with the Consultation Committee in order to provide technical advice and support.
- 5.5 The Consultation Committee shall strive for all decisions to be made by consensus.
- 5.6 The Consultation Committee will work together to develop and implement a mutually agreeable Consultation Workplan to ensure the Crown's constitutional duties to the rights-bearing Métis community are fulfilled in relation to any Projects. This Consultation Workplan will include, but will not be limited to, the following:

- a) an overview of the Projects;
- b) terms of reference for the Consultation Committee,
- c) activities, timelines, roles and responsibilities of the Parties,
- d) a local and regional MNO citizen engagement plan, which would include meetings with MNO Chartered Community Councils, public meetings, etc.,
- e) the identification of research and studies required,
- f) staffing and administration requirements for the Community Councils,
- g) a communications plan, and
- h) appropriate budgets.
- 5.7 The Consultation Committee shall meet in person or via conference call as required and determined by the Consultation Committee.
- 5.8 Members of the Consultation Committee shall be remunerated for their work based on the MNO's policies and procedures, with the exception of Consultation Committee members who are employees of the MNO.
- 5.9 The Parties to this Protocol agree to jointly retain legal counsel advise them and to represent the rights-bearing Métis community in Crown consultation processes, regulatory and environmental reviews, negotiations with proponents, etc.

6. Communications with MNO Citizens

- 6.1 The Parties will work to ensure that all potentially affected MNO citizens are engaged and communicated with in a fair, transparent and open manner.
- 6.2 In order to ensure all MNO citizens have access to information related to Projects, the Parties agree to use the MNO's print and on-line communications tools.
- 6.3 The Consultation Committee shall report regularly to all MNO citizens and their respective Community Councils through Council meetings, local meetings as well as regional meetings.

7. Communications with the Crown and Proponents

- 7.1 The Consultation Committee shall provide direction for all written letters and submissions to the Crown, regulatory bodies and/or proponents in relation to any Projects.
- 7.2 Written letters and submissions in relation to the Project, on behalf of the rights-bearing community, shall be from the Chair of the Consultation Committee or his/her designate.
- 7.3 All written letters and submissions shall be provided to all members of the Consultation Committee as well as the Presidents of the Parties, including, the President of the MNO.

8. Dispute Resolution

- 8.1 Any dispute or inquiry that arises out of this Protocol shall first be referred to Presidents of the Community Councils for resolution.
- 8.2 If resolution is not possible under paragraph 9.1, an Inquiry Panel may be called.
- 8.3 The Inquiry Panel will be composed of a Chair who is a Senator and mutually agreed to by the Parties, an appointee by the MNO Executive Council, and an appointee by the Community Councils.
- 8.4 Where a dispute is referred to and Inquiry Panel, the MNO Secretariat shall give 30 days notice in writing to all parties. Such notice shall include the reasons for the inquiry and

the materials and persons, which the parties shall provide for the assistance of the inquiry panel. The inquiry shall be held within 90 days of issuing the notice.

- 8.5 At any inquiry, called pursuant to paragraph 8.2 the panel shall hear representations from persons or entities concerned in the dispute. The inquiry panel may decide whether the representations are to be made orally or in writing. Any written submission must be received at least 30 days before the date of the inquiry.
- 8.6 Upon termination of the inquiry the panel shall either:
 - a) issue a recommendation as to costs
 - b) issue a recommendation regarding the substantive issue in dispute; or
 - c) issue a recommended procedure on how to resolve the dispute; or
 - d) issue a judgment on the merits of the issue in dispute.
- 8.7 Where an inquiry is held, the panel shall set out its decision in writing. The written decision shall be made available to the parties within 30 days of the inquiry.
- 8.8 All decisions of the Inquiry Panel shall be final.

9. Communications Between The Parties

9.1 For the purposes of this Protocol, the contact information below will be used by the Parties,

For the MNO:

500 Old St. Patrick Road Ottawa, Ontario, K1N 9G4

T:

613-798-1488

F:

613-722-4225

ATTN.:

Gary Lipinski, President

For the Historic Sault Ste. Marie Métis Council:

Kim Powley, President

26 Queen Street E. Sault Ste. Marie, ON P6A 1Y3

T: 705-254-1768 F: 705-254-3515

For the North Channel Métis Council:

Richard Bennet, President 759 Lakeshore Drive Desbarats, ON POR1E0

T: 705-782-0122

10. General

- 10.1 This Protocol may be amended in writing at any time by agreement of the Parties.
- 10.2 This Protocol may be terminated by either Party by sending written notice to the other Party. Termination shall take effect thirty (30) days after receipt of said written notice.
- 10.3 Nothing in this Protocol limits or shall be interpreted as limiting the ability of the MNO President, the MNO Executive Council or the Provisional Council of the Métis Nation of Ontario to represent the interests of all MNO citizens in bilateral or tripartite discussions with governments, agencies or other organizations.

- 10.4 Nothing in this Protocol limits or shall be interpreted as limiting the ability of the Community Councils in representing the interests of the MNO citizens they represent or leading and engaging in consultation related discussions with the Crown on Projects and developments that are within the geographic scope of the Community Council, which do not have potential regional impacts on the rights-bearing Métis community.
- 10.5 Nothing in this Protocol amends, limits or alters the mandates, roles, responsibilities and jurisdictions set out in the MNO's by-laws, existing and future MNO Community Council Charter Agreements, the MNO Rules or Order or other MNO policies and procedures, as amended from time to time.
- 10.6 This Protocol shall enure to the benefit of and be binding upon the Parties and their respective successors and assigns.
- 10.7 This Protocol is not transferable to any other party.
- 10.8 This Protocol comes into effective upon its execution and shall remain in place until amended or terminated pursuant to the terms set out in this Protocol.

Witness

IN WITNESS WHEREOF the Parties have executed this Protocol on the 5th day of May, in the year 2009.

Gary Lipinski

President

Metis Nation of Ontario

Kim Powley

President

Historic Sault Ste. Marie Métis Council

Larry Folz President

North Channel Métis Council

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Métis Nation of Ontario

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Métis Nation of Ontario 500 Old St. Patric St, Unit3

Ottawa, ON K1N 9G4

Tel.: 613-798-1488 Toll Free: 800-263-4889 Fax: 613-722-4225

Ontario and the MNO announce identification of historic Métis communities

21 August, 2017

Ontario and the Métis Nation of Ontario (MNO) are pleased to announce that collaborative work has resulted in the identification of historic Métis communities located throughout Ontario.

In the spirit of reconciliation, the province and the MNO have been working together to determine whether historic Métis communities existed in given areas in Ontario. As a result of this collaboration, six new historic Métis communities have been identified:

- . The Rainy River / Lake of the Woods Historic Métis Community
- The Northern Lake Superior Historic Métis Community
- The Abitibi Inland Historic Métis Community
- The Mattawa / Ottawa River Historic Métis Community
- The Killarney Historic Métis Community
- The Georgian Bay Historic Métis Community

These historic Métis communities developed their own distinctive collective identities, each with its own customs, practices, and traditions. While identification of these historic Métis communities is a significant milestone, this alone does not determine who in Ontario is Métis or who holds Métis rights, nor define Métis harvesting areas or territories.

Working in partnership with the MNO to identify historic Métis communities is one of many steps on Ontario's journey of healing and reconciliation. It reflects the government's commitment to work with Indigenous partners, creating a better future for everyone in the province.

QUOTES:

- "Ontario has built a strong partnership with the Métis Nation of Ontario and we are committed to advancing meaningful reconciliation and fulfilling our constitutional obligations to Métis. In circumstances where there are overlapping obligations to First Nations and Métis, Ontario is committed to working together with affected partners to reach fair and balanced resolutions."
- David Zimmer, Minister of Indigenous Relations and Reconciliation
- "The Métis Nation of Ontario is pleased and proud to announce the results of our collaborative work with Ontario in identifying historic Métis communities. The advancement and recognition of Métis rights has always been and remains the highest priority for our citizens and communities. This important milestone provide a foundation for meaningful reconciliation as well as future negotiations with the Crown on these important issues."
- France Picotte, Acting President of the Métis Nation of Ontario

QUICK FACTS:

- In 2003, the Supreme Court of Canada confirmed in the R v Powley decision the existence of a Métis community in and around Sault Ste. Marie, with its own distinctive Métis culture. This case also recognized that this community has a Métis right to hunt for food. Under the Powley framework, the first step to recognize Métis rights is identifying whether an historic Métis community existed in a given area
- Métis are recognized as one of the three distinct Aboriginal peoples with rights protected by section 35 of the Constitution Act, 1982.
- Distinct historic Métis communities began to emerge as a result of the fur trade in what is now Ontario. These communities developed along strategic
 water and trade routes prior to Crown government effecting political and legal control in these areas.

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AN INDEPENDENT REVIEW OF THE MÉTIS NATION OF ONTARIO'S HARVESTER CARD SYSTEM (OSS_00645442)

Final Report

Submitted to:

THE GOVERNMENT OF ONTARIO AND THE MÉTIS NATION OF ONTARIO

Prepared by:

INTERGROUP CONSULTANTS LTD.

500-280 Smith Street Winnipeg, MB R3C 1K2

January 12, 2018



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DISCLAIMER

The views or statements expressed within this report do not necessarily reflect those of the Government of Ontario nor of the Métis Nation of Ontario.



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EXECUTIVE SUMMARY

Background

The purpose of this report is to provide an objective and independent review of the Métis Nation of Ontario's (MNO) Harvester Card System. For more information on the MNO Harvester Card System and the criteria for the Independent Review please see the terms of reference in the contract "An Independent Review of the Métis Nation of Ontario's Harvester Card System (OSS_00645442)".

Independent Review Objective

The objective of the Independent Review is to assess the quality, weight and conclusions of the following:

 Review 88 Métis Root Ancestor Packages consisting of approximately 380 Métis Root Ancestors and 5,600 Métis Root Ancestor Descendants to ensure compliance with the following criteria as set out in the Assessment Criteria outlined in Section 3.2.2 in Schedule 1 of the contract that sets of the deliverables for this project:

For Métis Root Ancestors

- a) The Métis Root Ancestor is a Documented Métis, or the sibling of a Documented Métis;
- b) The Métis Root Ancestor is connected to the Historic Métis Community through documentation that establishes, or that provides the basis for a reasonable professional inference that they or their siblings were living in the Historic Métis Community prior to the Relevant Date; and
- c) The Métis Root Ancestor's extended family line (including siblings and descendants) had a documented ongoing presence in the Historic Métis Community for two or more generations.

For Métis Root Ancestor Descendants

- d) The Métis Root Ancestor Descendant(s) are documented as being ancestrally connected to the Verified Métis Root Ancestor(s).
- Identify a sample of Harvester Card holder files for each of the seven Historic Métis Communities
 to review by designing a simple random sampling model to the specified confidence level which
 resulted in sampling 328 of 1,440 Card Holder Files; and
- Verify that the MNO Harvester Card System provides an accurate means of issuing Harvesting Cards.

Conclusions

100% of the 88 Metis Root Ancestor Packages reviewed were passed: Of these, 84 of the 88 Métis Root Ancestor Packages reviewed were passed by InterGroup Consultants Ltd. ('InterGroup'), which is 95.4%, based on documentary evidence. Each individual (excluding spouses) in those packages was verified as



An Independent Review of the Métis Nation of Ontario's Harvester Card System (OSS_00645442)

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connecting to a Métis Root Ancestor. InterGroup was of the opinion that the four remaining packages did not satisfy all of the criteria in Section 3.2.2 subsections (a) to (d) and/or identified where conclusions could not be drawn. Pursuant to section 3.2.4(II) of the contract that sets out the deliverables for this project, MNO and Ontario advised InterGroup to treat the four above-noted Métis Root Ancestor Packages as verified for the purposes of the Independent Review.

With respect to the second stage of the review, all of the 328 randomly sampled Harvester Card files (100%) passed based on the documentation provided within the file or with additional documentation provided by the MNO Registrar during the review, demonstrating that the individual harvester had a documented ancestral connection to a Verified Métis Root Ancestor.









FRAMEWORK AGREEMENT FOR ADVANCING RECONCILIATION

This Agreement is executed in quadruplicate this 11th day of December 2017.

BETWEEN:

MÉTIS NATION OF ONTARIO

as represented by its President and the Provisional Council of the Métis Nation of Ontario ("MNO")

-and-

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

as represented by the Minister of Crown-Indigenous Relations and Northern Affairs ("Canada")

-and-

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO

as represented by the Minister of Indigenous Relations and Reconciliation ("Ontario")

(hereinafter referred to collectively as the "Parties" and individually as a "Party")

WHEREAS Métis communities emerged in various areas surrounding the Upper Great Lakes as well as along the waterways and fur trade routes of what is now known as Ontario prior to the Crown effecting legal and political control in those regions;

AND WHEREAS these historic Métis communities developed their own shared customs, traditions, and collective identities that are rooted in kinship, their special Aboriginal relationship to the land and a distinctive culture and way of life that persist to the present day;

AND WHEREAS section 35 of the Constitution Act, 1982, states that "the existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed" and "the 'aboriginal peoples of Canada' includes the Indian, Inuit and Métis peoples";

AND WHEREAS the Supreme Court of Canada, in R. v. Powley ("Powley"), held that "the inclusion of the Métis in section 35 represents Canada's commitment to recognize and value the distinctive Métis cultures, which grew up in areas not yet open to colonization, and which the framers of the Constitution Act, 1982 recognized can only survive if the Métis are protected along with other aboriginal communities";

AND WHEREAS the Supreme Court of Canada also recognized in Powley that modern day Métis communities may possess Aboriginal rights protected by section 35 of the Constitution

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Act, 1982 based on their pre-effective control practices, customs and traditions that are integral to their distinctive existence and relationships to the land, and went on to conclude that "the Métis community in and around Sault Ste. Marie have an aboriginal right to hunt for food under s. 35(1)";

AND WHEREAS since the release of *Powley* the Supreme Court of Canada has noted that section 35 of the *Constitution Act, 1982* calls for a process of reconciliation between the Crown and Aboriginal peoples through which the constitutionally-protected Aboriginal rights and outstanding claims of Aboriginal peoples are determined, recognized and respected through honourable negotiations with the goal of reaching just and lasting settlements;

AND WHEREAS the MNO was created to represent and advocate on behalf of its registered citizens ("Citizens"), and the communities comprised of those Citizens ("Communities"), with respect to protecting and advancing the collectively-held rights, interests and outstanding claims of Métis communities as well as improving the overall social, cultural, spiritual and economic well-being of Ontario Métis;

AND WHEREAS the MNO maintains a centralized registry of its Citizens who live throughout Ontario today, and, as acknowledged in the *Métis Nation of Ontario Secretariat Act, 2015*, S.O. 2015, c. 39, has established democratically elected Métis governance structures at the local, regional and provincial levels to represent its Citizens and Communities as well as the collectively-held rights, interests, claims and ambitions of Métis communities;

AND WHEREAS Canada and Ontario are committed to meeting their constitutional obligations towards the Métis through recognizing and respecting the section 35 rights of Métis communities as a means of advancing reconciliation between the Crown and Métis people;

AND WHEREAS the MNO and Ontario renewed a Framework Agreement on April 17, 2014, recommitting to: strengthening the relationship between Ontario and the MNO; recognizing and supporting the MNO's structure, institutions and administration; improving the well-being of Métis children, families and communities; and jointly protecting and promoting the distinct culture, identity and heritage of the Métis people in Ontario;

AND WHEREAS the *MNO-Ontario Framework Agreement* also commits the MNO and Ontario to engaging with Canada on mutually agreeable trilateral processes and initiatives as well as working to leverage funding from Canada to support the objectives and activities of the Framework Agreement;

AND WHEREAS Canada is committed to working, on a nation-to-nation, government-to-government basis with the Métis Nation and Métis communities in Ontario, through negotiations with the MNO, with the goal of advancing reconciliation, renewing the Crown-Métis relationship through cooperation, respecting Métis rights and ending the status quo;

WHEREAS the MNO and Canada executed a Memorandum of Understanding on Advancing Reconciliation on February 3, 2017, and, based on that memorandum, have engaged in an

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exploratory discussions process, which has included Ontario, to develop this mutually agreeable Framework Agreement;

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

DEFINITIONS

In this Framework Agreement, the following definitions apply:

"Citizen" means an individual who is registered as a citizen of the MNO based on the requirements established by the MNO and the rights-bearing Métis communities it represents as may be amended from time to time.

"Community" means a Métis community comprised of Citizens represented by the MNO.

"Designated Representatives" means the individuals designated by each Party under this Framework Agreement.

"Final Agreement" means the agreement contemplated under section 3.2 of this Framework Agreement.

"Framework Agreement" means this agreement.

"Incremental Agreements" means those agreements contemplated under section 3.5.2 of this Framework Agreement.

"Interim Measures" means the measures contemplated by section 3.5.1 of this Framework Agreement.

"Main Table" means the regular meetings of the Negotiators contemplated under sections 2.4 and 2.5 of this Framework Agreement.

"Negotiation Process" means the mutually agreeable process set out within this Framework Agreement.

"Purpose" means the underlying rationale for entering into this Framework Agreement that the Parties hope to address through arrangements or agreements reached under this Framework Agreement, whether interim, incremental or final.

1. THE PURPOSE OF THE NEGOTIATIONS

1.1 The Parties agree that the Purpose of the Negotiation Process contemplated under this Framework Agreement is to jointly develop a government-to-government relationship between the Crown and Métis communities in Ontario represented by the MNO that advances reconciliation between the Parties consistent with the purpose of section 35 of the Constitution Act, 1982, including by;

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- 1.1.1 recognizing the MNO as a Métis government with decision-making authority over its own roles and functions, processes and relationships with its Citizens and Communities; and
- 1.1.2 establishing processes wherein the collectively-held rights and credible claims of Métis communities in Ontario represented by the MNO may be determined, recognized and respected; and
- 1.1.3 working towards reaching bilateral or trilateral arrangements that invest in, support and enhance the cultural, social, physical, emotional, spiritual and economic well-being of Métis communities in Ontario represented by the MNO as well as Ontario Métis generally.
- 1.2 The Parties agree that the Purpose set out in section 1.1 will be advanced through engaging in the Negotiation Process described in this Framework Agreement with a view to arriving at mutually agreeable arrangements or agreements as further described below.

