

Eeyou Eenou

the voice of the people

WINTER 2005

N A T I O N



The Grand Council
of the Crees

Moving Forward
Towards Governance

Where are we in the Offshore
Island Negotiations?

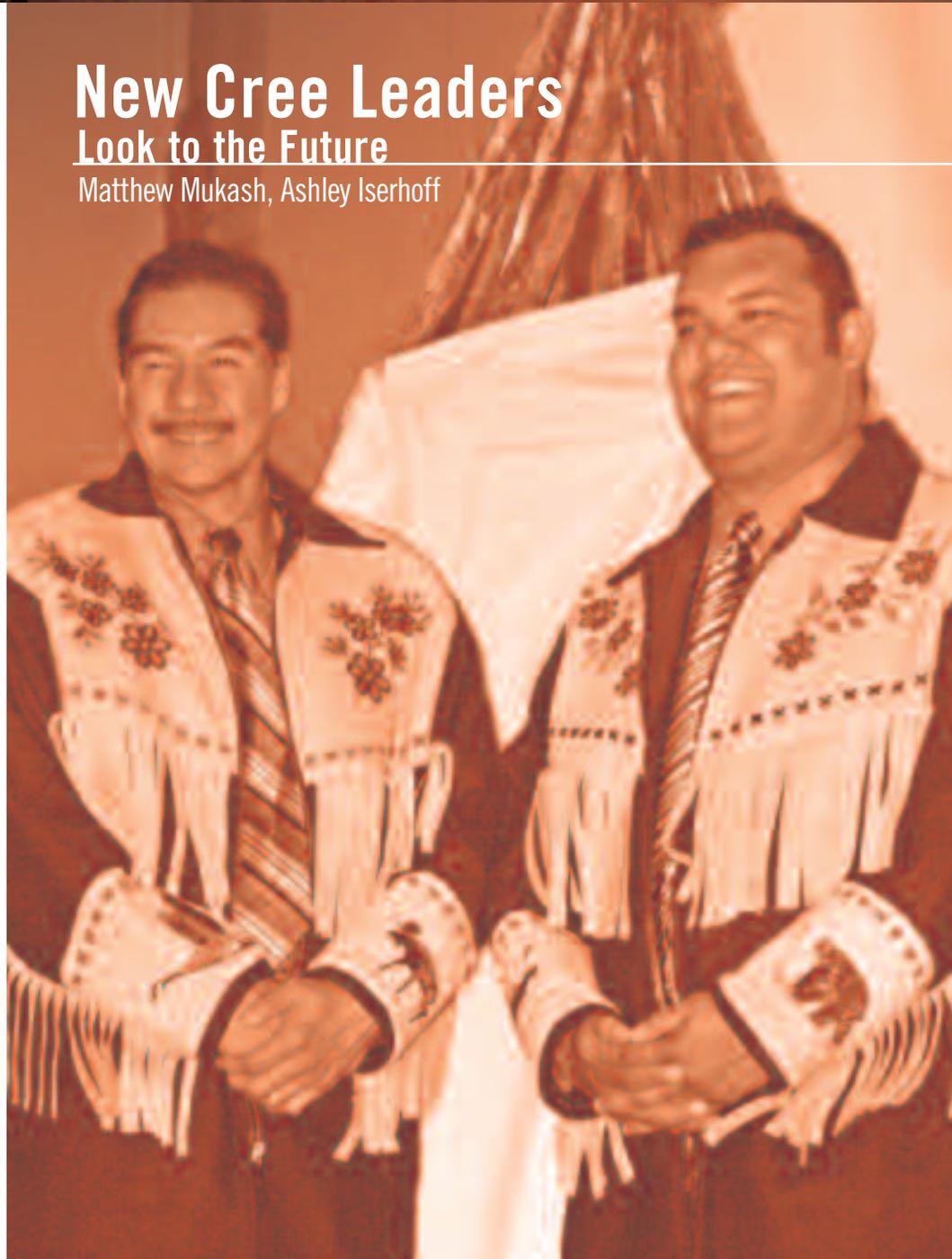
Health and Social Services
Agreement Takes Shape in
Eeyou Istchee

Waswanipi: A Forestry
Program Success Story

Children's Artwork Inspires
Forestry Board Logo

New Cree Leaders Look to the Future

Matthew Mukash, Ashley Iserhoff





**The Grand Council
of the Crees**

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A Message from the Editor

Bill Namagoose



This past summer and fall we witnessed significant political activity on Aboriginal issues across Canada and in Eeyou Istchee. There was the planning and staging of the First Ministers meeting on Aboriginal issues in Kelowna. Closer to home, our neighbors in Kashechewan were forced to leave their community. Kashechewan brought many of us back to how our communities use to be only 30 years ago. Do you remember the gastroenteritis crisis of 1980?