2. THE NEGOTIATION PROCESS

- 2.1 The Parties commit to engaging in an interest-based Negotiation Process that fosters an open exchange of ideas, the frank discussion of interests and the joint analysis of issues. As a general principle, informal discussions are encouraged. Any statements made during the Negotiation Process, whether formal or informal, will be without prejudice and will not be attributable to any Party.
- 2.2 Each Party shall appoint Designated Representatives to the Negotiation Process who will be responsible for the conduct and coordination of all negotiations and keeping their respective principals updated throughout the negotiations and will jointly determine and agree to a schedule of negotiation meetings and the locations of those meetings. It is expected that the Designated Representatives will meet, at a minimum, once every 6 to 8 weeks. Unless otherwise agreed to by the Designated Representatives, the negotiating sessions will not be formally chaired.
- 2.3 The Parties agree that new or additional Designated Representatives may be appointed to engage in discussions on specific sectoral matters, including, but not limited to, the initial efforts focused on reaching Interim Measures and Incremental Agreements identified in section 3.6 of the Framework Agreement.
- 2.4 The MNO shall establish internal processes to ensure the views and perspectives of its Citizens and Communities are meaningfully represented and advanced in the Negotiations Process and to provide ongoing direction to the MNO's Designated Representatives. The Parties recognize that these internal processes shall be solely determined by the MNO.
- 2.5 Prior to beginning negotiations on any subject matter, the Parties will each make a presentation of their interests in relation to that subject matter. Roles and responsibilities of

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the Parties will be determined on the basis of the subject matter and the interests presented. Negotiations will be conducted at a Main Table.

- 2.6 The Main Table will be responsible for:
 - 2.6.1 managing the Negotiation Process including work planning and setting of priorities;
 - 2.6.2 negotiation of any arrangements or agreements to be brought to the Parties for their consideration;
 - 2.6.3 implementing and managing openness and information sharing amongst the Parties throughout the Negotiation Process; and
 - 2.6.4 implementing dispute resolution mechanisms as agreed.
- 2.7 The Designated Representatives may establish ad hoc working groups to research and report on specific issues or concerns as they deem fit. Any such working groups will report to the Main Table.
- 2.8 The Parties agree that the Negotiation Process shall respect, support and complement existing bilateral processes or initiatives in place between the MNO and Canada or the MNO and Ontario, including the processes established under MNO-Ontario Framework Agreement and other Memoranda of Understanding in place between the MNO and Ontario Ministries.
- 2.9 Nothing in this Framework Agreement limits the ability of the Parties to engage in or develop future bilateral processes, arrangement or agreements with the MNO outside of the Negotiation Process.

3. ENGAGING IN A RESULTS-ORIENTED NEGOTIATION PROCESS

- 3.1 The Parties are committed to focusing their respective efforts and resources on negotiating arrangements that are timely, results-oriented and aimed at achieving shared and balanced solutions that advance the Purpose of this Framework Agreement.
- 3.2 The goal of the Negotiation Process identified in section 3.1 shall be realized through a Final Agreement, which the Parties recognize may be comprised of a series of arrangements or agreements, that effectively achieves the Purpose of this Framework Agreement.
- 3.3 While not intended to be exhaustive or restrictive, the MNO and Canada have identified a series of subject matters that may be discussed as a part of the Negotiations Process, which are consistent with other processes Canada is engaged in with Métis in other jurisdictions, which are listed in Appendix A.

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- 3.4 The MNO and Canada acknowledge and agree that any discussions on the subject matters listed in Appendix A that may implicate or impact on Ontario's constitutional responsibilities and legislative jurisdiction or provincial rights and interests will require the full agreement and participation of Ontario, including but not limited to matters concerning provincial Crown lands.
- 3.5 In order to achieve timely results toward advancing reconciliation and fulfilling the Purpose of this Framework Agreement, Designated Representatives may seek approvals from the Parties for the following types of arrangements or agreements over the course of the negotiations:
 - 3.5.1 Interim Measures: Measures intended to protect the interests of Métis communities represented by the MNO while the Negotiation Process is ongoing.
 - 3.5.2 Incremental Agreements: Agreements on individual or a group of matters listed in advance of, or in lieu of, a single, comprehensive Final Agreement.
- 3.6 Consistent with the results-oriented negotiation approach set out above, the Parties agree to focus their initial efforts and resources on reaching the following Interim Measures and Incremental Agreements that are consistent with the Purpose of the Framework Agreement:
 - 3.6.1 A core governance recognition agreement that recognizes the role and functions of the MNO as a Métis government, including its relationship to its Citizens and Communities as well as to Canada and Ontario, and confirms the MNO's decisionmaking authority over its own processes. An overview of the elements of a potential MNO core governance agreement is attached as Appendix B.
 - 3.6.2 A trilateral agreement between the Parties that sets out a mutually agreeable process for addressing Crown consultation owing to rights-bearing Métis communities represented by the MNO as well as a map defining the geographic area over which consultation will be undertaken, including the provision of provincial and federal consultation capacity funding for the MNO's consultation processes.
 - 3.6.3 A review of current MNO-Ontario processes and funding arrangements in key social development sectors to identify areas where there may be a need for strategic or enhanced investments to improve the quality of life of Ontario Métis. While not intended to be exhaustive or restrictive, the Parties agree to focus their initial work in the following areas during the first year of the Framework Agreement:
 - (a) engaging with Heath Canada, Indigenous Services Canada and relevant federal agencies to identify Métis health priorities as well as current program and services gaps; and
 - (b) engaging with Crown-Indigenous Relations and Northern Affairs Canada and Employment and Social Development Canada to identify opportunities to support

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and participate in discussions related to possible collaboration on the implementation of the province's Indigenous children and youth initiatives as well as the MNO's future role in relation to the provision of child and family services to its Citizens and Communities; and

- (c) engaging with Crown-Indigenous Relations and Northern Affairs Canada and the Canada Mortgage and Housing Corporation in order to ensure the unique needs and the existing structures dealing with Métis housing in Ontario are understood and incorporated in any national Indigenous housing approaches or strategies; and
- (d) establishing a sectoral table between the MNO, Employment and Social Development Canada and Ontario's Ministry of Advanced Education and Skills Development to address opportunities for strategic investments in Métis labour market and education needs.

4. OTHER RECONCILIATION RELATED PROCESSES

- 4.1 The Parties recognize that there may be other discrete reconciliation related processes, discussions or negotiations that the Parties may agree to engage in that are specific to one or several of the Communities represented by the MNO. Nothing in this Framework Agreement precludes the MNO from agreeing to enter into bilateral or trilateral processes or agreements on these issues that attempt to find a shared solution that advances reconciliation.
- 4.2 Any process or agreement agreed to between the Parties flowing from section 4.1 will complement and not affect the Negotiations Process set out in this Framework Agreement. Conversely, the Negotiations Process set out in this Framework Agreement will not limit or affect any process or agreement flowing from section 4.1.
- 4.3 For greater certainty, any matters in relation to the federal Crown's potential breach of a constitutional duty or obligation owing to a Community represented by the MNO will be concluded on a bilateral basis between the MNO and Canada and any obligations flowing from a process or agreement established between the MNO and Canada under section 4.1 of this Framework Agreement shall be solely borne by Canada.

5. COMMUNITY AND PUBLIC AWARENESS AND CONSULTATION

- 5.1 The Parties agree to develop mutually agreeable communication materials or undertake joint information, engagement or consultation sessions with the public or other relevant stakeholders as required.
- 5.2 The MNO is responsible for engagement and consultation with its constituency, which includes its Citizens, Chartered Community Councils, Regional Consultation Committees, Veterans Council, Youth Council, Women's Council, the Provisional Council of the Métis Nation of Ontario, the MNO Assembly as well as other relevant stakeholders.

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5.3 Canada and Ontario will consult other Aboriginal groups whose credibly asserted or established Aboriginal or Treaty rights might be affected by arrangements or agreements negotiated under this Framework Agreement. The MNO will agree to support and participate in any such consultations as needed and to the appropriate degree necessary.

6. FUNDING AND CAPACITY

- 6.1 The Parties recognize that the MNO requires reasonable capacity to participate in the Negotiation Process contemplated under this Framework Agreement. Canada agrees to seek authority to provide funds to the MNO to support its institutional capacity and participation in the Negotiations Process.
- 6.2 In addition to the commitment set out in section 6.1 of this Framework Agreement, and subject to federal eligibility and program requirements, MNO may access federal policies, funding and initiatives, that support the participation of Aboriginal groups in land, resources and self-government negotiations with Canada, which are subject to yearly appropriations of funds by Parliament.

7. GENERAL

- 7.1 Nothing in this Framework Agreement is intended or is to be interpreted so as to define, create, recognize, deny, affect or amend any rights, duties or obligations of any of the Parties.
- 7.2 Nothing in this Framework Agreement creates any legally enforceable obligations.
- 7.3 All negotiations conducted under this Framework Agreement and all related documents are confidential, subject to settlement privilege and without prejudice to legal positions the Parties may have or may take in any legal proceeding, except where the Parties agree otherwise, and except in relation to any tripartite consultation discussions and agreement as contemplated by section 3.6.2 of this Framework Agreement.
- 7.4 Nothing in this Framework Agreement is intended to constitute Crown consultation or accommodation obligations that may be owed by Canada or Ontario to the Communities represented by the MNO.
- 7.5 This Framework Agreement may be amended with the written consent of the Parties.

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This Framework Agreement is signed and agreed to by the Parties on December 11th, 2017.

MÉTIS NATION OF ONTARIO France Picotte, Chair Tim Pile, Secretary-Treasurer Joseph Poitras, Executive Senator Verna Porter-Brunelle, Senator Rene Gravelle, Senator Ray Bergie, Senator Cam Burgess, Region 2 Councilor Marcel Lafrance, Region 3 Councilor Ernest Gatien, Region 4 Councilor Daniel Boulard, Region 5 Councilor Tom Thompson Jr., Region 6 Councilor Pauline Richardson, Region 7 Councilor Anita Tucker, Region 8 Councilor Katelyn LaCroix, Postsecondary Representative Mitch Case, MNO Youth Representative

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MÉTIS NATION OF ONTARIO

Margaret Froh

President of the Métis Nation of Ontario

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

The Honourable Carolyn Bennett

Minister of Crown-Indigenous Relations and Northern Affairs

Government of Canada

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

Ms. Sophie Kiwala

Parliamentary Assistant to the Minister of Indigenous Relations and Reconciliation

Government of Ontario

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APPENDIX A

MNO-CANADA SUBJECT MATTERS FOR THE NEGOTIATIONS PROCESS

- Improving the Social, Cultural and Economic Well-Being of Ontario Métis
 - Identification of Shared Indicators and Determinants for a Healthy, Secure and Prosperous Citizens and Métis communities represented by the MNO
 - Collecting Baseline Data on Citizens and Métis communities represented by the MNO to Identify Existing Needs and Gaps in relation to the Shared Indicators and Determinants:
 - The Strategic Investment of Resources, including Funding for the Delivery,
 Devolution or Intergovernmental Services Agreements, to Address Needs and Close
 Gaps in the Following Areas:
 - Language, Culture and Heritage
 - Education and Training
 - Child Care
 - Early Childhood Development
 - Child and Family Services
 - Administration of Justice
 - Housing and Infrastructure
 - Health Services and Promotion
 - Economic Development
- Reconciliation Related Matters
 - o Education and Public Awareness Initiatives on Métis History in Ontario
 - Clarity on the Aboriginal Rights and Claim(s) of MNO Citizens and Communities in Ontario, including Harvesting Rights and Related Access Issues
 - Support for Research on Potential Outstanding Métis Claims in Ontario
 - Shared Decision-Making and the Potential Role of Land and in Future Arrangements or Agreements
 - The Provision of Federal Lands and/or Funding for the Purchase of Lands for Social, Cultural, Spiritual or Economic Purposes
 - o MNO Involvement and Participation in Initiatives relating to Federal Lands, including National Parks, Fisheries, Federal Environmental Assessment Processes, etc.
- Other Issues
 - o An Apology
 - o Trans-Boundary, Shared Territories and Overlapping Claims
 - o The Constitutional Status of Future Arrangements or Agreements
 - o Implementation, including an Implementation Plan for a Final Agreement

^{*}MNO and Canada agree that any discussions related to or implicating provincial Crown lands or resources are subject to the agreement and participation of Ontario.

APPENDIX B

SUBJECT MATTERS FOR A MNO GOVERNANCE AGREEMENT

- Preamble
- Definitions Section
- Interpretation Provisions
- Purpose of Agreement
- Recognition of MNO as a Métis Government
 - Recognition of MNO Constitution and Related Authorities
 - Recognized Areas of MNO Decision-Making Over Internal Affairs and Processes, including Citizenship, Elections, Financial Management and Administration, etc.
 - Legal Status and Capacity of MNO
 - o Conflict of Laws Related Issues
 - o Liability and Indemnification Issues
 - o Personal Immunity and Vicarious Liability Issues
 - Application and Relationship of Laws
- Fiscal Relations, Inter-Governmental Relations, Implementation and Future Matters for Negotiations
 - A MNO-Canada Financial Transfer Agreement based on Existing Federal Self-Government Financing Policies, including Addressing Potential Revenue Sharing and Tax Related Matters
 - Agreement on Processes Related to the Implementation of the MNO Governance Agreement
 - o Addressing the MNO Secretariat Act, 2015, S.O. 2015, c. 39
- Negotiation of Future Sectoral Agreements
- Other Matters
 - o Access to Information and Privacy Issues
 - o Dispute Resolution
 - Ratification and Approval of MNO Constitution
 - o Ratification and Approval of Governance Agreement
 - Governance Agreement Coming Into Effect



NextBridge Infrastructure LP East-West Tie Transmission Project

March 2017



ON BEHALF OF: THE MÉTIS NATION OF ONTARIO

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Information collected for the *Métis Nation of Ontario Occupied Lands Report* for the NextBridge Infrastructure LP East-West Tie Transmission Project remains the sole property of the Métis Nation of Ontario. The information contained within this document is meant for a single application only. Citation, use or reproduction of the information contained in this document for any other purpose is permissible only with the written consent from the Métis Nation of Ontario.

For further information, please contact:

The Métis Nation of Ontario 311-75 Sherbourne Street Toronto, Ontario M5A 2P9 416-977-9881 métisnation.org



Prepared by: Calliou Group, Calgary, AB

Report Layout: Stephen Rainforth Front cover: Photo: Jessica Daniels



This section briefly describes the Métis Nation of Ontario and Métis Harvesting Rights in Ontario.

5.1 Who are the Métis?

The Métis evolved out of relationships between European men and First Nations women, brought into contact in the earliest days of the fur trade. While the first generation of descendants from these relationships were of mixed First Nations and European ancestry, continued intermarriage of these descendants ("endogamy") resulted in the creation of a new and distinct Aboriginal peoples; this process is called 'ethnogenesis'. Métis populations emerged over the course of several generations, along the arteries of the fur trade throughout the 'Northwest' – what is now Ontario, Manitoba, Saskatchewan, Alberta, and parts of British Columbia, the Northwest Territories, and the northwest United States. The Supreme Court of Canada in *R. v. Powley* described the ethnogenesis of the Métis as follows:

The term "Métis" in s. 35 does not encompass all individuals with mixed Indian and European heritage; rather, it refers to distinctive peoples who, in addition to their mixed ancestry, developed their own customs, way of life, and recognizable

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group identity separate from their Indian or Inuit and European forebears. Métis communities evolved and flourished prior to the entrenchment of European control, when the influence of European settlers and political institutions became pre-eminent (*R. v. Powley* 2003 SCC 43 at para 10).

...The constitutionally significant feature of the Métis is their special status as peoples that emerged between first contact and the effective imposition of European control. The inclusion of the Métis in s. 35 represents Canada's commitment to recognize and value the distinctive Métis cultures, which grew up in areas not yet open to colonization, and which the framers of the *Constitution Act, 1982* recognized can only survive if the Métis are protected along with other aboriginal communities (*R. v. Powley 2003 SCC 43* at para 17).

The Royal Commission on Aboriginal Peoples also recognized that the Métis developed separate and distinct identities from their First Nations and European forbearers, an identity that was not reducible to only their mixed ancestry:

What distinguishes Métis people from everyone else is that they associate themselves with a culture that is distinctly Métis (Royal Commission 1996).

The Métis Nation, and the communities that comprise it, have their own collective identity, language (Michif), culture, traditions, dance, song, music, self-governing structures and way of life.

The history of the Métis in Ontario, similar to the rest of the Métis Nation, is linked to the arrival and spread of the fur trade. Métis in Ontario were connected through the highly mobile fur trade network, seasonal rounds, extensive kinship connections and a collective identity (*i.e.*, common culture, language, way of life, *etc.*). Distinct Métis populations emerged along the rivers and watersheds of what would later become Ontario, surrounding the Great Lakes and spreading north and west along fur trade routes. These settlements formed regional, inter-connected Métis communities in Ontario that are an indivisible part of the Métis Nation. The inter-connected Métis communities that are impacted by the Project are discussed further below.

5.2 An Introduction to the Métis Nation of Ontario

Founded in the early 1990's, by the will of Ontario Métis, the Métis Nation of Ontario represents the collective aspirations, rights and interests of Métis people and communities throughout Ontario.

At its original meetings, Métis representatives from communities throughout the province set out the foundational vision for the MNO. This vision is encapsulated in the MNO *Statement of Prime Purpose*.

The Statement has been central to the MNO's success over the last 24 years; it affirms that the MNO was created to represent Métis people and communities in Ontario that are a part of the Métis Nation. Specifically, it states that:

We, the Métis are a people of the lands which gave rise to our history and tradition and culture. We call these lands the Métis Homelands. The Homelands stretch from the lakes and rivers of Ontario; cross the wide prairies; traverse the mountains into British Columbia and into the far reaches of the Northwest Territories. They include the hills and valleys of the north-central American States. These are our lands. They

are Métis lands. They are the lands of our past which nurture us today and which we value as the precious foundation of our future (Métis Nation of Ontario 2017).

Some of the goals as expressed in the Statement of Prime Purpose include:

- Creating a Métis-specific governance structure for the implementation of the nation's inherent right to self-government in the province;
- Establishing a credible and recognized registry system for Métis people within the province;
- Pursuing a rights-based agenda and proudly asserting the Métis existence as a distinct Aboriginal people within Ontario;
- Protecting and preserving the distinct culture and heritage of the Métis Nation in the province; and,
- Improving the social and economic well-being of Métis children, families and communities throughout the province.

In fulfilment of these objectives, the MNO delivers programs and services to the Métis in Ontario, including services related to children and families, justice, youth, health, housing, employment and economic development. The MNO maintains 30+ service delivery access points across the province, administers over \$20 million annually and employs nearly 200 personnel across the province.

Based on the mandate derived from the MNO's centralized citizenship registry, which currently contains about 18,000 citizens, the MNO's province-wide ballot box election process, and the MNO's Bylaws (including the Statement of Prime Purpose), the MNO is authorized to represent and advance the collective rights, interests, and claims of the Métis in Ontario.

In order to fulfill this representative role, the MNO operates on democratic principles. The President of the MNO is elected through a province-wide ballot box election every four years, along with other executive positions (Chair, Vice-Chair, Secretary-Treasurer, and Executive Senator). The MNO has nine (9) administrative regions, each of which are under the leadership of an elected Regional Councillor, who also sits as the Chair of his or her region's Consultation Committee. At the local level, the MNO has 29 Community Councils, who represent citizens on a local level. The President of each Community Council has a seat on the Regional Consultation Committee of the relevant Region. These Community Council Presidents are also elected democratically in a vote of the citizens in that Council's area.

The Community Councils get their mandate to support local governance from the MNO through signed Community Charter agreements, and work collaboratively with the MNO and other Community Councils to represent the rights and interests of regional rights-bearing Métis communities throughout the province. These local, regional, and provincial levels work together to comprehensively represent the interests of the Métis in Ontario, and allows the MNO to use its resources efficiently while remaining responsive to local concerns. The map below (Figure 5-2.1) shows the MNO's Traditional Harvesting Territories. The map below (Figure 5-2.2) shows the MNO's nine (9) administration regions.

Figure 5-2.1: MNO 2004 MNO-MNR Harvesting Agreement Map

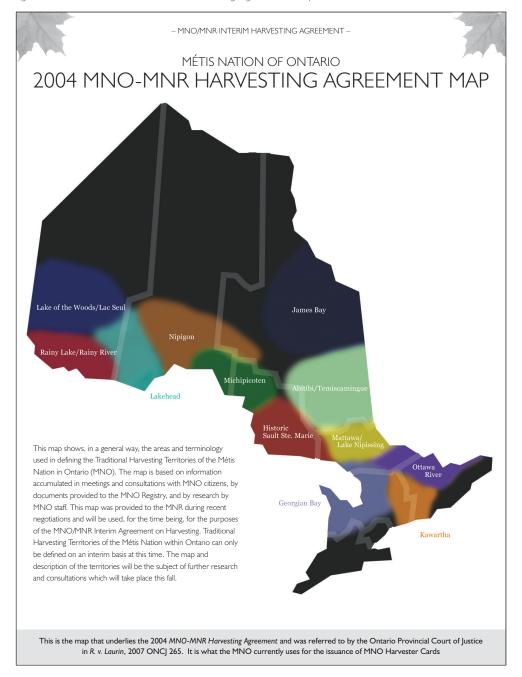


Figure 5-2.2: MNO Region Map



As outlined above, the MNO has a unique governance structure that allows the MNO to represent its Métis citizens across the province. The representative role of the MNO was recognized in the report of the federally appointed Ministerial Special Representative, Thomas Isaac, which stated that:

An example of a Métis government being duly authorized by its members can be found in how the Métis Nation of Ontario (MNO) was established and functions. In 1993, Ontario Métis established the MNO to be their representative governance structure provincially to advance Métis rights and claims. At the same time, the MNO created a Secretariat, incorporated under Ontario's not-for-profit corporation legislation, to act as its legal and administrative arm. In the MNO Secretariat's Bylaws, individual Métis applying for citizenship voluntarily mandate the MNO to be their "representative body" for the purposes of advancing Métis rights, claims and interests, which are collective in nature. Through the MNO's centralized and standardized registration processes, these individuals are verified as Métis rights-holders consistent with Powley. In December 2015, the Legislature of Ontario passed the Métis Nation of Ontario Secretariat Act, 2015, which expressly recognizes that the MNO was created to represent its registered citizens, and the Métis communities comprised of those citizens, with respect to their collective rights, interests and aspirations (Isaac 2016).

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As the only recognized provincial Métis governance structure in Ontario, the MNO has worked diligently to advance the rights of Métis in Ontario. Since its creation, the MNO has achieved many successes, including:

- Advancing the historic Powley litigation, which recognized and affirmed Métis harvesting rights in Sault Ste. Marie and environs;
- The creation of the MNO Harvester's Policy and Harvester Card system. The MNO entered into an interim agreement recognizing the MNO's Harvester Card system in 2004 (Métis Nation of Ontario 2017) (this agreement was further amended in 2015)(Métis Nation of Ontario 2015);
- The signing of the MNO-Ontario Framework Agreement that sets out a new relationship and agenda between the provincial government and the Ontario Métis (Métis Nation of Ontario 2014);
- The establishment of a province-wide Métis Consultation Framework that includes Regional Consultation Protocols and a MNO Lands, Resources and Consultation Branch, which works to ensure that the Crown is fulfilling its duty to consult and accommodate Ontario Métis communities when Métis rights, interests and way of life may be impacted (Métis Nation of Ontario 2017);
- The passing of the *Metis Nation of Ontario Secretariat Act, 2015* by the Ontario Legislature, which recognized that the MNO through the Métis Nation of Ontario Secretariat established democratically elected governance structures and represents its citizens at the local, regional, and provincial levels; and
- The signing of a Memorandum of Understanding to Advance Reconciliation with the Government of Canada in February 2017 (Métis Nation of Ontario 2017).

5.3 Métis Rights and Interests

In 1982, after generations of fighting for justice, the existing Aboriginal and treaty rights of Canada's Aboriginal peoples received constitutional protection. Section 35 of the *Constitution Act, 1982* provides:

35 (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

(2) In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.

This constitutional protection was a victory for all Aboriginal peoples in Canada. For the Métis Nation, the explicit inclusion of the Métis in s. 35 was viewed as a new beginning after over 100 years of denial, avoidance and neglect by governments in Canada.

Unfortunately, this promise of recognition and reconciliation for the Métis remained largely unfilled. For some time, governments took the position that Métis had no existing Aboriginal rights protected by s. 35 and refused to negotiate with Métis regarding their rights and claims.

As a part of its Métis rights-based agenda, MNO decided to challenge Ontario's flawed legal position—all the way to the Supreme Court of Canada. The *Powley* case was taken as a "test case" for Ontario Métis as well as the rest of the Métis Nation. The MNO called this the "Métis Hunt for Justice."

Between 1995 to 2003, three levels of Ontario courts, and, finally, the Supreme Court of Canada, all found that the Métis community in and around Sault Ste. Marie had a

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collectively-held Métis right to hunt for food, protected by s. 35 of the *Constitution Act, 1982*. Specifically, the Supreme Court found that there was and remains a rights-bearing Métis community in the Sault Ste. Marie region (this will be discussed in further detail below).

5.4 The Metis Communities in the Study Area

5.4.1 The Northern Lake Superior Métis Community

The proposed Project will be entirely located within Traditional Métis Harvesting Territories. The map above (Figure 5-2.1) shows the MNO's Traditional Harvesting Territories.

Historically, there was a regional Métis community that hugged the northern shore of Lake Superior and extended inland along strategic waterways, comprising the interconnected Métis populations at Lake Nipigon, Long Lake, and Pic River as well as other locations in the area (called the 'Northern Lake Superior Métis Community'). Today, there is a regional, rights-bearing Métis community that includes the contemporary locations of Thunder Bay, Nipigon, Schreiber, Rossport, Marathon, Geraldton, Longlac, Macdiarmid and others, which is represented on the MNO's Harvesting Territories Map as the Lakehead, Nipigon, and Michipicoten Harvesting Territories.

The following section will outline some addition information about the emergence of the Northern Lake Superior Métis Community. The information below is summarized from the following historic report: "The Historical Roots of Métis Communities in North of Lake Superior" by Gwynneth C.D. Jones. A copy of this report is available at: http://www.metisnation.org/registry/citizenship/historicresources/.²

Between 1769 and 1904, a number of fur trade posts were established and in use for various periods of time in Northern Lake Superior. Men engaged in the fur trade were required to travel between the posts seasonally and for specific tasks. The posts in the region were economically connected, resulting in a significant amount of overlap in the fishing, hunting, trapping and trading areas of the region. The Métis employees of the post and their families played a significant role in post provisioning through hunting, fishing and small farming operations (Jones 2015, 20, 80). Métis women and children took part in hunting and snaring (especially of rabbits), fishing, collecting materials for canoes, weeding, harvesting gardens and making maple syrup (Jones 2015, 86).

The Métis were relied on at inland fur trading posts to act as interpreters and traders with First Nations, guides, canoe-builders, steersmen and harvesters of fish and game (Jones 2015, 59). The Métis were highly valued for their unique skill set, which included netting snowshoes and steering through rapids (Jones 2015, 43). Because of this, many Métis employees of the HBC in Northern Lake Superior collectively sought and were granted better wages (Jones 2015, 28-29).

Beyond the economic and corporate ties between the posts in Northern Lake Superior, there is also evidence of kinship ties between the Métis people who worked at Fort William, Nipigon House, Michipicoten, Pic and Long Lac. There is significant evidence

In using this report, the MNO is not taking any position with respect to the conclusions the report. The MNO has used this report to provide some the narrative and historic record evidence on the regional presence of the Métis in this region, but the report, and the resulting summary, is by no means comprehensive.

of intermarriage and kinship between individuals identified as Métis in Northern Lake Superior (Jones 2015, 84, 165, 71-72, 165, 166-97, 166).

Many of the family names identified in the 1803 census at locations in the Northern Lake Superior Métis Community were identified there again in the 1901 census, evidencing a high level of continuity in the region. There are specific names that are consistently present within Northern Lake Superior prior to 1850, and whose families appear to grow and live in the region in the second half of that century, including Bouchards, Bouche, Collins, Deschamps, Delarondes, Fayant, Morrisseaus and Venzinas. As previously noted, the ethnogenesis of the Métis was tied to the marriage of Métis to other Métis, called endogamy.

There were also many shared customs, practices and traditions that evidence a distinct historic community in the Northern Lake Superior region, including cultural practices that distinguished the Métis from First Nations and Europeans in the area. An 1891 report from the investigation into Robinson-Superior pay-lists states that at the time of treaty, the Métis were fundamentally different from the Ojibway, having adopted different ways of life and livelihood strategies (Jones 2015, 168). A number of cultural practices were associated with the Métis engaged in the fur trade in Northern Lake Superior, including but not limited to the "baptism" of newcomers with cedar boughs, a dunk in the river when crossing a height of land, making offerings or prayers at dangerous sites, pulling off hats and making the sign of the cross when leaving one stream for another and a ceremonial "dram" or shot of liquor at the completion of long portages or sections of a journey (Jones 2015, 46, 134-136). The Métis were known for singing "chanson de voyageur" and their distinctive style of dress that included a voyageur's woven belt, blanket coats and red milled caps (Jones 2015, 46, 134-136). They were also known for their cultural practice of stopping to shave, wash and put on clean clothes before arriving at a post (Jones 2015, 46, 134-136).

As previously noted, many of the MNO citizens living in this region today are the descendants of the historic regional rights-bearing Métis community described above, and their harvesting rights have been accommodated by the Ontario Government in an Ontario-MNO Harvesting Agreement.

5.4.2 The Sault Ste. Marie and Environs Métis Community

Powley, [1998] O.J. No. 5310 at para 54 and 75).

The proposed Project will be partially located within the Sault Ste. Marie Traditional Harvesting Territory. The Supreme Court of Canada has confirmed, as stated above, that there is a rights-bearing Métis community in the area of Sault Ste. Marie with collectively-held rights to harvest. This community is inter-connected to other Métis communities in Ontario and forms a part of the Métis Nation. In the Powley case, the trial judge stated that (with the Supreme Court affirming):

[54] The Metis have been consistently identified as a group that inhabited the areas immediately surrounding Sault Ste. Marie.

[75] In the mid-17th Century, Jesuits and French fur traders appeared in the Upper Great Lakes region. The arrival of the French fur traders soon led to marriages between the Ojibway women in the area with the traders. The resultant family groups of mixed-blood families evolved into a new group of Aboriginal people, now known as the Metis. Although the Metis shared many customs, practices and traditions of the Ojibway, they were distinctive and separate from the Ojibway (*R. v.*

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The Sault Ste. Marie community includes modern day locations such as Batchewana, Goulais Bay, Garden River, Bruce Mines, Desbarates, Bar River, St. Joseph's Island, Sugar Island and into Northern Michigan and others (*R. v. Powley*, [1998] O.J. No. 5310 at para 70). The Court have confirmed that the regional rights-bearing community in Sault Ste. Marie is not limited to Sault Ste. Marie itself, but that it also includes more rural and outlying communities surrounding the city:

[68] The Crown has gone to great pains to narrow the issues in this trial to Sault Ste Marie proper. I find that such a limited regional focus does not provide a reasonable frame of reference when considering the concept of a Metis community at Sault Ste Marie. A more realistic interpretation of Sault Ste Marie for the purposes of considering the Metis identity and existence should encompass the surrounding environs of the town site proper.

...

[70] The lifestyle of the Metis more closely resembled the Indians that occupied this area and it would seem more reasonable to find the existence of the Metis on the fringes of the geographical boundaries of Sault Ste Marie. Many of the witnesses made reference to communities and areas surrounding Sault Ste Marie including Batchewana, Goulais Bay, Garden River, Bruce Mines, Desbarates, Bar River, St. Joseph's Island, Sugar Island and into Northern Michigan.

[71] It is not surprising considering the lifestyle of the modern Metis to find them as more visible entities in the more rural and outlying communities surrounding Sault Ste Marie (*R. v. Powley*, [1998] O.J. No. 5310 at paras 68, 70, 71).

Many of the Métis citizens living in this region today are the descendants of the historic regional rights-bearing Métis community. Their harvesting rights have been affirmed by the Supreme Court of Canada and accommodated by the Ontario Government in an Ontario-MNO Harvesting Agreement.

Appendix A

This Métis Nation of Ontario (MNO) questionnaire is designed to supplement information collected for the *Project Specific Traditional Land Use Study and Evaluation Criteria Summary: NextBridge Infrastructure's East-West Tie Transmission Project.* This questionnaire seeks to collect information about the potential for a reduction in Métis access to preferred locations of harvest within the local and generalized study areas identified by NextBridge.

I understand that the purpose of this questionnaire is to assist MNO in gathering information specifically related to the NextBridge Infrastructure East-West Tie Transmission Project. I understand that MNO will produce a report based on the results of the questionnaire.

of the questionnaire.	
I understand that following its production, the repoverification process in which I,	-
I understand that the report will be provided to Nex report with the relevant regulatory authorities.	tBridge and that MNO may file this
I understand that the report will not include the names or personal information of any questionnaire participants. Further, I agree that information submitted through this questionnaire can be used by MNO to support ongoing MNO research, regulatory interventions, court actions, negotiations, legal work, projects and initiatives.	
Do you AGREE to Participate in the Questionnaire	?
Yes	
No	
	Data
Signature	Date

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Derek Chum Vice President, Indigenous Relations

April 30, 2018

MNO Greenstone Metis Council P.O. Box 825, 211-401R 4th Ave Geraldton, ON P0T 1M0

Dear Sir/Madam:

Hydro One seeks approval to construct new East-West Tie transmission line

Designing, building, and operating transmission infrastructure has been a core competency of Hydro One for many decades. Our teams bring their best each day and are working to deliver a transmission capital portfolio that has more than 200 projects at any given time.

With this in mind, and given our long history of service and ongoing commitment to northern Ontario, Hydro One has submitted an application to the Ontario Energy Board (OEB) seeking approval to construct a new transmission line between our Lakehead Transformer Station (TS) and our Wawa TS, as shown on the attached map. The new line will provide the additional power transfer capability to ensure the future electricity needs and growth of northern Ontario can be met.

Our proposed project, which we are calling the Lake Superior Link, is a 400 kilometre double-circuit 230 kilovolt transmission line that would primarily be built on or adjacent to Hydro One's existing East-West Tie transmission corridor. Hydro One's proposal is the most cost-effective solution for Ontario electricity consumers.

By maximizing use of existing infrastructure, our route is approximately 50 km shorter than the other proponent's proposal, reducing the amount of relatively undisturbed land that would need to be cleared. A major benefit of our project would be realized in Pukaskwa National Park, where Hydro One's existing transmission line can be upgraded without widening the corridor. Outside of the Park, our project can be constructed on a narrower corridor; overall, the Lake Superior Link will require approximately 50% less corridor land than the other proponent's route, thereby minimizing environmental impacts and disturbance to local communities.

Hydro One received a letter from the Ministry of Energy delegating procedural aspects of Consultation to Hydro One regarding its proposed Lake Superior Link Project. Hydro One recognizes the importance of consultation with Indigenous communities. We are very excited about our proposal and its ability to maximize

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value for Ontario electricity customers, and look forward to discussing how this project can deliver tangible benefits to Indigenous communities in the project area. These tangible benefits include, but are not limited to, capacity funding, contracting and employment opportunities.

Hydro One together with its engineering and construction partner SNC-Lavalin not only recognizes the importance of having involvement and participation of Indigenous communities and businesses in the execution of the Lake Superior Link Project, we also have a proud history of inclusion through employment and procurement of our projects. For the Lake Superior Link Project, we will actively procure goods and services from qualified Indigenous suppliers and with companies who have strong relationships with local Indigenous communities and businesses. We will continue these relationships offering participation throughout the construction phase. Similarly, we will seek to maximize the employment of members from local/regional Indigenous communities, including additional skills training for those enrolled in the Anishinabek Employment and Training Services (AETS) program, which would be beneficial to the Lake Superior Link Project as well as future projects and employment with Hydro One.

Hydro One is prepared to begin the consultation process immediately and would like to begin scheduling meetings with you and your community as soon as possible. Hydro One's Indigenous Relations team will be following up with you shortly to schedule a meeting. In the interim, I would be pleased to answer any questions you may have. Please also feel free to contact Christine Goulais, Senior Manager, Indigenous Relations, at 416-345-4390 or Tausha Esquega, Senior Advisor, Indigenous Relations, at 807-346-3830.