In Eeyou Istchee we saw the Cree democratic process unfold. Regardless of what we think of the outcome we are all proud of our 25 year democratic tradition of having the Cree people select our Grand Chief and Deputy Grand Chief. This is one of the most important elections in Quebec.

We must extend our appreciation to Grand Chief Ted Moses for the leadership and vision over the past 6 years. There was a paradigm shift in our relations with Quebec and Canada under his leadership. As a result

Quebec cannot exploit the natural resources found on Eeyou Istchee at its own discretion without first accommodating Cree issues and getting Cree consent. He had the courage to seek change and pursued strategies that not only empowered the Cree Nation but would make it prosperous as well.

The most poignant moment for me during the past two terms was during consultation on the Paix des Braves in Waswanipi when one of the elder hunters spoke about the need to acknowledge that the traditional way of life of hunting, fishing and trapping could not sustain the entire Nation and that we need to acknowledge that fact. He emphasized that future generations must be allowed to find alternatives in the wage economy and be participants in development of the Eeyou Istchee. Ted had the courage and wisdom to acknowledge and confront that reality and set about to lead the Cree Nation in this new reality. The Cree Nation will be stronger and will remain intact if we adopt new techniques into our culture just as we agreed to take part

in the fur trade that lasted for several hundred years. The commercial fur trade was introduced to the Cree Nation by non native businessmen and it became a part of our culture and we wanted to protect it when the non-Aboriginal world moved on from the fur trade to exploiting the hydro resources. Our nation will be stronger if we also move beyond.

I extend my congratulations to new Grand Chief Matthew Mukash and new Deputy Grand Chief Ashley Iserhoff. The staff at the Grand Council and CRA join me in wishing them the best and we give our pledge as professionals to continue our service to the Cree Nation under their leadership.

The recent campaigns for Grand Chief and Deputy Grand Chief introduced new realities in how we conduct our political affairs and we still need to fully grasp their implications. We saw a contrast from the past where we had quiet campaigns based on one's reputation and personal acquaintance with the electors. Now we have open and heated debates,

campaign posters, slogans and props. We witnessed the manifestation of the tremendous political power and influence of the journalistic mediums in print, TV, radio, and the internet as well as those that operate them.

Even though these are recent and new techniques to the Cree they will have to be respected as part of the Cree democratic process but we must question and try to understand their influence in order to formulate a free and informed decision. This is also true of the Cree Government and the way the issues that it addresses are presented to the Cree People. These mediums cannot be dismissed as anti-Cree or disrespectful, because they are a permanent part of how we now conduct business, but the challenge in any democracy is for the voters to decipher the subject and to evaluate what they are being told on the basis of who is relaying the message. Only in this way will we be able to develop informed and critical ideas about events and take appropriate decisions that chart the future course of Cree history.

I am sending an e-mail in regards to your editorial in the Winter 2005 edition of Eeyou/Eenou. This is a magazine that I read with interest and was very happy to read your comments. They conveyed what the people are feeling in relation to our language and culture. I particularly wish to underline the statement that you made and I quote: "However we must all take care in how we interpret or teach traditional practices that we may have learned or practiced in our childhood, but picked up as adults. In many cases, such practices and beliefs are interpreted and passed to us by those from different cultures and with different languages." This is so true in our community. This really enforced what our own Elders have been saying that the beliefs and customs of others are not ours to adopt without really understanding the meanings of our own beliefs and customs. Having worked on our heritage project and historical research, I was truly inspired by your editorial and this is what I was trying to convey at the Regional General Assembly last week in Waswanipi. If only the magazine could be translated in our language, it would be much more appreciated and read by the Elders. They would be more informed on what is happening in Iiyiyuu Ischii. My parents are in their late eighties and are always looking for material written in Cree syllabics. I'm sure that there are others who are in the same situation.