Sincerely,

Derek Chum

Cc: Metis Consultation Unit, MNO

Bonnie Bartlett, Energy Policy Analyst, MNO

Attachment

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Derek Chum Vice President, Indigenous Relations

April 30, 2018

MNO Superior North Shore Metis Council 26 Princess Street Terrace Bay, ON P0T 2W0

Dear Sir/Madam:

Hydro One seeks approval to construct new East-West Tie transmission line

Designing, building, and operating transmission infrastructure has been a core competency of Hydro One for many decades. Our teams bring their best each day and are working to deliver a transmission capital portfolio that has more than 200 projects at any given time.

With this in mind, and given our long history of service and ongoing commitment to northern Ontario, Hydro One has submitted an application to the Ontario Energy Board (OEB) seeking approval to construct a new transmission line between our Lakehead Transformer Station (TS) and our Wawa TS, as shown on the attached map. The new line will provide the additional power transfer capability to ensure the future electricity needs and growth of northern Ontario can be met.

Our proposed project, which we are calling the Lake Superior Link, is a 400 kilometre double-circuit 230 kilovolt transmission line that would primarily be built on or adjacent to Hydro One's existing East-West Tie transmission corridor. Hydro One's proposal is the most cost-effective solution for Ontario electricity consumers.

By maximizing use of existing infrastructure, our route is approximately 50 km shorter than the other proponent's proposal, reducing the amount of relatively undisturbed land that would need to be cleared. A major benefit of our project would be realized in Pukaskwa National Park, where Hydro One's existing transmission line can be upgraded without widening the corridor. Outside of the Park, our project can be constructed on a narrower corridor; overall, the Lake Superior Link will require approximately 50% less corridor land than the other proponent's route, thereby minimizing environmental impacts and disturbance to local communities.

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Hydro One together with its engineering and construction partner SNC-Lavalin not only recognizes the importance of having involvement and participation of Indigenous communities and businesses in the execution of the Lake Superior Link Project, we also have a proud history of inclusion through employment and procurement of our projects. For the Lake Superior Link Project, we will actively procure goods and services from qualified Indigenous suppliers and with companies who have strong relationships with local Indigenous communities and businesses. We will continue these relationships offering participation throughout the construction phase. Similarly, we will seek to maximize the employment of members from local/regional Indigenous communities, including additional skills training for those enrolled in the Anishinabek Employment and Training Services (AETS) program, which would be beneficial to the Lake Superior Link Project as well as future projects and employment with Hydro One.

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Sincerely,

Derek Chum

Cc: Metis Consultation Unit, MNO

Bonnie Bartlett, Energy Policy Analyst, MNO

Attachment

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Derek Chum Vice President, Indigenous Relations

April 30, 2018

MNO Thunder Bay Metis Council 226 May Street South Thunder Bay, ON P7E 2W0

Dear Sir/Madam:

Hydro One seeks approval to construct new East-West Tie transmission line

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Sincerely,

Derek Chum

Cc: Metis Consultation Unit, MNO

Bonnie Bartlett, Energy Policy Analyst, MNO

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Ministry of Energy

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RECEIVED

Indigenous Energy Policy

MAR 2 3 7018



March 2, 2018

Métis Consultation Unit Métis Nation of Ontario Head Office 500 Old St. Patrick Street, Unit D Ottawa, ON K1N 9G4

Re: East West Tie Line

This letter is to provide an update on the status of the proposed East West Tie Transmission Line (EWT).

Updated Need Assessment

On August 4, 2017 the Minister of Energy requested that the Independent Electricity System Operator (IESO) update the need assessment for the EWT, consistent with the scope of previous need assessments requested by the Ontario Energy Board (OEB).

On December 1, 2017, the Minister of Energy received an updated need assessment from the IESO which confirmed the rationale for the project based on updated information and study results. The report confirmed the need to pursue the completion of the EWT with a 2020 in-service date. The report is available at the IESO's website at: http://www.ieso.ca/get-involved/regional-planning/northwest-ontario/bulk-planning/eastwest.

Hydro One Notification

As you know, NextBridge Infrastructure was designated by the OEB in 2013 as the transmitter to complete development work for the EWT. Through a Memorandum of Understanding, the Crown expressly delegated the procedural aspects of consultation to NextBridge in relation to the EWT. In October 2017, NextBridge submitted a leave to construct application to the OEB.

On February 15, 2018, Hydro One also filed a leave to construct application for the

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EWT. This is an alternate proposal for the EWT and is separate from the proposal submitted by NextBridge. The OEB's designation process that selected NextBridge in 2013 to undertake development work did not restrict other transmitters from submitting competing leave to construct applications.

Hydro One's proposal indicates that the preliminary scope of the project would consist of a new 398 kilometer, 230 kilovolt double-circuit transmission line along the northern shore of Lake Superior between Wawa and Thunder Bay. The proposed project would parallel the existing Hydro One tie between Lakehead Transmission Station and the Wawa Transmission Station.

Given that Hydro One has filed a leave to construct application with the OEB, the Ministry of Energy on behalf of the Crown, has also delegated the procedural aspects of consultation to Hydro One for its activities related to their leave to construct application as well as environmental approvals including completion of Environmental Assessment requirements under the *Ontario Environmental Assessment Act* for its proposed project.

Please note that this delegation of consultation is specific to Hydro One's recent filing with the OEB and is separate from the Crown's previous delegation of consultation to NextBridge for its proposal, which is still ongoing.

If it has not already done so, Hydro One will be contacting you about the proposed project and any potential impacts on Aboriginal and treaty rights. The consultation process is an opportunity to provide your community's feedback to Hydro One and the Crown, including any suggestions or proposals your community might have for mitigating, avoiding or accommodating any potential impacts to Aboriginal or treaty rights.

Ministry of Energy officials are also available should you wish to contact the Crown directly. As you know, it will be the responsibility of the OEB to review and evaluate both Hydro One's and NextBridge's applications, and to grant leave to construct for the project.

Should you or any members of your community have any questions regarding the material above, please contact Shannon McCabe at 416-212-6704 or shannon.mccabe@ontario.ca.

Sincerely,

Samir Adkar Director

Energy Networks and Indigenous Policy

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Ministry of Energy



March 21, 2018

Delivered Via Email

Honourable Glenn Thibeault, Minister of Energy Ontario Ministry of Energy 4th Floor, Hearst Block 900 Bay Street Toronto ON M7A 2E1

Dear Minister Thibeault,

RE: Métis Nation of Ontario Concerns with Hydro One Network Inc.'s Lake Superior Link Project's Leave to Construct Application and Urgent Meeting Request

As the President of the Métis Nation of Ontario ("MNO"), I am writing to express the MNO's increasing and grave concerns about Hydro One Network Inc.'s ("HONI") unexpected leave to construct application for the Lake Superior Link Transmission Line Project (the "LSL") as an alternative to the East-West Tie Transmission Line Project (the "EWT"). It is our understanding that the LSL seeks to complete with, and ultimately supplant the EWT. Given the years of engagement between Nextbridge, as the designated transmitter for the EWT, and Indigenous communities and governments—including the MNO—this eleventh hour attempt by HONI to supplant the EWT is a significant concern.¹ Of far greater concern, however, is that the LSL leave to construct application is proceeding without any substantive engagement or discussions—by Ontario or HONI—with the Métis communities whose traditional territories will be traversed and impacted by the LSL.² This is unacceptable to the MNO.

Right now, the MNO is completely in the dark with respect to the LSL. The MNO does not know what Ontario and HONI are planning, either together or independently. The only information we have is what we are periodically receiving from the Ontario Energy Board ("OEB") regulatory process, which has often been delayed in its public release and does not explain how the LSL application will impact the Indigenous communities who have been diligently participating in

As set out in previous correspondence and submissions to the Crown, the MNO represents two rightsbearing Métis communities whose traditional territories will be traversed by the EWT and LSL that meet the legal test set out in *R v Powley*, 2003 SCC 43. These two Métis communities have established rights and other asserted claims and interests that will be impacted by either proposed transmission line.



Nextbridge's environmental assessment for the EWT—in which the MNO actively participated—is substantially completed (the "EWT EA").

and relying on the Crown-created processes that have been put into place to date in relation to the EWT. This is also unacceptable to the MNO.

In its leave to construct application, HONI states that it asked for direction from Ontario regarding consultation with Indigenous communities on the LSL in November of 2017.³ Four months have passed and no one from Ontario has picked up a phone, written to, met with, or, explained what is happening to the Métis communities the MNO represents. No one from Ontario has asked for or solicited the MNO's views or input on what this could mean for the project in relation to Crown consultation, Métis economic participation, the existing MNO-NextBridge relationship, or the trust that has been built in relation to the EWT. No one from Ontario appears to have thought through the potentially disastrous legal implications of allowing HONI to proceed further with what has to date been a unilateral approach on the LSL. In the age of reconciliation, does Ontario really think this is an acceptable way to proceed?

The honour of the Crown—as a constitutional duty—must inform Ontario's actions and decision-making, including whether to delegate procedural aspects of Crown consultation to HONI regarding the LSL.⁴ Ontario must engage with impacted Indigenous communities in order to understand our views and what we see as the potential legal consequences of proceeding without regard to Indigenous interests.⁵ Ontario has, to date, failed to do so. What is happening right now regarding the LSL is not honourable. Nor is it legally sound. While HONI may believe it can rely on a sharp reading of provincial legislation to attempt to secure what it wants, Ontario, acting on behalf of the Crown, cannot. The current situation has the potential to doom a desperately needed piece of transmission infrastructure to years of litigation because the Crown has not considered or even talked to the Indigenous communities that will be impacted. This is the antithesis of reconciliation.

For going on eight years now,⁶ the MNO has acted and relied on Ontario's commitments in laws,⁷ provincial policies,⁸ and the processes directed and delegated by Ontario to ensure

HONI Leave to Construct Application, EB-2017-0364, Exhibit H, Tab 1, Schedule 1, at 1.

⁴ Haida Nation v British Columbia (Minister of Forests), 2004 SCC 73 at para 16; Taku River Tlingit First Nation v British Columbia (Project Assessment Director), 2004 SCC 74 at para 24; R v Badger, [1996] 1 SCR 771 at para 41; Manitoba Metis Federation Inc v Canada (Attorney General), 2013 SCC 14 at para 65; Canada v Long Plain First Nation, 2015 FCA 177 at para 108.

Chippewas of the Thames First Nation v Enbridge Pipelines Inc, 2017 SCC 41 at para 44; see also Clyde River (Hamlet), 2017 SCC 40 at para 23.

In March 2011, the Minister of Energy asked the OEB to create a process for selecting the most qualified and cost-effective transmission company to develop the East-West Tie transmission line that connects Northeast and Northwest Ontario.

⁷ Ontario Energy Board Act, 1998, SO 1998, c 15, Sched B, ss 1(1), 3, 5.

⁸ For example, see commitments in the Long-Term Energy Plans with respect to new transmission and Indigenous communities.

meaningful Métis engagement, consultation and economic participation in the EWT.⁹ The designated transmitter for the EWT (*i.e.*, NextBridge) has reached negotiated agreements with proximate Indigenous communities based on delegated authorizations from the Crown.¹⁰ Now, at the eleventh hour, HONI—which excluded Métis from any equity participation or meaningful economic participation in its previous EWT bid¹¹—seeks to ignore and overturn all of the work that has been done. This has left the MNO with the feeling that we are having the rug pulled out from under us for the benefit of HONI, in which Ontario has a unique ownership interest.

Given the lack of any substantive engagement, and the scant details we have on HONI's intentions vis-à-vis the LSL and what Ontario, as the Crown, is planning to do, we are unable to understand or assess the implications of the LSL leave to construct application. As such, we are requesting a meeting with Ontario representatives as soon as possible to discuss our concerns. In anticipation of that meeting, we want to make the following points and ask the following questions:

• A proponent—in particular one that is principally owned by a Crown actor—should not be developing a project without engaging potentially impacted Indigenous communities at the earliest stages. Courts have repeatedly held that engagement and consultation on a potential project needs to occur at the earliest stages, not at the eleventh hour.¹² How long has HONI contemplated doing this alternative project? Did it make any Indigenous communities aware of its plans? If yes, why were the most proximate and impacted Indigenous communities, such as the two impacted Métis communities represented by the MNO, not engaged or made aware of these plans? Was Ontario—as HONI's largest shareholder—aware of HONI's plans? If so, since when?¹³

For example, see the OEB's transmitter designation process, the Ontario-NextBridge memorandum of understanding on consultation, *etc*.

The agreements that have been come to—in reliance on express delegation the MOU between Ontario and NextBridge—are "not just commercial agreements" but implicate the honour of the Crown and its duty of fair dealing towards Indigenous peoples. (*Canada v Long Plain First Nation*, 2015 FCA 177 at paras 108, 112.)

HONI's application for designation was made by a partnership of HONI, Great Lakes Power Transmission EWT LP and Bamkushwada LP. In evaluating its bid, the OEB found that "[w]hile EWT LP's plan is good for the six First Nation partners comprising BLP, there are more limited opportunities for other affected First Nations and Métis communities to participate in the various aspects of this project, and no opportunity for equity participation," EB-2011-0140, OEB Phase 2 Decision and Order at 17.

HONI has requested a scant 45 days to "explore and discuss various participation benefits with the impacted Indigenous Communities, including equity partnerships" and to negotiate "any necessary agreements with Indigenous Communities." HONI Leave to Construct Application, EB-2017-0364, Exhibit B, Tab 1, Schedule 1, at 12. Furthermore, HONI's planning consultation activities with respect to the new route and environmental assessment activities are only vaguely described.

For instance, HONI's Leave to Construct Application states that it has been engaging with Ontario about its proposal to use NextBridge's environmental assessment studies since late 2017 and also stated that it reached out to Ontario regarding identifying potentially effected Indigenous communities in November of 2017. EB-2017-0364, Exhibit B, Tab 7, Schedule 1, at 9, and Exhibit H, Tab 1, Schedule 1, at 1.

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- HONI's timelines for effective and meaningful consultation on the LSL are unrealistic and it cannot rely on the consultation that has been done on the EWT. Unlike the transmitters who participated in the EWT designation process, HONI's proposed consultation timelines have not been tested or scrutinized, ¹⁴ and, therefore, cannot be relied upon to justify that any cost savings could be found through the LSL. The MNO believes the opposite would be the case if HONI was allowed to proceed with the LSL. The potential for litigation from the MNO and other Indigenous communities could significantly slow down the proposed LSL. This is particularly so given HONI's history of exclusion of Métis communities from meaningful economic participation opportunities in the EWT, as seen in its previous—and failed—bid to be designated by the OEB. Moreover, HONI's estimates are unrealistic in comparison with consultation timelines on other transmission line projects within Ontario and other jurisdictions. They also make a mockery of the meaningful consultation that has happened on the EWT over the last four years. This late filing disregards that "consultation" is concerned with the ethic of ongoing relationships." 15 Presently, HONI has no relationship with in the MNO with respect to the LSL. This cannot be built overnight, and its approach to date has shown it is not committed to establishing a respectful relationship with the MNO regarding the LSL. Courts have rejected this type of 'bait and switch' approach to consultation; a change of proponent in relation to a project is not a "neutral" change and requires consultation to start again from the beginning.¹⁶
- HONI's proposal to "utilize the EA-specific consultation work, already completed by NextBridge," including "associated studies," ignores the MNO's legal rights. HONI's statements and assumptions in the LSL leave to construct application that it can simply use the "associated studies" undertaken by the MNO as a part of the EWT EA are legally unsound and do not appear to consider or appreciate that the information contained in traditional knowledge and land use studies completed by Indigenous communities—certainly those completed by the MNO—is owned by those communities.¹⁷ These studies have been shared confidentially with NextBridge and include defined conditions and terms of use that cannot be unilaterally rewritten by an OEB approval of the LSL or by a regulation

Note that HONI did participate in the designation process as part of a partnership with Great Lakes Power Transmission EWT LP and Bamkushwada LP, which had now been dissolved. HONI is the sole proponent of the proposed LSL. EB-2017-0364, Exhibit B, Tab 7, Schedule 1, at 5.

Rio Tinto Alcan Inc v Carrier Sekani Tribal Council, 2010 SCC 43 at para 38.

¹⁶ Gitxsan and other First Nations v British Columbia (Minister of Forests), 2002 BCSC 1701 at para 82.

HONI suggests that because the individual EA and associated studies will ultimately be paid for by Ontario ratepayers, it should be available for use by any transmitter whose leave to construct application is approved. HONI Leave to Construct Application, EB-2017-0364, Exhibit B, Tab 1, Schedule 1 at 10. This casual approach to traditional knowledge and land use information is not honourable nor respectful, and undercuts the relationship and trust building required for reconciliation.

issued by Ontario (as proposed by HONI).¹⁸ These studies cannot be used by HONI without the MNO's agreement and consent, and NextBridge cannot legally hand them over to HONI. Moreover, the MNO would not consent to the use of these studies by HONI because they were negotiated as a part of the relationship that was built with NextBridge in relation to the EWT and were based on assessing effects in relation to the EWT's proposed route—not the LSL route¹⁹ which will require new studies to be commissioned.

HONI's proposed approach to Indigenous engagement and economic participation in the LSL is absurd and will lead to a breach of the honour of the Crown. Over the last four years, the First Nations and Métis communities whose traditional territories will be traversed and directly impacted by the EWT have participated in good faith negotiations with NextBridge. This has resulted in distinctive, respectful and complicated negotiated agreements being reached with the most proximate First Nations (who are equity partners in the EWT with NextBridge) and the Métis communities represented by the MNO. Importantly, through collaboration and hard work, a unique economic participation solution has been found for the Métis communities represented by the MNO. HONI's engagement contemplates now bringing 88 First Nations together—in a location nowhere near the proposed transmission line—to develop an approach and get to new negotiated agreements in 45 days.²⁰ With respect, this proposed approach is absurd. It could potentially lead to the most proximate First Nation and Métis communities being left out in the cold because they already have negotiated agreements with NextBridge, while other Indigenous communities—that are nowhere near the proposed transmission line—may become partners or beneficiaries of negotiated agreements with HONI. How does this advance reconciliation? Ontario cannot sit back and allow this nonsensical process to proceed without intervention, let alone sanction it by delegating procedural aspects of consultation to HONI for the LSL. The agreements that have been negotiated by First Nations and Métis communities—based on their reliance on Ontario's commitments and the Crown's delegated authorizations to NextBridge—implicate the honour of the Crown.²¹ These cannot be cavalierly disregarded without legal consequences.

The MNO's "associated studies" ... "originate in confidence, through a relationship of trust between [the MNO] and its members ... confidentiality is essential to the maintenance of that relationship." This information must be protected from disclosure "in order to protect confidentiality and preserve the relationships necessary for consultation processes" (Yahey v British Columbia, 2018 BCSC 123 at paras 24, 26).