Once again, thank you for your heartfelt editorial.

Moving Forward Towards Governance

Matthew Mukash



In the past few months much has been accomplished in the move to realize our goal. We wish to have a more central role in the governance of the funds and structures which provide support for the institutions and organizations within our communities and Nation. Each step we take with respect to federal negotiations is a step forward, whether it is in agreement or in a process of clarification of our objectives and rights. We are establishing the parameters of a new relationship which will build upon the promises and commitments of the James Bay and Northern Quebec Agreement. It has been our journey for the past 30 years to implement the provisions that three decades ago our people deemed to be vital or important for our Nation. We are committed to this path, and in the process wish to provide greater certainty to services and funds needed to support our communities and the Nation as a whole. So in the past few months, I have concentrated on the issues identified as being important to the future of our people, and hoped that would raise the standards of education, health, and living within Eeyou

Istchee. In the past few weeks, the upcoming federal election has impacted our federal negotiations schedule to some extent, however our relations continue to grow.

On governance and accessibility, I have had the pleasure of attending a community Council meeting in the past month. It was an important chance for me, to interact with local leadership, but also to come to the community as Grand Chief to listen. There were many concerns raised during the discussions which helped me understand the issues and priorities of the particular community. The benefits of these community visits, and of taking the time to sit with the local Council, are significant because this will provide me with insight into the needs of each community. I also met with the Elders' Council and the Regional Youth Council leadership to discuss their concerns and desire to be more involved in issues which affect not only their respective interests but also to establish a spirit of cooperation to work together in the future on issues impacting the Cree Nation as a whole.

When we speak of education, we are always cognizant of the fact that in the Cree world, this has meant the teaching of perhaps two types of knowledge systems to our children. These children stand out in a nation of two strong national identities. In the Cree system, they are being taught with an appreciation and understanding of three distinct cultures—Canadian, Quebecoise and Cree. We hope to foster good relations with these neighbours, and also provide our children with opportunities to excel in any of these three societies. To this end, the Cree School Board and local leadership have been working together to decide on the proper balancing of traditional and contemporary knowledge systems for a particular community's education system. It was my pleasure to attend the first Cree School Board symposium on education in the last ten years. The event was an opportunity for many participants to share experiences, give direction to the Cree School Board on where improvements could be made to enhance the quality of education, and to facilitate the creation of networks of people working to make a difference.

There are a number of emerging business partnerships in the Cree Nation in the last

few years. These exist because Cree and non-native people and organizations are interested in working together in the Cree Nation/Abitibi-Temiscamingue region. Opportunities exist for Cree entities and people to build partnerships of mutual benefit and respect with non-Cree organizations and people to engage in business or development activities in our territories. The success of these types of business exchanges includes the development of capacity and know-how in the communities and region. The goal is not only to create a local and regional economy through initiatives and partnerships, but to build a sustainable and healthy environment for growth. It is a part of our wish to continue to establish partnerships with Quebec, and the Quebec business community. To this end, the Grand Council has been proceeding with meetings and consultations on the potential of developing wind energy projects in Eeyou Istchee.

It is encouraging to see the steps we have taken already towards greater control of the supporting mechanisms needed for a stronger form of Cree governance. We have taken strides in some instances, and in others, are taking the time to ensure our rights and interests are properly respected. We are looking forward to the development of a written Constitution that is acceptable to the Eeyou/Eenou. A Cree Constitution defines our relationship with other governments, First Nations, and puts us on equal standing with other peoples with whom we have developed relationships with throughout our history.

Meegwetch.



Inaugural Speech by Deputy Grand Chief Ashley Iserhoff

Delivered at Chisasibi, Quebec
October 18, 2005



Grand Chief, Youth Grand Chief, Chiefs, members of the Council/Board, distinguished guests, Minister Kelley, my many friends, people of Chisasibi and the people of the Cree Nation.

During the course of my life, people have always found ways to support me in the positions that I held. I started taking responsibility at a very young age. From being part of the local Youth Council, to leading the Cree Nation Youth Council, being a member to our local Council, there are always people that have always been there to support me, to give me the right words of encouragement, most importantly, leading their lives to be my role models.

I want to take this time to honour two of those role models, my parents, Matthew and Annie N. Iserhoff Sr. Without their love and support, I would not be standing here to share this moment.

I want to thank my brothers Shawn Trevor and Matthew Jr. for being true to who they

are and my aunts, Julie Iserhoff and Edna Neeposh Sr., who are very close to our family.

During my campaign, I took it to heart when I spoke of the importance of what family means to a child. Like every family, we had our hardships. We learned from our struggles, we overcame and we grew stronger, and my parents continue to show us to never give up.

On this occasion, I think of my late grandparents, Allen and Luce Iserhoff, Matthew and Jane Neeposh who led their lives by example—whatever came their way, they did not give up. They passed that on to their children.

This comes from our teachings that have been given to us as gifts from God. He has given us all gifts to share, to bring hope, to give, to use the right words in the time of trials and tribulations.

Sparkling that light, can come from a few words of encouragement: YES YOU CAN,

NEVER GIVE UP, YOU CAN DO IT! Words lift our spirits and motivate us to contribute. We need to use these words everyday, for we know what is going on in our communities. We need to laugh, share our stories, and encourage one another.

During my travels this past summer, I often spoke of what do we do as humans when we see our friends fall in life. We go see them, we spend time with them, we lend a listening ear, encourage them, talk to them, show them and help lead them to overcome what they are going through.

When I reflect on the importance of any position in our nation, we all have that responsibility: to share our knowledge, to listen to people, to bring words of hope, and show the people who have fallen to get back up again. Everyone has an important role to contribute to society.

I believe that many of us don't want vandalism, crime or drugs or alcohol.

I believe that many of our people want a nation of which they can be proud. I know that our people want bright, clean streets, healthy communities, communities striving for community and economic development and top class local facilities such as new clinics and educational establishments.

I believe we want sports facilities and theatres and art galleries to express our culture. I believe if we all stick together we can overcome those obstacles we encounter.

Building up that pride takes some time and a lot of words of encouragement. I am excited to be part of the Cree leadership and to encourage you in helping us make our nation stronger.

There will always be new challenges. There will always be people who care for themselves and forget the common good. Such people have to be tackled sympathetically but firmly. A Nation is about all of us and I firmly believe that each one of us should have our say, from our children, our youth, our women,

to our men, and our elders. I use the word team deliberately. We need consensus on the most important work to be done. We need agreement on how challenges should be met. We need the backup of that team spirit. Speaking of teams, I think it is essential to bring together the bodies involved in sports of Eeyou Istchee and to promote them aggressively. Young people who have training three nights a week and have games at the weekend are rarely the ones in trouble. The same applies, of course, to those who are interested in music or drama or art. We need to provide the facilities and programs

that will make our youth bring credit and hopefully, with our words of encouragement and living by example bring a few all-star awards back to our communities.

When I hear of the stories of our past, everyone had an important role to play. Our children reminded us of the meaning of life, our youth were taught to take responsibility, our women made sure everything was up to par in the bush camp, our men went to go hunt and bring food back to the camp, our elders were teachers.

The way of our ancestors is what we have to bring back—no one was looked down on, no one thought people were inadequate. People encouraged each other, this was their life and it is this principle we will now use.