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HONI Leave to Construct Application, EB-2017-0364, Exhibit B, Tab 1, Schedule 1, at 12.

See for example, Canada v Long Plain First Nation, 2015 FCA 177, paras 108, 112; Bear v Saskatchewan (Government of), 2016 SKQB 73 at paras 37, 41.

Based on the above, the MNO is requesting a meeting—on an urgent basis—to discuss these issues. As set out above, this meeting must occur prior to Ontario signing a memorandum of understanding with HONI delegating procedural aspects of Crown consultation in relation to the LSL. Ontario needs to understand the MNO's perspectives on these issues as well as the potential implications of its actions, and the MNO needs to understand how and why the LSL application has come about, and how it might proceed. To not even engage with the MNO on this decision is not consistent with Ontario's duties and obligations owing to the MNO.

We look forward to hearing from you and scheduling a meeting as soon as possible to discuss these crucial issues. Please contact Aly Alibhai, Director of the Lands, Resources and Consultation Branch of the MNO at 416-977-9881 or alya@metisnation.org to do so.

Sincerely,

Margaret Froh President

Métis Nation of Ontario

c.c. MNO Lakehead/Nipigon/Michipicoten Consultation Committee
MNO Historic Sault Ste. Marie Consultation Committee
Aly Alibhai, Director, Land, Resources and Consultation Branch, MNO
Jason Madden and Colin Salter, Pape Salter Teillet LLP
Jennifer Tidmarsh and Andy Hope, NextBridge Inc.
Kristin Walli, Board Secretary, Ontario Energy Board

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Calliou Group
NextBridge East West Tie Project
Statement of Work
April 2014

Description of Situation

Narrative

The Métis Nation of Ontario (MNO) and MNO Lands, Resources and Consultation Branch are interested in completing the following for the East-West Tie line (the "EWT") here to referred as the "Project".

A. A Traditional Knowledge and Land Use Study (TKLUS)

This study will contribute to the body of growing Traditional Knowledge and Land Use research being gathered from Métis people across Ontario. At the most basic level, the process of gathering the information can make people feel that their knowledge and culture is valued. In addition, the results can be used in a variety of ways. Traditional Knowledge and Land Use Information can be used to express collective Métis interests for consultations on any major developments in the region; it can be used in combination with other research in legal hearings to further demonstrate a historic Métis connection to the territory; and the results can be combined with scientific data to assist with environmental management. Perhaps most importantly, the results of TKLUS research can be used alone or combined with the results of other Métis Traditional Knowledge and Land Use Information studies carried out across the province to inform youth, Métis people who were not raised with their traditional cultural practices, and non-Métis people about the Métis Way of Life.

Transcripts and a written report will be prepared summarizing the results of this research. The TKLUS interviews will also be recorded using video in preparation to develop a future documentary.

B. An Environmental Assessment Technical Review (the Review)

The Review will review the proponent's available EIS/EA, and technical support documents, related to the project. The review will identify any deficiencies related to the Proponent's identification of potential effects resulting from the Project that may impact the rights, interests, and way of life of the regional, rights-bearing Métis community. The findings of the technical review will be essential to meaningful consultation.



An Aboriginal Owned Company

Métis Nation of Ontario

Occupied Lands Study and Technical Review East West Tie Transmission Project

Proposal

April 2016

Calliou Group Suite 100, 1716 – 16th Avenue NW Calgary, AB T2M 0L7 (403) 453-1405 www.calliougroup.com

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Introduction

The following proposal was prepared by Calliou Group at the request of the Métis Nation of Ontario (MNO).

The Duty to Consult

Where natural resource development projects have the potential to negatively affect the exercise of First Nations' Aboriginal and treaty rights, the Crown's duty to consult is triggered. The Crown has a duty to consult and, where appropriate, accommodate when the Crown contemplates conduct that might adversely impact potential or established Aboriginal or treaty rights.

Prior to making the decision, the Crown must predict and attempt to quantify the size and scope of negative effects to the exercise of Aboriginal and treaty rights in order to understand the corresponding need to accommodate or offset identified effects. It is a predictive exercise, where changes to Aboriginal and treaty rights and interests are estimated.

That the Crown must adequately inform itself of negative impacts and communicate these impacts to First Nations was recently made clear by the Supreme Court of Canada (the Court) in *Grassy Narrows* where the Court stated:

Where a province intends to take up lands for the purposes of a project within its jurisdiction, the Crown must inform itself of the **impact the project will have** on the exercise by the Ojibway of their rights to hunt, fish and trap, and communicate its findings to them.¹

Environmental Assessment Limitations

The primary vehicle for identifying and measuring negative and positive effects to the biophysical and socio-economic matters of interest to Canadians resulting from a natural resource project is the environmental assessment process embedded within the regulatory review framework. This process, established and managed by the Crown has a 45-year long history in Canada of considering large scale natural resource projects and gathering predictive information on the consequences of proceeding with an approval of the project. Biophysical and socio-economic valued components are identified, changes to those components are quantified and a public debate ensues over the acceptability of those changes.

The conventional approach in an environmental assessment process is to primarily focus on biophysical components; that is, the change to animals, habitats and natural systems. It is relatively straightforward to collect information and arrive at identification of change for components in the natural environment. The methodology to conduct an identification of change to biophysical components is also well established in the scientific community. However, the use of change to biophysical components has not

¹ Grassy Narrows First Nation v Ontario (Natural Resources), 2014 SCC 48 at 52

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been successfully used to accurately illustrate change to the exercise of Aboriginal and treaty rights for a number of reasons; Aboriginal cultural considerations are not included; unacceptable causal change to biophysical components from a single project is difficult to prove, and; cumulative effects to natural environments are not examined on a project-by-project basis.

As the regulatory review framework is scaled to consider changes on a project-by-project level, the change or effects resulting from one project are not considered on a regional or treaty scale. These limitations prevent a consideration describing potential adverse effects to Aboriginal and treaty rights in any meaningful way. Projects are approved, one by one, and an understanding of how they will in combination, change the ability of Aboriginal Groups to exercise their rights is not contemplated.

Calliou Group is advocating for the identification of alternative markers for change or negative effects to Aboriginal and treaty rights that would reflect the Supreme Court of Canada's direction.

Measuring Negative Effects to Aboriginal Interests: 1. Occupied Lands Study

Calliou Group proposes to use the language and concepts of the Court of Canada to arrive at an identification of the negative impacts to Aboriginal and treaty rights: that is, occupied lands ϑ lands compromised for the exercise of rights and preferred means of exercising a right.

As stated, the purpose of the Study is to provide information to MNO, the proponent, and the regulator about how the Project may change the ability of MNO Citizens to exercise Aboriginal rights in their preferred conditions. Therefore, the Study Team plans to identify lands that may be unavailable for the exercise of those rights, including:

- Occupied Lands
- Legislated Restriction Zones

Occupied Lands

Unoccupied Crown lands that have been moved from the inventory of lands where Aboriginal groups have an unrestricted right of access to exercise their Aboriginal and treaty rights to the inventory of lands where they can no longer exercise these rights without permission are referred to as Occupied Lands. For this Study, Occupied Lands will likely include all public land that is the subject of a legislative instrument under Government of Ontario that conveys an estate or interest sufficient to enable the holder of the disposition to exclude persons from entering on public land². Occupied Lands also refers to other lands within Ontario that is within the legislative competence of the

² Public land does not include federal Crown land

Ontario Legislature under any other enactment that may lead to a restriction on the exercise of an Aboriginal right, including the designation of public roads, road allowances, conservation and protected areas.

In addition, Crown Lease or Land Use Permits for rights to Crown land in order to locate towers and access facilities under the *Public Lands Act, 1990* will be required for the construction, operating and maintenance of the transmission line, as well as permits under the *Aggregate Resources Act, 1990*, for the extraction of aggregate on Crown land and approvals to cross provincial parks as per *the Provincial Parks and Conservation Reserves Act, 2006*. These and other applicable pieces of Ontario legislation will require identification and review.

Occupied Lands also includes lands under private ownership. Finally, Occupied Lands include federal Crown lands, including Indian Reserves, migratory bird sanctuaries, railways, national parks and military bases, etc.

Legislated Restriction Zones

Métis Citizens may be prevented from exercising their Aboriginal rights on lands adjacent to those identified as Occupied Lands for reasons of provincial legislation restrictions. For example, unoccupied Crown lands whose proximity to lands held under disposition or title prevents the exercise of Aboriginal rights through the application of laws and regulations, together, can be understood for this Study as Legislated Restriction Zones.

For example, in Ontario, access to Crown land may be controlled, restricted or limited for various reasons (e.g., to protect public safety or resources). In some areas, motorized vehicles cannot be used to access Crown land but non-motorized means to hike, canoe, fish or hunt are permitted in other areas. Fish and Wildlife Conservation Act, 1997 regulations also restrict hunting, trapping and fishing activities.

2. EA Technical Review

Calliou Group will conduct a review of the proponent's EA submission with a focus on the identification of effects to MNO rights and interests.

As part of the technical review, Calliou Group commits to the following tasks:

- Review the proponent's available technical documents for the project;
- Review of MNO previously filed comments on the project;
- Prepare a draft report that informs the MNO, the proponent and Crown regulators regarding the adequacy with which the Project's EA has assessed the Project's potential impacts on Métis rights, interests and way of life; and
- Based upon feedback from the MNO review process, prepare and submit a final report.

Proposed Work Plan

Identification of Occupied Lands

In order to identify negative effects to Aboriginal rights, using an Occupied Lands approach Calliou Group proposes the following tasks:

Task 1: Strategic Workshop

Calliou Group suggests a meetings and workshop with MNO representatives, including legal counsel to explain and confirm approach.

Task 2: Community Focus Groups

Calliou Group proposes two community focus groups in Thunder Bay and Marathon. This is to review Project details with MNO citizens, and confirm the approach for the Occupied Lands Study.

Task 3: Identification of Occupied Lands

Calliou Group will undertake an identification of available data on occupied Crown lands (under a visible, incompatible use through industrial development or other uses) and private lands. Once the data sets are identified, a strategy will be decided upon with MNO (i.e. does data require purchase?) to gather the data. Upon identification of data gaps, Calliou Group will undertake gathering the data from a variety of sources including publically available sources, the Government of Ontario, and other means.

Task 4: Mapping of Occupied Lands

Based on the identified of Occupied Lands and Legislative Restrictions identified in Task 3, Calliou Group will create maps of the EWT Study Area showing areas where the exercise of Métis Rights is limited.

Buffers may be created in addition to the boundaries of occupied lands based on Legislative restrictions or the Crown Restriction Zone.

Task 5: Preparation of Draft Report for Review (Digitization, Report Writing)
Calliou Group will use the results of the above tasks (including survey results if available) to describe the conditions for exercising rights and avoidance zones.

Calliou Group will develop the Report within agreed upon deadlines. A Draft Report will be provided to MNO representatives for review.

Task 6 & 7: Community Confirmation Meeting and Report Finalization

Calliou Group will prepare a presentation for community confirmation meeting to review the Study results. Any corrections identified will be incorporated into a finalized Report.

Task 8: Additional Meetings

Calliou Group will conduct two meetings (in Marathon and Thunder Bay) to present the final report to MNO citizens. This will also present an opportunity for further Project discussion, where applicable.

Task 9: Proponent Meeting

Calliou Group will be available for a proponent meeting to discuss the findings of the Occupied Lands Study. It is assumed that this meeting will either be held in Toronto or Thunder Bay depending on MNO and proponent availability.

EA Technical Review

Task 1: Review of Previous MNO Comments/filings

Calliou Group will undertake a review of all previously filed MNO documents to ensure a fulsome understanding of the Project and MNO concerns to date.

Task 2: Review of proponents documents, including EIS

Calliou Group will review all proponent documents including the EIS and identify potential deficiencies. This review assumes 2 rounds of additional supplemental responses to be completed following EIS review submission.

Task 3: Prepare a Summary of comments for MNO review

Calliou Group will compile a detailed table of deficiencies. Calliou Group will work closely with MNO staff throughout the preparation of the EIS review to ensure all MNO concerns are accurately represented.

Task 4: Meeting(s) to discuss results and finalize submission

Following provision of the detailed table to MNO for review, Calliou Group will be available for up to two meetings to review the results with the MNO.

Calliou Group proposes to work closely with MNO staff as well as legal counsel at all stages to complete the Occupied Lands Study and Technical Review.



Project Specific Traditional Land Use Study and Evaluation Criteria Summary

NextBridge Infrastructure's East-West Tie Transmission Project



Information collected for the *Métis Nation of Ontario – Project Specific Traditional Land Use Study and Evaluation Criteria Summary: NextBridge Infrastructure's East-West Tie Transmission Project is the sole property of the Métis Nation of Ontario. The information contained within this project-specific Report is meant for a single application only, for use in the Environmental Assessment and associated review for the NextBridge Infrastructure East-West Tie Transmission Project. Citation, use or reproduction of the information contained in this Report for any other purpose is permissible only with the written consent of the Métis Nation of Ontario.*

For further information, please contact:

Métis Nation of Ontario

Lands, Resources & Consultations Branch 426 Victoria Avenue P.O. Box 403 Fort Frances, ON P9A 2C3



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Executive Summary

The following Report, *Métis Nation of Ontario Project Specific Traditional Land Use Study and Evaluation Criteria Summary: NextBridge Infrastructure's East-West Tie Transmission Project,* is intended to identify Métis Nation of Ontario traditional knowledge and resource use information in the vicinity of the proposed NextBridge Infrastructure East-West Tie Transmission Project (the Project). For the purposes of this Report, the Study Team conducted interviews with 25 Métis Nation of Ontario Citizens. The Project is located along the north shore of Lake Superior between Thunder Bay and Wawa, within the MNO's Lakehead/Nipigon/Michipocoten and the Historic Sault Ste. Marie Traditional Territory, and therefore has the potential to negatively affect MNO Citizens' ability to exercise their Métis rights.

Additionally, this Report sets out the process for the selection of Métis Nation of Ontario specific Evaluation Criteria, related to the proposed East-West Tie Transmission Project and a summary of information related to the Evaluation Criteria. The Métis Nation of Ontario expects that the information set out in this Report will be used by NextBridge Infrastructure and their consultants in the identification of potential positive and negative effects of the Project on MNO. During initial review of NextBridge's draft and proposed Terms of Reference for the East-West Tie Transmission Project, the Métis Nation of Ontario identified gaps in the selected Evaluation Criteria. To address these gaps, MNO and the Study Team conducted one workshop to ensure Evaluation Criteria specific to Métis rights and interests were developed. Evaluation Criteria specific questions were incorporated into all 25 interviews.

The MNO Citizens interviewed for the Report described both extensive past and current activities throughout the Lakehead/Nipigon/Michipocoten and the Historic Sault Ste. Marie Traditional Territories. These activities are related to the exercise of Métis rights, including: "...the taking, catching or gathering for reasonable personal use in Ontario of renewable resources by MNO Citizens. Such harvesting includes plants, fish, wildlife and firewood, taken for heating, food, medicinal, social or ceremonial purposes and includes donations, gifts and exchange with Aboriginal persons" (The Métis Nation of Ontario, 2011). Study Participants also reported travel routes, habitation sites and shared traditional ecological knowledge.

Project concerns raised during the interviews include: potential effects to spawning and calving areas; herbicide application; and increased accessibility. These expressed concerns and those detailed further in the Report have a reasonable probability of restricting MNO's ability to exercise their Métis rights in the Local Study Area.

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Richard B. Salter

February 14, 2014

Jean Teillet, IPC

VIA EMAIL TO: mark.yeates@pc.gc.ca

Colin Jesse Salter

Jason T. Madden

Alex Monem Mark Yeates

Environmental Assessment Specialist

Natural Resource Conservation Branch, Parks Canada, Ottawa, Ontario

Nuri Frame

Dear Mr. Yeates:

Paul Bachand

RE: East West Tie Transmission Project (the "Project")

Upper Canada Transmssion/NextBridge (the "Proponent")

Crown Consultation Concerns and Meeting Request

from the Métis Nation of Ontario (the "MNO") Honourary Counsel:

Arthur C. Pape

(1942 - 2012)

Jennie Jack

(Non-Practicing)

We are counsel for the MNO in relation to the abovementioned Project. We are writing to outline the MNO's concerns and seek clarification regarding Crown consultation in relation to the Project; specifically, with respect to federal lands traversed by the Project, including Pukaskwa National Park.

Based on these concerns, which are further detailed below, the MNO is requesting a meeting with appropriate officials within Parks Canada on an urgent basis.

The Métis Community's Claims, Rights and Interests

As a starting point, we would like outline our client's role in relation to Crown consultation on the Project. Through the MNO, Ontario Métis have established a governance structure that represents the Métis citizens and rights-bearing Métis communities at the local, regional and provincial levels. This governance structure includes the Superior North Shore Métis Council, the Greenstone Métis Council and the Thunder Bay Métis Council, which collectively represent a rights-bearing Métis community along the north shore of Lake Superior that extends around part of Lake Nipigon (the "Métis Community").

/...2

These Community Councils receive their mandate to represent MNO citizens (who have applied for and received citizenship from the MNO's centralized registry) through negotiated Charter Agreements with the MNO. Within this Métis Community, the MNO has registered approximately 1,000 Métis citizens who self-identify as Métis, ancestrally connect to the historic Métis Nation and are accepted by the MNO. With children added, the MNO represents a Métis population of approximately 2,500 Métis living within this region. The majority of these registered MNO citizens ancestrally connect to Métis families that have lived within the Métis Community since before effective control in the region.

These Community Councils, in collaboration with the MNO and its Lands, Resources and Consultation ("LRC") Branch, work together to ensure effective and meaningful consultation with the Métis Community. They have executed an internal Consultation Protocol and have established a Regional Consultation Committee to ensure that the Métis Community is appropriately consulted on policies, projects and government decisions that have the potential to impact Métis rights, claims and interests throughout the region. A copy of this protocol is available at the MNO's website: www.metisnation.org.

The history, rights and claims of this Métis Community are well known to the Ontario Government. Over the years, the MNO, Ontario and Canada have commissioned a series of historical reports on the Métis around the Upper Great Lakes, which reports document, extensively, Métis presence in the region that the Project will traverse. Copies of these historical reports are available at the MNO's website.¹

In the *Powley* case, the development of a distinct Métis community in the Upper Great Lakes region was considered. Specifically, the Supreme Court held that "[t]he trial judge found that a distinctive Métis community emerged in the Upper Great Lakes region in the mid-17th century, and peaked around 1850. We find no reviewable error in the trial judge's findings on this matter, which were confirmed by the Court of Appeal."