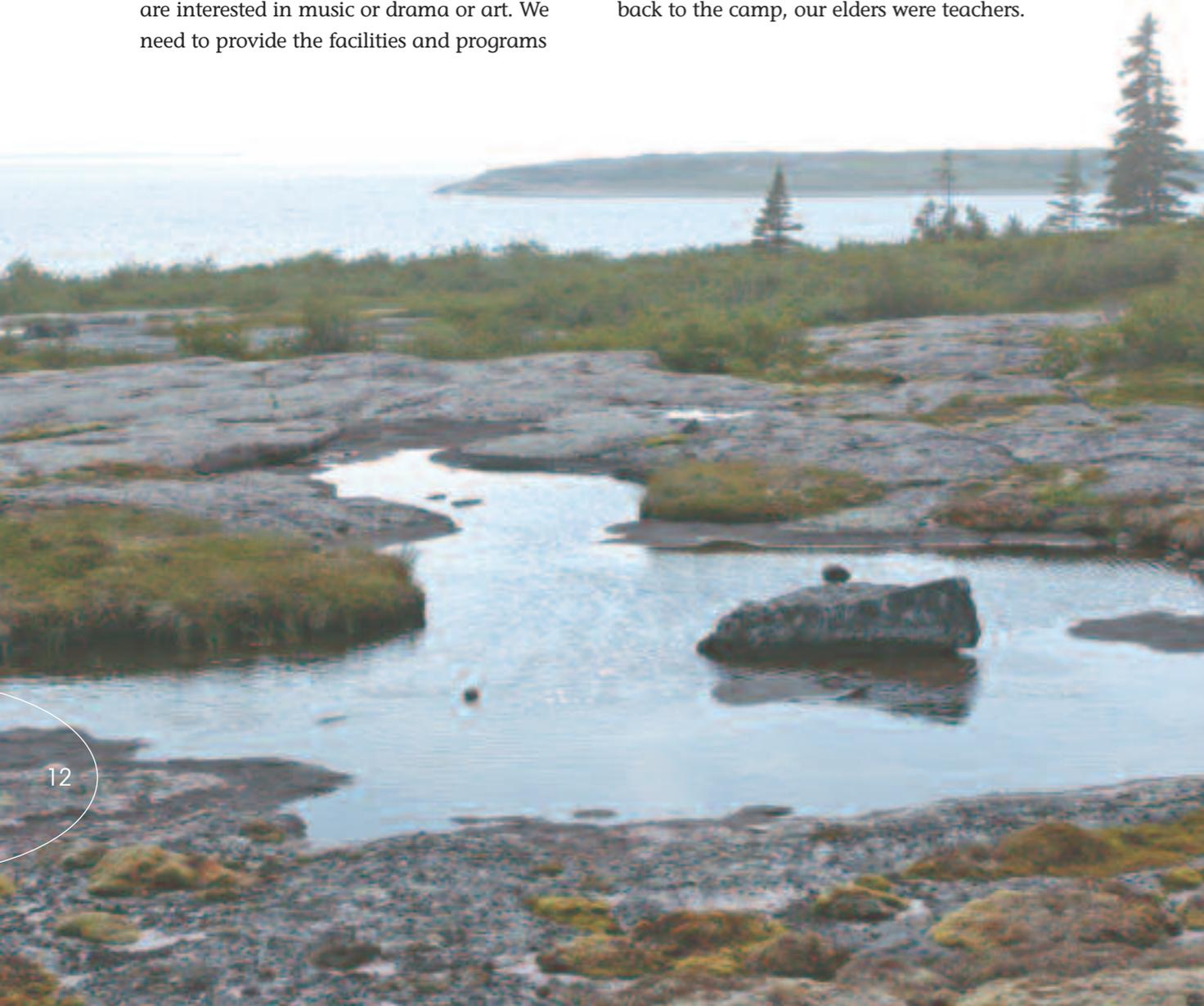
Our nation is one family, just like we have been taught. We share what has been given to us to use, most important share our love to each other.

I ask each of you to be part of the leadership today, get involved in our community

activities, contribute to the wellbeing of our Nation. Empty words are meaningless unless we contribute. Let's walk together, listen to each other, encourage each other. This is what I have learned from my family.

All of you know what family means to me, therefore, you will have an important role to play with us.

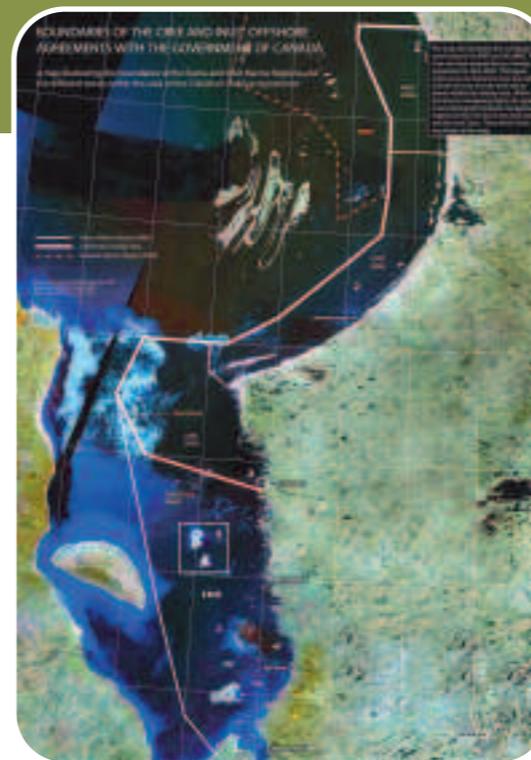
May God bring you peace and love and may He continue to bless each and every one of you.



Where are we in the offshore Island Negotiations?

When the James Bay and Northern Quebec Agreement was being negotiated Canada committed to the Crees to resolve the rights issues in a manner similar to the Agreement. The island would be exclusive Cree hunting zones as Category I and II lands, the environment, governance and other Federal-Cree regimes would apply offshore. Negotiations however broke down in 1980 with the Makivik Inuit and the Crees because Canada was inflexible on issues such as compensation. That is the way things remained. If there was development in the area, the Cree and Inuit rights would arise from the ashes of lost debate and this is to some extent what has happened.

In fact it was not oil or diamond discoveries that refueled the debate, but Canada's transfer of the James Bay and Northern Quebec offshore islands from the jurisdiction of the Northwest Territories Government where it had previously parked them, to the jurisdiction of the new Nunavut Territorial Government. Ostensibly it was only a change from one federal territory to another but in reality it was a transfer to a government under the democratic control of the Nunavut Inuit—a very undemocratic move for the Crees and Makivik Inuit who are not represented in Nunavut.



Seeing the likelihood of this change the Makivik Inuit restarted negotiations in the 1990's, sometimes putting forth the vision of an eventual Inuit political unit covering the entire traditional Inuit homeland. The Inuit and Canada have now initialed a final Agreement and are proceeding to ratify it.

In 2003 and in the context of resumed Cree negotiations with Canada, the Grand Council also negotiated an agreement with the Makivik Inuit under which the two mutually recognized and protected their mutual interests, including joint ownership of some islands, covering an area between north of Richmond Gulf and extending southwards to approximately the mouth of Chisasibi (the La Grande River).

Four Issues Still Not Resolved

1. *Certainty of Rights:*

In exchange for the rights and benefits of the treaty, the Federal Government wants the Crees to agree not to make any future

aboriginal rights claims in Canada. This would end any claims that the Crees might have in northeastern Ontario. What is also asked for is that if anyone makes a claim against Cree rights in the treaty, the Crees and not Canada would be responsible to pay any amounts the courts awarded.

The Cree negotiations have also continued with Canada and we now have a comprehensive offer from Canada. The general outline is as follows:

- Cree ownership of all islands except the northern part of South Twin Island and all of North Twin Island (to be excluded as a federal conservation area), and excluding Bear Island and Grey Goose Island (excluded since explosives may still be found on these islands from their use as a military target range some years ago);
- Compensation of \$50 million to be paid to the Crees over 9 years;
- Cree involvement in various new bodies under Nunavut jurisdiction set up under the Cree-Canada agreement to deal with the management of harvesting, environmental assessment, and land use planning;
- Crees to own 100% of the subsurface (mineral) rights in the islands, and would also receive 5% of government royalties extracted from natural resource development in the marine areas.

The Broken Promise of Section 35 of the Canadian Constitution

2. Jurisdiction of Nunavut:

While the Crees would own the islands, the Government of Nunavut would determine the laws regulating harvesting, environment assessment and land use planning. The Crees would name members on the various boards set up in the Cree-Canada treaty, but they would still be under the jurisdiction Nunavut, a government in which the Crees would have no participation. Moreover, Nunavut has already taken positions at the negotiations that would give priority to Inuit and not to Crees for any employment or contract opportunities created by any developments in the offshore. Nunavut would require Crees to carry identity cards while hunting in the offshore and any Cree tried for a crime committed in the offshore would have to appear before a court in Iqaluit.

3. Cree Governance Powers:

One proposal for the Cree negotiation team was for Canada to recognize Cree governance rights in the Cree offshore. Both Canada and Nunavut reject this proposal out of hand. Moreover, Canada refuses to recognize that the Cree School Board, Cree Health Board or any other entity set up by the James Bay and Northern Quebec Agreement would have any powers in the offshore.

4. Administrative Complexity:

Since Canada and Nunavut propose various new boards which would manage the offshore in areas related to harvesting, environmental

assessment and land use planning. It is evident that the new boards would be added to those already created under the James Bay and Northern Quebec Agreement for these same purposes. Is it better for the Crees to have new forums to express their views or is it likely to be an impediment to the future administration of the area?