Since the Powleys lived and were hunting just outside of Sault Ste. Marie, the rights-bearing Métis community was defined in a manner that resolved the specific fact pattern and claim before the courts. In aboriginal rights claims that arise in the context of a regulatory prosecution it is standard practice to "re-characterize and narrow the claimed right to satisfy the forensic needs of the defence without risking self-destruction of the defence by reason of overclaiming."

Consistent with this approach, the Supreme Court defined the relevant community as the Sault Ste. Marie Métis community for the purposes of resolving the Powleys' claim, however, this legal conclusion did not overturn the trial judge's findings that "a distinctive Métis community emerged in the Upper Great Lakes region in the mid-17th century, and peaked around 1850." These findings are relevant to the region the Project will traverse.

See MNO website at: http://www.metisnation.org/registry/historicresources.

² R. v. Powley, [2003] 2 SCR 207, para. 21.

Lax Kw'alaams Indian Band v. Canada (AG), [2011] 3 SCR 535, para. 44.

Today, the MNO represents citizens throughout the region that are the modern day continuation of the historic Métis community. Members of the Métis Community hunt, fish, trap and gathering throughout the region, including, Pukaskwa National Park, based their Aboriginal rights protected by s. 35 of *Constitution Act*, 1982.

As you should be aware, in 2004, the MNO and the Ontario Ministry of Natural Resources ("MNR") reached a negotiated agreement, which accommodates Métis harvesting rights in the region based on the historical research available at that time and credible Métis claims. As a part of these negotiations, the MNR confirmed that based on historical research available in 2004 and Ontario's interpretation of the *Powley* case, Ontario would recognize Métis subsistence harvesting activities in this region. Further, the federal Crown, pursuant to its own federal interim policy with respect to Métis harvesting, recognizes that Métis harvesting "may occur, where permitted under existing policies and accommodations, for the purposes of food, social and ceremonial requirements ... to ensure the continuation of culturally appropriate harvesting practices within the boundaries of conservation, public health and safety." The MNO's harvesting territory map and Harvesters Cards are recognized by the federal government with respect to application of this policy.

Further, the Métis Community asserts that these rights, along with past breaches of the honour of the Crown, require negotiations in order to achieve the purpose of s. 35 of the *Constitution Act*, 1982: reconciliation between the Crown and Aboriginal peoples. Specifically, in this region, the solemn promise of Treaty Commissioner Robinson, as the representative of the Crown during the negotiation of both the Robinson Huron and Superior treaties, to address the claims of the Métis in the region remains unfulfilled. This commitment to reconcile Métis Aboriginal interests in the Upper Great Lakes region with the assertion of Crown sovereignty remains outstanding. Currently, no negotiation processes are available to the Métis Community.

In the *Haida* case, the Supreme Court confirmed that s. 35 of the *Constitution Act, 1982*, requires that Aboriginal rights be determined, recognized and respected. For the reasons summarized above, the MNO's position is that Métis Community rights within the region are indisputable. These rights protect the Métis Community's historic harvesting, cultural and spiritual practices as well as the distinctive Métis way of life that has been maintained in the region. While the full scope of the Project and its potential effects on the Métis Community are not fully known at this time, the following are just some of the potential impacts to the MNO has identified, with the Project as a whole:

⁴ R. v. Laurin, [2007] O.J. No. 2344, para. 28.

⁵ A Reference Manual for Federal Enforcement Personnel by Métis (February 2007), p. 3.

A Reference Manual for Federal Enforcement Personnel by Métis (February 2007), pp. 25-26.

Manitoba Metis Federation Inc. v. Canada (Attorney General), 2013 SCC 14.

Haida Nation v. British Columbia (Minister of Forests), [2004] 3 S.C.R. 511, para. 25.

- removal of lands from the Métis Community's traditional territory for the Project's expanded right of way;
- impacts on hunting and gathering through potential loss of harvesting areas, increased access during construction and the Project's operation for the next 50+ years;
- increased access to and potential damage of Métis cultural landscapes and sites;
- loss of access to locations of importance to the Métis Community for the exercise of rights;
- changes to cultural practices and perceptions in relation to the Métis Community's traditional territory (i.e., avoidance of areas resulting in cultural loss, etc.);
- impacts on Métis governance structures, including, Captains of the Hunt;
- increased pressures on harvesting and Métis land use (i.e., hunting cabins, etc.) in region which could impact future recognition of Métis rights; and
- impacts on Métis traplines which contribute to Métis Community's collective culture and transmission of traditional practices to future generations.

The MNO believes that the abovementioned unresolved rights and claims, combined with the potential impacts of the Project, trigger **deep consultation** with the Métis Community.

The Métis Community's Consultation Related Concerns

The MNO understands that the Project requires two major provincial government approvals: (1) an approval under section 5 of the *Environmental Assessment Act*, 1990, and (2) a leave to construct approval under section 92 of the *Ontario Energy Board Act*, 1998. We also understand that the Project may require additional federal approvals from Parks Canada for Project-related activities with potential impacts in Pukaskwa National Park. In connection with the foregoing, we have reviewed, *inter alia*, the draft Terms of Reference (the "TOR") for the Project's Environmental Assessment (the "EA").

The process set out in the draft TOR for the Project's activities occurring on federal lands, including Pukaskwa National Park, is unclear to the MNO. Section 67 of the *Canadian Environment Assessment Act*, 2012, requires the identification of significant adverse environmental effects resulting from the Project; the *Canada National Parks Act*, 2000, however, does not contain any mechanism for the identification of adverse effects to Aboriginal rights specific to this Project, nor any method for identifying potential adverse effects to matters of importance to the MNO. As a result, the MNO is unsure on how federal authorities will consult directly on matters related to legislative requirements under *CEAA 2012*, including, potentially, through a separate TOR and environmental impact analysis led or managed by Parks Canada.

We have written separately to the Ministries of Energy and Environment outlining our concerns regarding provincial aspects of the Crown consultation process.

The MNO's concerns in this regard are motivated by deficiencies identified in a technical review of the Parks Canada Project Description provided in connection with the draft TOR. ¹⁰ A summary of those deficiencies is attached hereto; briefly, though, it appears to the MNO that proposed processes for baseline data collection and assessment of potential adverse effects within Pukaskwa National Park are wholly inadequate for a fulsome assessment of components of the natural environment, socio-economic environment or Métis rights and interests. It is also unclear how much of the Parks Canada Project Description was or will be specifically directed by federal authorities—rather than the Proponent—given the absence of delegated (federal) Crown consultation.

The MNO understands the Proponent is in "discussions" with Parks Canada to receive authorization; however, the MNO is interested in seeing if an integrated EA could occur for the Project in its entirety, as well as how a second Project Description/TOR for Project activities on federal land will be executed. This is important to the MNO, as the provincial government's approach to consultation is currently silent on the role of the federal Crown and any necessary coordination between Ontario and Canada with respect to the Project—notwithstanding the well-known use of Pukaskwa National Park by the Métis Community for traditional and cultural practices.

Conclusion

Based on the issues outlined above, the MNO believes a meeting to discuss the Project is required. My client looks forward to hearing from Parks Canada on these issues, along with its meeting request. In order to follow up please feel free to contact me at (416) 916-2989, ext. 1255 or via email at jmadden@pstlaw.ca, or contact Doug Wilson, MNO's Chief Operating Officer at (613) 798-1488 or via email at dougw@metisnation.org.

Yours very truly,

Jason Madden

Attachment (1): Letter from Calliou Group to MNO dated February 14, 2014

c.c. Gary Lipinski, MNO President
Cam Burgess, MNO Regional Councilor
Trent Desaulnier, President, Superior North Shore Métis Council
Robert Graham, Interim President, Thunder Bay Métis Council
William Gordon, President, Greenstone Métis Council
Doug Wilson, MNO Chief Operating Officer
MNO LRC Branch
Brian Hay, NextBridge Infrastructure

The Parks Canada Project Description is available at: http://www.nextbridge.ca/project_info.htm.





February 14, 2014

VIA EMAIL ONLY

Devi Shantilal
Manager
Lands, Resource and Consultation Branch
Métis Nation of Ontario
311 – 75 Sherbourne Street
Toronto, Ontario, M5A 2P9

RE: NextBridge Infrastructure L.P. ("the Proponent")

East-West Tie Transmission Project ("EWT" or "the Project")

Parks Canada Project Description

Dear Ms. Shantilal,

Please accept the following comments resulting from our review of the Parks Canada Project Description for the aforementioned Project's EA (hereinafter the "Project Description").

The Proponent posted the Project Description, along with the Environmental Assessment draft Terms of Reference, on the NextBridge website¹ on January 10, 2014. Based on our initial meeting with the Métis Nation of Ontario's ("MNO") Regional Consultation Committee for the Lakehead/Nipigon/Michipicoten areas held on January 13, 2014, we have previously noted concern with the process undertaken by the Proponent and various regulators in regards to the Pukaskwa National Park, the required consultation and assessment of Aboriginal rights, interests and claims of the rights-bearing Métis community represented by the MNO. These concerns are exacerbated by the Project description and information contained therein.

Based on our review, we believe the proposed process for baseline data collection and assessment of potential adverse effects within the Pukaskwa National Park boundaries is largely cursory and does not allow for a fulsome assessment of components of the natural environment, socio-economic environment or Métis rights and interests. Additionally, the language within the Project Description is highly directive from the proponent; this suggests there is not adequate direction from the Crown for the assessment of potential effects of Pukaskwa National Park.

-

http://www.nextbridge.ca/project_info.htm

Project Description Section	Comment
General Comment	The Project Description does not contain a description of the assessment process for the portion of the Project within Pukaskwa National Park ("the Park").
	Please provide additional details on the process the Proponent will adhere to ensure MNO can track and comment on the process, be made aware of any consultation timelines related to this process and have appropriate contacts within Parks Canada to ensure consultation is complete.
6.0 Existing Environmental Features	This section identified that the Management Plan for the Pukaskwa National Park is currently under revision and that a new Park Management Plan is expected to be released "in the very near future" [emphasis added]. It is unclear what that timeline is, or how it will influence the parameters for approval of the Project.
6.0 Existing Environmental Features	The Project Description specifies that, through personal communication with Christine Drake (unreferenced), it was identified to the Proponent that the new management plan will reinforce the wilderness zoning of the Project area.
	The Parks Canada website ² describes <i>Zone II – Wilderness</i> as:
	"extensive areas represent and conserve the natural region in a wilderness state Facilities are restricted to trails, backcountry campgrounds, alpine huts, trail shelters, and warden patrol facilities. Motorized access is not permitted."
	Additionally, the Project Description specified that the original East-West Tie line was constructed prior to the establishment of the Park or any corresponding management plan.
	The Project would result in an expanded Right-of-Way ("ROW") of approximately 52 – 56m as well as 2 – 5 laydown areas within the Park. There is also the requirement for new equipment and vehicle crossings at water courses in the Park as the original crossings are no longer usable. This level of disturbance, addition of vehicle traffic and ongoing activity are directly contradictory to the level of development typically allowed within areas designated as Zone II – Wilderness.
6.0 Existing Environmental Features	This section specifies that the Park will seek:
Environmental reatures	"designation as a Wilderness Area under the International Union for Conservation of Nature (IUCN) in the near future."
	The IUCN website ³ defines this category as:
	"areas that largely remain unchanged by humans."
	Please provide additional details on how the proposed Project is compatible with the Pukaskwa National Park's goals for designation with the IUCN.
6.0 Existing Environmental Features	The Project Description states that: "Detailed natural heritage studies will be conducted as part of the EA to help align Park management objectives with the Project's development"

² http://www.pc.gc.ca/docs/v-g/bc/glacier/pd-mp/sec13.aspx

³ http://www.biodiversitya-z.org/areas/36

	The phrasing of this is troubling. Management objectives of Parks Canada should not be influenced or aligned with a Project's development. Rather, Project development should conform to Park management objectives, once defined.
	If Parks Canada is requesting the Proponent complete specific assessment to inform their management objectives, this must be described and clarified in the Project Description.
6.0 Existing Environmental Features	This section of the Project Descriptions indicates that:
	"Possible effects of the planned biological field work activities in the wilderness area while collecting data will also have to be considered."
	MNO requires specific detail on what these possible effects are, how they will be 'considered' and where this will be reflected in the regulatory process.
6.2.2 Aboriginal Land Uses	This section does not include any description of consultation or ongoing work with the MNO related to the Aboriginal Land Use of the Pukaskwa National Park.
	MNO Land Use within the Park must be documented and assessed to ensure the
	experience of Métis harvesting and exercise of their rights and interests within the Park is not degraded by the construction or operation of the Project.
7.1.1 Surveying and	The EA and construction preparation work proposed may require the cutting of a centreline along the ROW to allow for ATV access.
Assessing	
	This is incompatible with the current designation of the ROW where motor vehicle access is prohibited and the natural wilderness state must be preserved.
	It is unclear if the Proponent will seek permits (beyond the access permit) or allowances
	for this potential work. Please provide specific detail. If not, how will the Proponent and Parks Canada ensure the proposed centreline conforms to the management principles of the Pukaskwa National Park?
7.1.2 Clearing and Grading	The Project Description states that:
eraam _g	"Limits of clearing will be defined by applicable codes, rules and regulations to maintain safe and reliable operation of the line."
	The document does not describe whether proposed clearing is compatible with the Zone II – Wilderness designation of the area by Parks Canada and/or how this will be
7.1.2 Clearing and	reconciled. The Project Description describes the additional clearing, development of access roads,
Grading	bridges and culverts as part of the Projects access management.
	Additional detail is required to understand how this is compatible with the management plans and principles of Parks Canada for the Pukaskwa National Park.
7.1.2 Clearing and Grading	The Project Description states that:
445	"No foreign materials (e.g. gravel) will be used for the temporary road."
	Please provide detail on where native Park materials will be procured from for use in temporary road construction? Will this result in additional borrow pit or laydown areas
	within the Park?
7.1.3 Foundation Installation	The document specifies that:
	"It may be necessary to blast a hole in which to pour the concrete foundation in the bedrock."

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	Additional detail is required to ascertain how blasting will be assessed as part of the EA.
	Particularly in terms of disruption/displacement of fauna and MNO land users and
	incompatibility with Park management principles.
7.1.3 Foundation	The Project Description makes reference to drilling crews to assemble rebar anchor bolt
Installation	cages, install the cages in excavations and assemble forms to support the pouring of the
	concrete. However, no details are provided on where these crews will be based, how they
	will access the project area and how the effects of their increased access to a relatively remote area will affect the natural environment.
7.1.3 Foundation	The Project Description states that:
Installation	The Project Description states that.
	"While every attempt will be made to locate tower foundations out of wetlands,
	it may be necessary to locate some structures in wet conditions."
	This is extremely troubling due to the sensitive nature of wetland complexes. The Project
	Description does not contain a description of the wetlands in existing environmental
	features and does not describe how these sensitive areas will be assessed. In fact, no
	wetland studies are listed in Figure 9's listing of field studies.
	The Project Description must, at minimum, be updated to include wetlands in a more
	comprehensive manner based on the potential for disturbance during construction.
7.1.4 Structure Assembly and Erection	The Project Description states that:
and Erection	"Assembly of lattice structures is expected to take place in strategically-placed
	laydown areas throughout the Project location. NextBridge will use portions of
	the ROW to perform this activity wherever the terrain and access allows but may
	require some additional easement."
	Additional information on the potential area required for additional easement during
	structure assembly and erection and specific details of where these easements may be
	located along the ROW is required.
7.1.4 Structure Assembly	This section explains that helicopters will deliver a large percentage of the structures to
and Erection	the designated install locations. However, there are no details provided on how effects to
	wildlife from this ongoing disruption will be assessed. Particularly in terms of noise, visual intrusion and access/displacement.
7.1.6 Reclamation	This section states that reclamation will return the area "back to pre-existing conditions
7.1.0 Recialitation	(where reasonably practical)"
	(where reasonably president).
	This qualifier to the reclamation is wholly inappropriate as the area is designated as being
	a natural area in a wilderness state. Should conditions be altered, this designation may no
	longer be applicable.
8.1.1 Line Operations	The Project Description details that, during operation, high voltage transmission lines can
	result in corona discharge and electric/magnetic fields.
	Potential effects of these are largely discounted due to the location of the Project within
	undeveloped areas of the Park.
	Clarification on whether effects of corona discharge and electric/magnetic fields will be
	considered in relation to wildlife (e.g. displacement) or land uses.
8.1.2 Maintenance	Please identify how the Transmission Vegetation Management Program required by the
	North American Electric Reliability Corporation is compatible with Parks Canada's
9.1.2 Maintonana	management principles for Pukaskwa National Park and Zone II – Wilderness areas.
8.1.2 Maintenance	This section indicates that maintenance activities have the potential to impact uses such

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	as wilderness camping. However, there is no mention of potential effects to Aboriginal land use.
	Please clarify whether this will be assessed for maintenance activities.
9.1 Aboriginal	The Aboriginal Advisory Board referenced in this section is an inappropriate method of
Communities	guiding the consultation program for the Project as. This has previously been
	communicated to the Proponent.

If you have any questions regarding this information, please do not hesitate to call. We remain at your disposal.

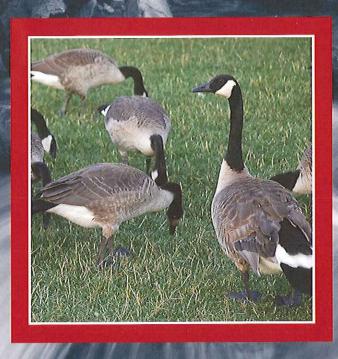
Sincerely

Tracy Campbell

Principal

c.c. Jason Madden, Pape Salter Teillet LLP

A Reference Manual for Federal Enforcement Personnel on Harvesting by Métis



Manuel de référence sur la récolte par des Métis à l'usage du personnel fédéral chargé d'appliquer les lois

Canada

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Introduction

On September 19, 2003, the Supreme Court of Canada handed down a landmark decision, R vs. "Powley" that held that the Métis community in and around Sault Ste-Marie Ontario had an Aboriginal right to hunt for food.