Conclusions

Canada takes an attitude in the negotiations that it will impose the decisions that it previously made when it created the new Nunavut Territory. While Nunavut remains theoretically a non-ethnic territorial administration, like the NWT before it, in fact it was created at the instigation of the Inuit and was a way for them to nominally gain more control over their traditional territory, without pressing their collective rights to govern themselves and their lands.

This new formula will be applied to land claims on the territory adjacent to Quebec settled by the Crees, Northern Quebec Inuit, Canada and Quebec in the James Bay and Northern Quebec Agreement in 1975. This formula represents a callous disregard by Canada and Nunavut of the Cree rights as a people to govern their lands in a manner that is in the Crees' view, consistent with this prior historic treaty and which also represents an equitable resolution of the issues.

I am tired of the talk that comes to nothing.
It makes my heart sick when I remember all
the good words and the broken promises.

Author: Stuart Gilby

In the landmark case of *R. v. Sparrow*, the Supreme Court of Canada said:

This appeal requires this Court to explore for the first time the scope of s. 35(1) of the Constitution Act, 1982, and to indicate its strength as a promise to the aboriginal peoples of Canada.

Many cases after *Sparrow*, such as the cases known as *Adams*, *Badger*, *Cote*, *Delgamuukw*, *Marshall (No. 1)*, *Reference re the Secession of Quebec*, *Sioui*, and *Sundown sought*, each in its own way, to fulfill that promise. Driven by judgments which upheld the rights of Aboriginal Peoples, governments and industry

were forced to change their historic denial of the very existence of those rights. Those same decisions gave First Nations some leverage that helped them in their efforts to compel the Crown to begin to deal with the massive problems of health, wellness, education, poverty and economic development faced by First Nations' members whether living on Reserve or off Reserve.

Over the years, the Supreme Court occasionally slipped backwards on the journey of towards the increased recognition of First Nations' rights. This problem is apparent in the cases known as *Marshall*



(No. 2), Mitchell, Van der Peet, and Wewaykum. In those decisions the breadth of the fiduciary duties of the Crown were watered down and the burden of proof on Aboriginal Peoples, as described in Sparrow, was turned on its head. This proof of Aboriginal or Treaty rights, originally meant to be of a lesser burden than is typical in civil cases, is now amongst the highest of burdens in law. The difficulty, time and cost of presenting the evidence and legal argument to raise Aboriginal or Treaty rights as defences to charges under legislation (such as regulatory limits on hunting and fishing) are now astronomical. Similarly, in civil cases where Aboriginal Peoples are suing the Crown for breach of Treaty obligations or for unlawful interference with Aboriginal Rights or Title those costs are now absurd and are usually in the many, many millions of dollars.

The recent judgments of the Supreme Court in the Haida Nation and Taku River Tlingit cases seemed to walk in two directions at once: on the one hand reducing the Crown's fiduciary duty to Aboriginal Peoples and making challenges to the Crown's violation of Aboriginal and Treaty rights more formal, restrictive and narrow, and, on the other hand, holding out the "honour of the Crown" as a new legal and enforceable duty for the benefit of Aboriginal Peoples.

This legal dance, where the Court moves forward and then backwards on the importance that is accorded Aboriginal and Treaty rights and the meaning and "promise" of section 35, became a wholesale retreat in the recent cases of S. F. Marshall and Joshua Bernard (Marshall; Bernard). These cases were heard together by the Court and essentially came down as one decision. They deal with defences raised by a number of Mi'kmaq men from Nova Scotia and

one Mi'kmaq man from New Brunswick to charges that they cut timber on "Provincial Crown" lands without provincial permits. They all relied on their understanding that the Peace and Friendship Treaties of the 18th Century between the Mi'kmaq and the Crown recognized their right to harvest natural resources, including timber, to make a living and support their families. They also stated that the Mi'kmaq retained Aboriginal Title to their Traditional Lands as they had done for thousands of years. That Title has never been surrendered, ceded or given up in any way.