The "Powley decision" has had far-reaching implications for provincial governments and a direct impact on personnel in a number of federal agencies who share enforcement responsibilities for hunting and fishing. These agencies include the Royal Canadian Mounted Police (RCMP), Department of Fisheries and Oceans (DFO), Environment Canada/Canadian Wildlife Service (CWS), and Parks Canada (PC).

The issue of Métis harvesting is highly complex. From province to province, laws and regulations often differ. The Federal Government is in the process of defining how it could recognize Métis rights, given that there is no universal definition for "Métis" or "Métis Community".

In light of the "Powley" decision, an increasing number of Métis groups and individuals are claiming an Aboriginal right to hunt and fish, exerting additional pressure on front-line officers to properly assess and respond to these complex situations.

A consistent response

Resource and law enforcement personnel must approach these situations with considerable knowledge, sensitivity, and discretion. To ensure an appropriate and consistent response across all federal agencies, the Office of the Federal Interlocutor (Department of Indian Affairs and Northern Development) is spearheading a project to provide federal front-line enforcement officers with the tools and information they need to properly monitor and enforce federal guidelines on Métis harvesting.

Front-line perspective

This Reference Manual, and the complementary Pocket Card, are the result of extensive discussions with front-line enforcement personnel and subject matter experts from across Canada. More than two dozen consultation and information sessions have generated feedback on everything from binder format to content and design.

Ultimately, the Manual and Pocket Card have been developed to provide federal personnel with straightforward, practical tools to ensure the safe and consistent handling of incidents where there is a claim of Métis harvesting rights.

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Reference Manual

This bilingual Reference Manual will serve as a resource for policy and contact information. It should be kept with other key policy manuals and made easily accessible to enforcement personnel.

Here you will find:

- Policy guidelines for each of the federal agencies: RCMP, DFO, CWS and PC
- · Sample Métis identification cards;
- Key federal contact information;
- · Contact information for Métis organizations; and,
- Blank sections that can be used by individual agencies or offices to add other relevant materials and Policy documents.

Pocket Card

During extensive consultations, front-line enforcement personnel recommended a one-page, laminated card as the most practical tool to help assess and respond to situations when encountering instances of Métis harvesting. The size and format make it easy to carry at all times.

On one side, the card features a simple decision flow chart along with helpful checklists to ensure that all necessary information is gathered on the scene. On the other side is a summary of the Government of Canada's federal guidelines on Métis harvesting.

The Pocket Card will never replace the experience, expertise and discretion of federal enforcement personnel. However, nationwide consultations confirmed that officers will benefit from having this kind of simple, practical tool.

A work in progress

The Métis harvesting issue will continue to evolve over time. Your feedback on the Reference Manual and Pocket Card will help to ensure they remain useful tools for front-line personnel.

Please provide comments to your respective agency lead. You'll find names and contact information inside this manual.

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There is a potential offence if one of these is evident:

Public Safety, Health and Conservation Issues

Public Safety

 Unsafe, illegal use of firearms and other hunting devices (pursuant to the Firearms Act, provincial and federal hunting regulations).

Health

 Any act related to harvesting that threatens human health (e.g. improper disposal of animal carcass, or harvesting contaminated shellfish).

Conservation

- Is the species threatened or endangered?
- Are the methods or quantities consistent with resource management plans, policy, regulations, or guidelines?
- Is harvesting prohibited at this location?
- See relevant federal and provincial/territorial statutes.

Context

- In 2003, the Supreme Court of Canada ruled that an Ontario Métis community had an Aboriginal right to hunt for food. It was a landmark decision that forced the federal government to look at its existing Aboriginal harvesting and enforcement policies
- Within the federal government there is a series of policies broadly designed to allow Aboriginal access to harvesting where permitted.
- After review, it was evident that while the policies could accommodate, Métis were not specifically addressed and access and application were limited or negligible.
- One of the key challenges in respect to implementing those existing policies was the issue of identification (the age old 'dilemma' of who are the Métis). As such, it was clear that policy guidance was required, not new policy.
- These guidelines for federal enforcement personnel on Métis identification are for use with existing Aboriginal harvesting and enforcement policies.
- These guidelines are intended to complement, but not replace departmental enforcement and harvesting guidelines and departmental policies.
- The federal government has regular discussions with provincial governments on agreements reached, or discussions underway, in respect to their management of resources and harvesting by Métis;
- Discussions with Métis organizations are ongoing (including measures to strengthen Métis Harvester identification systems); and,
- Since 2004, the federal government has conducted annual national information and briefing sessions with federal and provincial resource management and field enforcement personnel and those sessions have served to inform this document.

Objective

To provide guidance and ensure a consistent federal approach for federal
enforcement officers on Métis harvesting where permitted, which takes into account
provincial arrangements for identification of Métis harvesters and current forms of
Métis self-organization.

Purpose

The purpose of these guidelines is:

- to provide guidance to federal departments and their resource and enforcement officers on how to identify an individual harvester as Métis;
- to apply the rules in a consistent manner across the country, on a principled basis, for the purposes of existing federal Aboriginal harvesting policies — where harvesting is permitted;
- to contribute towards a consistent federal approach in respect of Métis harvesting, which takes
 into account provincial arrangements for identification of Métis harvesters and current forms of
 Métis self-organization; and,
- to ensure stable management of land, water and other natural resources under federal jurisdiction (federal resources) while accommodating Métis access to these resources for the purpose of harvesting, where permitted.

Principles

- This approach neither confirms nor denies the existence of Métis Aboriginal rights.
- This approach parallels the federal policy approaches for identification and harvesting access that are made for First Nations and Inuit.
- This approach is based on the premise that harvesting may occur, where permitted under existing federal policies and accommodations, for the purpose of food, social and ceremonial requirements but not for commercial purposes.
- This approach seeks to ensure the continuance of culturally appropriate harvesting practices within the boundaries of conservation, public health and safety.
- This approach is founded on the goal of ensuring conservation and proper management of the species being harvested and allows for monitoring of the use of the resource(s).
- This approach seeks appropriate harmonization with provincial operational and regulation quidelines (e.g., regarding residency).

Identification Criteria

The following are inclusive and must be demonstrated by the individual to determine who is a Métis for purposes of harvesting

- A person declares himself/herself to be Métis, or a member of a Métis community;
- Ancestral connection to a historic Métis community as evidenced by: Family scrip records, census, archival, church or other historical records (with genealogical connection demonstrated) to demonstrate ancestry; or,
- Certain Métis membership cards (see pages 25-29) where:
 - a. the organization has a genealogy requirement;
 - b. the organization is undertaking work to ensure its membership or harvester identification system is objectively verifiable; and,
- c. the government of Canada may audit the membership or harvester system to ensure that it is objectively verifiable and have confidence that it may be relied upon for its purposes of applying its harvesting policies.
- Residency within the province or territory where the harvesting is taking place.

Practical Application

- Federal harvesting policies **must still be met**, for example; National Parks harvesting accommodations, where permitted.
- While the Guidelines seek to provide consistent methods to identify Métis individuals for whom the particular federal policy may apply, the practical application may mean differences throughout Canada.
- Valid Métis identification for the purposes of harvesting in one province is not valid outside that province.
- In some provinces, a Métis identification card may be different than documentation that confirms Métis harvesting rights (see pages 25-29).

Procedures

When interim identification criteria **are not met** (and there are no health, public safety or conservation issues)

When a person is claiming a Métis Aboriginal right to harvest on land where harvesting is permitted, but cannot provide the appropriate documentation as specified on the previous page, federal resource and enforcement officers who are aware of the potential (alleged) violation will record, investigate the situation and take action.

The federal enforcement officers shall use their discretion, and on a case-by-case basis consider the following:

- Was any harvest taken for personal or commercial use?
- Did the method or quantity of any harvest have a significant impact on the resource?
- Is the species being harvested threatened or endangered?
- Is the activity being conducted in an area where harvesting access is prohibited?

Recording Information

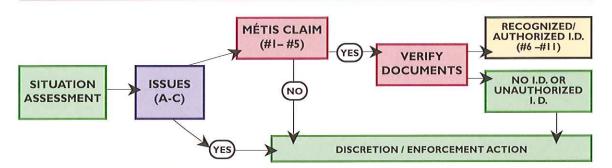
Types of information that the enforcement officer **may record** and submit to their appropriate authorities could include (in keeping with departmental practices):

- name of individuals and/or groups involved;
- method of identification;
- did they self-identify as Métis?
- did they claim affiliation with a particular Métis community or organization?
- nature of activity;
- nature of potential violation;
- · type and quantity of the species taken;
- whether the harvesting occurred in or out of season;
- decision taken and justification (see criteria on previous page which officers should consider on a case-by-case basis); and,
- location of harvesting activity and residence of individual.

Stages of Enforcement

- Request that the individual provide, within a set period of time:
- documentation or other relevant information to demonstrate ability to harvest (e.g., license or acceptable Aboriginal identification); or,
- where relevant, any authorization under any relevant programs.
- Advise individual that they are conducting harvesting activities which may be illegal and inform them of the potential implications, including the possibility that charges may be laid.
- Assessment on a case-by-case basis in keeping with departmental procedures (e.g., Crown prosecutors, supervisors, resource departments) regarding the possible need for further enforcement actions. Factors to be considered include:
 - amount of species harvested;
 - potential for violence;
 - likelihood of escalation of harvesting activity or violence; and,
- conflicts/confrontations involving other groups, (e.g., commercial harvesters, or members of First Nations) where more direct enforcement action, such as gear seizures, may be required.

FEDERAL ENFORCEMENT PERSONNEL ON HARVESTING BY MÉTIS



ISSUES

A) Public Safety

 Unsafe, illegal use of firearms and other hunting devices (pursuant to the Firearms Act, provincial and federal hunting regulations).

B) Health

 Any act related to harvesting that threatens human health (e.g. improper disposal of animal carcass, or harvesting contaminated shellfish).

C) Conservation

- Is the species threatened or endangered?
- Are the methods or quantities consistent with resource management plans, policy, regulations, or guidelines?
- Is harvesting prohibited at this location?
- See relevant federal and provincial/territorial statutes.

Note: These are examples of some common public safety, health and conservation issues related to harvesting by Métis.

CHECKLIST

- 1. Check names and residence of individuals and/or groups involved
- 2. Check identification
- 3. Check hunting/fishing licence/permit
- 4. Do they self-identify as Métis?
- 5. Do they declare affiliation with a particular Métis community or organization?
- 6. Nature of activity
- 7. Nature of potential violation
- 8. Is the harvesting in or out of season?
- 9. Type and quantity of species taken
- 10. Is the harvest being taken for personal or commercial use?
- 11. Is the claim valid for this location?

STAGES OF ENFORCEMENT

- Request that the individual provide, within a set period of time:
 - documentation or other relevant information to demonstrate ability to harvest (e.g., license or acceptable Aboriginal identification); or,
 - where relevant, any authorization under any relevant programs.
- Advise individual that they are conducting harvesting activities which may be illegal and inform them of the potential implications, including the possibility that charges may be laid.
- Assessment on case-by-case basis in keeping with departmental procedures (e.g., Crown prosecutors, supervisors, enforcement/resource departments) regarding the possible need for further enforcement actions, up to and including the laying of charges.
 - amount of species harvested
- potential for violence
- likelihood of escalation of harvesting activity or violence
- conflicts/confrontations involving other groups may determine the type of enforcement action to be taken

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^{*}More detailed information can be found in the Reference Manual for Federal Enforcement Personnel on Harvesting by Métis.

FEDERAL HARVESTING

GUIDELINES

Principles

- the existence of Métis Aboriginal rights. This approach neither confirms nor denies
- and Inuit. access that are made for First Nations approaches for identification and harvesting This approach parallels the federal policy
- not for commercial purposes. accommodations, for the purpose of food, under existing federal policies and harvesting may occur, where permitted This approach is based on the premise that social and ceremonial requirements but
- of culturally appropriate harvesting practices within the boundaries of conservation, public health and safety. This approach seeks to ensure the continuance
- of ensuring conservation and proper management of the species being harvested This approach is founded on the goal the resource(s) and allows for monitoring of the use of
- and regulation guidelines (e.g., regarding This approach seeks appropriate harmonization with provincial operational

Procedures

public safety or conservation issues, When interim identification criteria are not met (and there are no health

www.ainc-inac.gc.ca/interloc/index_e.htm

will record, investigate the situation, and take action appropriate to the potential impact on are aware of the potential (alleged) violation federal resource and enforcement officers who documentation (see identification criteria), permitted, but cannot provide the appropriate right to harvest on land where harvesting is When a person is claiming a Métis Aboriginal

> basis, consider the following: shall use their discretion and, on a case-by-case The federal resource and enforcement officers

- commercial use? Was any harvest taken for personal or
- with resource management plans, policy Are the methods or quantities consistent regulations, or guidelines?
- Is the species threatened or endangered?
- Is the activity being conducted in an area where harvesting access is prohibited?

dentification Criteria

order to determine who is a Métis for purposes of harvesting: The following are inclusive and must be demonstrated by the individual in

- A person declares himself/herself to be Métis, or a member of a Métis community;
- Ancestral connection to a historic Métis connection demonstrated) to demonstrate records, census, archival, church or other historical records (with genealogical community as evidenced by: Family scrip
- Certain Métis membership cards where
- a. the organization has a genealogy

Federal harvesting policies must still be met; for example, National Parks harvesting

Valid Métis identification for the purposes

of harvesting in one province is not valid

outside that province.

Practical Application

While the Guidelines seek to provide

accommodations, where permitted.

consistent methods to identify Metis

card may be different than documentation that confirms Métis harvesting rights. In some provinces, a Métis identification

may mean differences throughout Canada policy may apply, the practical application individuals for whom the particular federa

- b. the organization is undertaking work to ensure its membership or harvester verifiable; and, identification system is objectively
- c. the government of Canada may audit applying its harvesting policies may be relied upon for its purposes of to ensure that it is objectively verifiable and have confidence that it the membership or harvester system
- Residency within the province or territory where the harvesting is taking place.
- appropriate authorities could include (in Types of information that the enforcement officer may record and submit to their
- and/or groups involved;
- method of identification;
- did they self-identify as Métis?
- Métis community or organization? did they declare affiliation with a particular

Recording Information

- keeping with departmental practices): names and residence of individuals

nature of potential violation;

nature of activity;

- type and quantity of the species taken;
- whether the harvesting occurred in or out of season;
- decision taken and justification; and,
- whether the claim is valid for the location

Canada

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Interim Guidelines for Fishery Officers re Fishing by Individuals claiming Métis Rights

If unauthorized fishing by individuals claiming to have Métis rights is detected, Fishery Officers should advise the individuals involved they are fishing illegally and inform them of the potential implications, including the possibility that charges will be laid. Each situation will have to be evaluated based on the specific circumstances involved. Factors to be considered include the number of fishers involved, the potential for violence and the likelihood that a lack of enforcement action will lead to an increased level of unauthorized fishing. If, based on the best available information, there is a significant risk of an escalation of unauthorized fishing or of conflicts/confrontations involving other groups (e.g. commercial fishermen or members of First Nations) a more prudent approach (e.g. ORR) may be taken.

If the aforementioned factors are not significant and the potential for violence and escalation of illegal fishing is minimal, regular enforcement procedures apply and are to be followed.

Fishery Officers should advise their supervisors of the situation as soon as possible. C&P Directors at Regional and National Headquarters should also be notified in a timely manner, as per existing policies and procedures dealing with enforcement of Aboriginal fisheries.

As per normal procedures, DOJ approval will be required for the laying of charges in all cases where there is a potential Aboriginal or treaty right issue arising, including any rights that may be claimed by Métis individuals.

Communication Lines re Powley Decision

If an individual seeks further information about the federal government's response to the decision in *R. v. Powley* and/or any potential Métis fishing rights, Fishery Officers may want to point out that, in *R. v. Powley*:

- The Supreme Court of Canada held that Métis rights are fact and site-specific and the Powley
 decision dealt with the current Métis community in Sault Ste Marie, Ontario and found a
 communal Métis right to hunt for food in the area around Sault Ste Marie.
- The Court emphasized that the mere fact that a person is of mixed Aboriginal and European ancestry does not mean that the person has Métis rights.
- The Court emphasized that Métis rights are communal rights that are tied to a historic and present community with a distinct Métis culture.
- The Court described a Métis community as a group of Métis people with a "distinctive collective identity", living together in the same geographical area and sharing a common way of life, customs and traditions.
- The Court emphasized that Métis rights are "site-specific". They can be exercised only in the geographical area where they have been established.

Powley Decision and National Parks

The federal government takes the position that, as a general rule, Treaty and Aboriginal rights have been either suspended or extinguished within those national parks established before 1982.

Section 35(1) of the *Constitution Act, 1982*, recognizes and affirms existing Aboriginal and Treaty rights of the Aboriginal peoples of Canada.

The federal position is that, prior to 1982, the establishment by legislation of national parks either extinguished any existing Aboriginal or Treaty rights or suspended the exercise of rights in the areas comprising the parks.

There are 42 national parks and national park reserves in Canada. Of these, harvesting as an Aboriginal or Treaty right is allowed in 20 and not allowed in 22 national parks.

Section 16(1)(w) of the *Canada National Parks Act* does provide, by permit, for the authorization of the use of park lands, and the use or removal of flora and other natural objects, by Aboriginal people for traditional spiritual and ceremonial purposes. This section does not apply to wildlife harvesting.

Parks Canada is working closely with Métis and other Aboriginal communities to present their cultural histories to visitors at national parks and national historic sites. For example:

- Batoche National Historic Site is involved in a shared management arrangement with the Métis Nation of Saskatchewan since 1998 to ensure the commemorative integrity of Batoche.
- Jasper National Park is working with the Métis Nation of Alberta and the Elders of the descendants of Jasper Park to better protect and represent Métis history at the park.

Parks Canada wardens should consult the Parks Canada Agency Law Enforcement Administration and Operation Manual for further guidance.

Filed: 20180507 EB-2017-0364 Appendix W Page 16 of 33

Policy on application of the Migratory Birds Convention Act And the Canada Wildlife Act respecting closed-season hunting and egging by Aboriginal people

Preamble

The conservation of migratory birds in Canada is achieved through the 1917 *Migratory Birds Convention Act* (MBCA). Regulations under the Act control hunting of migratory game birds during certain periods and also establish a closed season to protect breeding, nesting, brooding and moulting birds at other times of the year. The Canadian Wildlife Service (CWS)/Environment Canada, is responsible for the administration of both the MBCA and the *Canada Wildlife Act* (CWA).

In Canada, Aboriginal hunting of migratory birds during the closed season and collection of eggs occurs outside of the provisions of the MBCA. Hunting also occurs in the open season. These traditional activities provide food considered important to meet domestic requirements and are of cultural significance.

At present, CWS is attempting to secure amendments to the Migratory Birds Convention (MBC) and the MBCA which would allow a regulated northern harvest and egging where legal access is currently prohibited. Public consultations on these proposed amendments are continuing.

This policy is founded on the goal of ensuring conservation and good management of migratory birds throughout Canada. The purpose is to provide guidance to CWS staff pending amendments to the MBC and MBCA.

Purpose

The purpose of this policy is:

- To provide direction and guidance to CWS headquarters, regions and field officers regarding
 the implementation of the Migratory Birds Convention Act (MBCA) and the Canada Wildlife Act
 (CWA) with particular respect to Aboriginal people;
- To provide a procedure to document and report on all management and enforcement activities related to this policy; and
- To provide guidance to other enforcement agencies such as the Royal Canadian Mounted Police and provincial and territorial wildlife agencies regarding the implementation of the MBCA and CWA with respect to Aboriginal people.

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Scope

This policy applies to hunting of migratory birds during the closed season and egging which could be conducted by Aboriginal people, except in migratory bird sanctuaries and national wildlife areas. This policy is national in scope and applies throughout Canada.

Application of the MBCA and CWA to all hunters for waterfowl hunting in the open season will continue subject to the requirement that the Department of Justice is consulted before a decision is made concerning the laying of charges for alleged MBCA violations by Aboriginal people. The non-hunting activities by Aboriginal people in migratory bird sanctuaries and national wildlife areas will continue to be controlled by the relevant regulations.

This policy does not apply where formal agreements with Aboriginal people apply to MBCA enforcement.

Definitions

Aboriginal people: people whose Aboriginal and treaty rights are protected under section 35 of the Constitution Act 1982, and are conducting an activity in the person's traditional land use area.

Domestic Use: in the context of this policy, means use of migratory birds protected by the MBCA for:

- a) personal consumption needs of the Aboriginal people including food, clothing, medicine and cultural needs; and
- b) gift, trade and barter among the Aboriginal people to meet their needs described in a), to maintain traditional sharing among individuals and communities, and not to be exercised for profit.

Enforcement Officer: an employee who has been issued one of the following identification cards:

- 061-1745: game officer with power of police constable.
- 061-1746: wildlife area officer with power of a police constable.
- 061-1747; game officer without power of police constable.
- 061-1748: wildlife area officer without power of a police constable.

LRLE: Legislation, Regulation and Law Enforcement Division of CWS.

MBWC: Migratory Birds and Wildlife Conservation Branch of CWS

Open Season: for a specific area and specific species, the period of time where migratory birds hunting is authorized by regulation (MBCA, CWA).

Significant Impact: any impact including cumulative impact and impact on local populations which is clearly inconsistent with conservation of protected natural resources.

Threatened and Endangered Species: all species listed as threatened or endangered by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC).

Background

Recent Supreme Court of Canada decisions dealing with issues other than migratory birds matters provide some general guidance relevant to application of the MBCA and the CWA to aboriginal people. Namely:

- a liberal interpretation of existing Aboriginal and treaty rights, where they have been established, is required;
- the federal government has a trust relationship with Aboriginal people;
- the regulation of Aboriginal food gathering, ritual and other activities must be capable of being justified on the basis of conservation, good management and safety; and
- the federal government is required to consult with Aboriginal people on relevant laws and regulations.

The most pressing issue is the closed season prohibition on hunting of waterfowl and of egging by Aboriginal people. Consistent with the Supreme Court guidance noted above, this policy lays out a series of guidelines for use by CWS staff in interaction with Aboriginal people throughout Canada on this important issue.

Responsibilities

The CWS Director General is responsible for the overall implementation of this policy including approval of exceptions to the policy that may be requested on a regional basis.

The CWS Regional Directors are responsible for the regional implementation of this policy including consultation with relevant Aboriginal groups.

The CWS Chiefs and section heads responsible for law enforcement will review and analyze all documented cases and establish official contact with the Department of Justice as required.

The Chief, LRLE, is responsible for reviewing and recommending revisions to the policy on a regular basis and informing the Directors of any potential problems.

CWS Managers and Enforcement officers are responsible for implementing the policy on an operational basis.

Other enforcement agencies should use this policy as a guide to enforce the MBCA and CWA.

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Policy

1. Consultation

The Regional Directors must ensure that all Aboriginal organizations, relevant user groups and cooperation enforcement agencies within their region are aware of this policy. They must also discuss with relevant Aboriginal organizations this policy and plans for its implementation.

2. Planning Priority

The planning of CWS prevention, education, monitoring and enforcement activities with respect to Aboriginal people will be approved according to the following priorities in decreasing order:

- a. Protection of threatened or endangered species;
- b. Prevention of commercial trade in wildlife;
- c. Protection of populations experiencing significant long-term decline;
- d. Protection of sanctuaries and other protected areas as described in the acts and regulations;
- e. Prevention of over-harvesting and wastage of birds;
- f. Protection of other migratory birds;
- g. Prevention of activities, not covered directly by the MBCA or CWA, which might cause harm to the general populace; and
- h. Prevention of activities related to other regulations such as prevention of unwarranted trespass of property.

3. Decision Making Criteria

In making a decision about hunting of migratory birds during the closed season and egging, the manager or officer shall, on a case-by-case basis, consider the following criteria:

- native or non-native status of the person or group involved;
- type of activity and methods used;
- impact of the activity and methods on the conservation and good management of the migratory birds;
- whether the activity is conducted in the person's traditional land use area.

4. Enforcement and Compliance

When aware of potential violation of the MBCA regarding Aboriginal hunting during the closed season and egging, the enforcement officer will record, investigate the situation and take action appropriate to the potential impact on the resources. The officer is also responsible for obtaining information from other officers and experts and for reporting on his investigation.

- 4.1 Where it is apparent that a violation has occurred, the enforcement officer should consider awareness or compliance measures in lieu of charges where:
 - there is evidence that an Aboriginal person is harvesting migratory birds for domestic use during the closed season; and
 - the person can demonstrate an Aboriginal status applicable to the area where the activity occurred; and
 - the method or quantity of harvesting has no significant impact on migratory birds; and
 - the person is not harvesting threatened or endangered species.
- 4.2 Where it is apparent that a violation has occurred, the enforcement officer should consider charging persons claiming Aboriginal status applicable to the area where the activity under investigation has occurred if:
 - the harvesting of migratory birds is for the purpose of sale or another purpose not covered by the definition of domestic use; or
 - the method or quantity of harvesting is not consistent with domestic use or has significant impact on the conservation and good management of migratory birds; or
 - the person is harvesting threatened or endangered species of migratory birds.
- 4.2.1 Before laying a charge, the enforcement officer will prepare a full investigation report setting out the particulars of the violation and addressing the criteria set out in section 3. The enforcement officer will seek authorization through the appropriate supervisor who will review each report with the appropriate regional office of the Department of Justice (Appendix I).
- 4.2.2 The regional office of the Department of Justice will also be consulted before a decision is made concerning the laying of charges for violations of the MBCA by Aboriginal people pertaining to the open season.
- 4.2.3 If discussion on a particular charge occurs with the Aboriginal community, it shall be restricted to informing community representatives of the nature of the violation and the effect of this violation on conservation and good management of migratory birds.

5. Administration

- 5.1 The CWS Regional Directors are responsible for all CWS staff's decisions pertaining to law enforcement and actions related to mandated acts which involve Aboriginal people.
- 5.2 The Enforcement officer is responsible for recording each case. The officer is also responsible for preparing a full investigation report on violations, and reviewing it with the appropriate supervisor and the DOJ regional contact before laying a charge.
- 5.3 The Director, MBWC will be responsible for HQ liaison with the RCMP and provincial enforcement.

6. Reporting

- 6.1 A written report must be prepared for each incident or investigation. It will be written in a clear and concise style. The CWS Chief/Head, responsible for law enforcement, in a region, should attempt to obtain a report by another enforcement agency involving a major decision within the scope of this policy.
- 6.2 Each investigation report will address the criteria set out in Section 3 and include the following information:
 - name and status of individuals or groups involved;
 - · nature of the activity
 - · nature of the potential violation;
 - · decision taken;
 - justification using criteria (See 3.); and
 - impact of the decision on Aboriginal people, CWS, the public and the resource.
- 6.3 The Regional Director will retain records, investigation reports and all other comments supporting the decision taken for each case.

References and Related Authorities

Migratory Birds Convention Act, S.C. 1994,c.22 M-7.01, as amended and regulations (MBCA)

Canada Wildlife Act, R.S., 1985, c. W-9, s.1: 1994; c.23, s. 2(F), as amended and regulations (CWA)

COSEWIC — List of threatened or endangered species in Canada

Species at Risk Act, 2002

Powley Decision and the Royal Canadian Mounted Police (RCMP)

Introductions

- The Powley decision is a landmark case in the area of Aboriginal law.
- This is the first time that the Supreme Court has recognized these rights for a Métis community.
- The Powley decision has implications across Canada and can be used by Métis groups across the country seeking to establish Aboriginal rights.
- September 19th, 2003 the Supreme Court of Canada ruled that the Métis community in and around Sault Ste. Marie, Ontario, has an Aboriginal right to hunt for food.
- A multi-disciplinary team has been working together with the interdepartmental community to assess the implications of the decision.

Métis Aboriginal Rights

- Métis individuals or groups in many areas of the country are seeking to exercise Métis Aboriginal rights.
- Some provinces have created and implemented harvesting policies which accommodate Métis harvesting activities.

Internal Communication: Key Messages

- The RCMP is participating in discussions with Federal, (Canadian Wildlife Services/ Environment,
 Department of Fisheries and Oceans, Parks Canada and the Office of the Federal Interlocutor)
 Provincial, Territorial and Aboriginal groups to increase understanding of stakeholder interests
 and identify possible interim responses to addressing Métis Aboriginal rights.
- Members will need to use a wide range of discretionary enforcement tools. Prior to laying charges, discussions will need to take place with the relevant Federal Crown prosecutor as well as the relevant Federal department or agency, eg. Migratory Birds (EC) and Fish (DFO).
 See RCMP Policy.
- Detachment commanders providing service to Métis communities are encouraged to meet with Métis leaders to discuss their divisional enforcement approach to this issue.
- The foregoing is in keeping with the RCMP strategic priority concerning service to Aboriginal communities, thereby maintaining positive relations and open lines of communication with Métis individuals and community leaders claiming to have or exercising harvesting rights.

External Communication: Key Messages

- The RCMP is committed to serving all Canadians fairly.
- The RCMP will continue to ensure compliance with the laws of Canada.
- The RCMP will work closely with the appropriate federal, provincial and municipal legislative and enforcement bodies and Métis communities to develop interim and long-term workable solutions for addressing Métis Aboriginal rights.
- The RCMP recognizes the unique position of Aboriginal communities in our country's history and current society, and is committed to treating all stakeholders with respect and dignity.

Wildlife and Migratory Birds

Pursuant to RCMP guidelines:

- RCMP members are appointed Wildlife Act officers.
- RCMP members will assist the Canadian Wildlife Service by patrolling designated wildlife areas.
- Environment Canada (EC) is responsible for the administration and primary enforcement of the Act and Regulations. Under the RCMP/EC MOU, the RCMP will lead any investigation involving traditional organized crime or specialized police techniques.
- Members are appointed game officers pursuant to Sec. 6 of the Act.
- Part II and Sec. 35, Constitution Act, 1982, recognizes and affirms existing Aboriginal and treaty rights. See also R. vs Sparrow (1990).
- Federal law may not apply to Aboriginal people in certain circumstances. Consult Crown counsel before swearing an information against an Aboriginal person.
- Conduct enforcement patrols of migratory bird habitats.

Parks Canada:

- Parks Canada agency is responsible for the administration and enforcement of the Canada National Parks Act and Regulations. The RCMP will assist as required.
- The RCMP is responsible for the enforcement of federal statutes in all national parks.
 See division directives.
- Where the RCMP has local police jurisdiction, it is also responsible for enforcing CC and applicable provincial statutes.

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Coastal Fisheries

Pursuant to RCMP guidelines:

- Department of Fisheries and Oceans (DFO) is responsible for the administration and primary enforcement of the Coastal Fisheries Protection Act, Fisheries Act and Regulations.
- Members are appointed fishery officers pursuant to Sec. 5(1), Fisheries Act and protection officers pursuant to Sec. 2, Coastal Fisheries Protection Act.
- Part II and Sec. 35, Constitution Act, 1982, recognizes and affirms existing Aboriginal and treaty rights.
- Aboriginal people are guaranteed the right to fish for food, social and ceremonial purposes
 after conservation needs have been realized [R. vs Sparrow (1990)]. See www.canlii.org
- Consult Crown counsel before swearing an information against an Aboriginal person because federal law may not apply to Aboriginal people in certain circumstances.
- If an incident is first reported to the RCMP in regions where an DFO officer is available, take initial enforcement action and notify the regional DFO office to take charge of the investigation.

References and Related Authorities see RCMP Operational Manual Section 48.2 and 48.3 for Canada Wildlife Act, MBCA, National Parks and Coastal Fisheries.

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It should be noted that the policy set out in this guide applies to those resources and lands under federal authority. In matters of provincially controlled resources and lands you may wish to contact provincial officials to clarify provincial policy on the accommodation of Métis Aboriginal harvesting.

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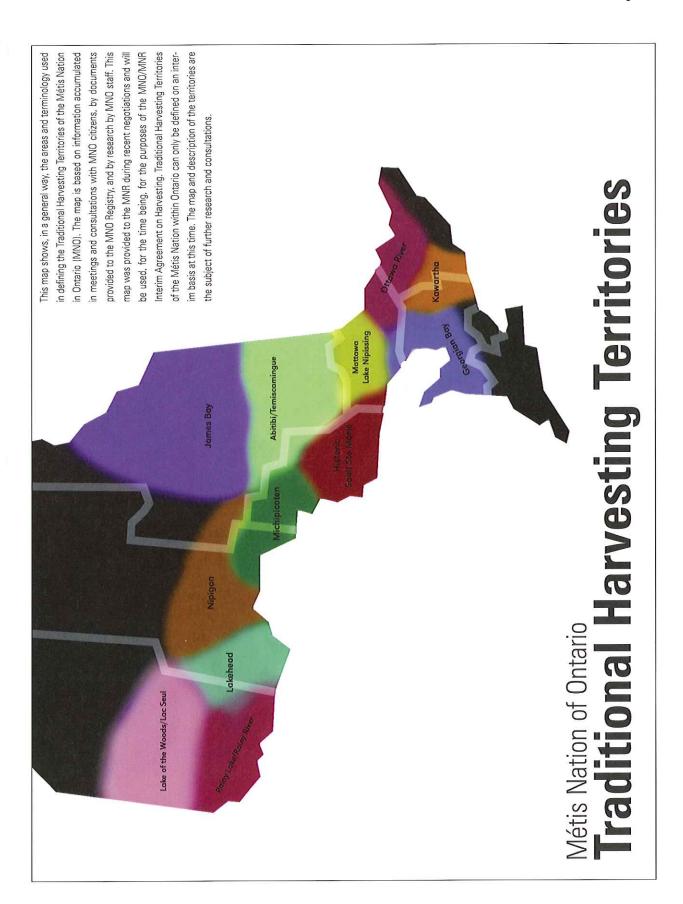
Ontario





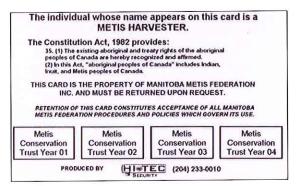
The Government of Canada does not maintain an official Registry of Metis identity. Accordingly, use of the cards illustrated above is for the limited purposes of determining whether an individual complies with the identification criteria as described in the present Interim Guidelines. Any reliance on the cards in question is not to be interpreted as a recognition of any Métis Aboriginal rights.

The Government of Canada retains its right to audit any Metis membership or harvester identification system to ensure that it is objectively verifiable and to have confidence that it may be relied upon for the purposes of applying the present Guidelines.



Manitoba





An individual possessing this card **does not have** harvesting authority under provincial statutes.

The Government of Canada does not maintain an official Registry of Metis identity. Accordingly, use of the cards illustrated above is for the limited purposes of determining whether an individual complies with the identification criteria as described in the present Interim Guidelines. Any reliance on the cards in question is not to be interpreted as a recognition of any Métis Aboriginal rights.

The Government of Canada retains its right to audit any Metis membership or harvester identification system to ensure that it is objectively verifiable and to have confidence that it may be relied upon for the purposes of applying the present Guidelines.

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Alberta

Membership Card & I.D.			
Membership Card & I.D.			
Name:			
S.I.N.			
Date of Birth: (Day / Month / Year)			

The Bearer of this Card is recognized as a Metis under the constitution of Canada and shall up- hold the Laws and By-Laws of the Metis Nation of Alberta						
Membership Number:	7.1	935	3			
For Elections ONLY VOTER VALIDATION	1993	1996	1999	2002		

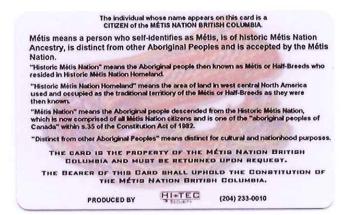
An individual possessing this card **does have** harvesting authority throughout the province of Alberta.

The Government of Canada does not maintain an official Registry of Metis identity. Accordingly, use of the cards illustrated above is for the limited purposes of determining whether an individual complies with the identification criteria as described in the present Interim Guidelines. Any reliance on the cards in question is not to be interpreted as a recognition of any Métis Aboriginal rights.

The Government of Canada retains its right to audit any Metis membership or harvester identification system to ensure that it is objectively verifiable and to have confidence that it may be relied upon for the purposes of applying the present Guidelines.

British Columbia





An individual possessing this card **does not have** harvesting authority under provincial statutes.

The Government of Canada does not maintain an official Registry of Metis identity. Accordingly, use of the cards illustrated above is for the limited purposes of determining whether an individual complies with the identification criteria as described in the present Interim Guidelines. Any reliance on the cards in question is not to be interpreted as a recognition of any Métis Aboriginal rights.

The Government of Canada retains its right to audit any Metis membership or harvester identification system to ensure that it is objectively verifiable and to have confidence that it may be relied upon for the purposes of applying the present Guidelines.