Although the decision deals with the Aboriginal People of what is now Atlantic Canada, it has potentially dramatic impacts for all First Nations Peoples across the country, including the Eenu of Eeyou Istchee. The decision limits the workings of constitutional democracy. It appears to be founded on principles inherent in a society replete with systemic racism. It reveals that colonialism continues to be a major obstacle for the advancement of the Aboriginal Peoples throughout Canada. The judgment places extreme evidentiary burdens on Aboriginal Peoples attempting to "prove" their rights in the courts. The Supreme Court seems to be trying to turn the clock back to a time when the Crown acted with impunity in exploiting Aboriginal Peoples, their lands, resources and rights for the alleged benefit of the majority population.

In the Marshall; Bernard decision the Supreme Court of Canada ignores the weight of precedent in Aboriginal jurisprudence over the past 200 years and more particularly it endeavors to negate the leading cases on section 35 rights that have been decided over the past two decades. The Marshall; Bernard judgment presents a Eurocentric view of history and disregards well researched and



thoroughly documented anthropological and archaeological facts concerning the society, culture and law of the Mi'kmaq of New Brunswick and Nova Scotia. It ignores international legal concepts and the emerging norms of Indigenous Peoples' Rights. It is in complete contradiction to the leading international legal decision on Indigenous People title: *Awas Tingni*.

One must ask whether the Court is promoting an agenda favouring big corporations and the ever faster depletion of natural resources. Marshall; Bernard promotes the status quo at the expense of impoverished and unlawfully displaced Peoples. It ignores the exhaustive analysis and recommendations of the Royal Commission on Aboriginal Peoples and works by numerous other organizations regarding the need to address the economic, health and social disparities between Natives and other Canadians. The decision does not even consider the need to ensure that First Nations have equitable access to natural resources to help them to rebuild their economies and their communities.

Marshall; Bernard resurrects the illegitimate concept of *terra nullius*, or "empty land"

which is the now discredited idea that Indigenous Peoples could never have actually owned the lands, because they didn't happen to be in a given spot when Europeans first arrived there. The case limits the courts' ability to examine issues from the Aboriginal perspective and, whether it intends to do so or not, it dismisses Aboriginal Peoples' laws, customs and social norms as having any meaningful role in litigation. It denigrates the value of oral history and places that format of historical record beneath the written version favoured by Europeans.

In Marshall; Bernard the Supreme Court ignores the elementary rules of Treaty interpretation. It overlooks a number of fundamentally important issues: The Court does not seriously address the Aboriginal perspective on the purpose or meaning of the Treaty as a whole, nor on the particular trade clause that was the main issue before the court. There is no mention of the fact that trade clauses were always negotiating demands of the Mi'kmaq in every Treaty concluded with Europeans and could not therefore simply be dismissed. There is no acknowledgment that the Mi'kmaq had been trading with other Peoples for centuries

before the arrival of Europeans, and, no examination of the sophisticated adaptations made by the Mi'kmaq over those centuries to their trade and diplomatic accords.

Moreover, there is also a mischaracterization of the very nature of the Treaty. There is no discussion of the oral terms of the Treaty that are part of the historical tradition attached to it. The true contents of any of the Treaties are not contained solely in the written version. Further, there is no effort to understand the intricacies and difficulties of the negotiating process and the dramatic cultural and language differences that process included. There is no reference to Crown promises and obligations. There is simple reliance on the purported meaning of a few written words, which even then are taken out of context.

The generous nature of the Mi'kmaq as expressed through their willingness to share their lands and resources with the newcomers is used by the Court against them as "evidence" that they did not have "exclusive" control over their lands. How does that view accord with the recognition of the importance of the partnership between Aboriginals and Europeans as set out in Reference re the Secession of Quebec, which is another context where the Supreme Court characterized Aboriginal rights? There the Supreme Court stated:

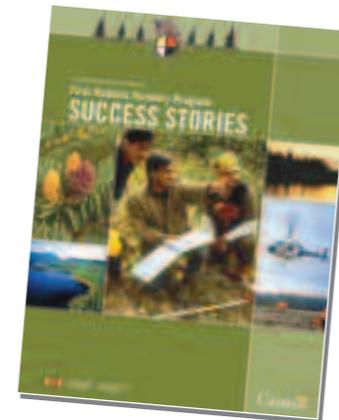
... the framers of the Constitution Act, 1982 included in s.35 explicit protection for existing aboriginal and treaty rights, and in s.25, a non-derogation clause in favour of the rights of aboriginal peoples. The "promise" of s.35, as it was termed in R. v. Sparrow, [1990] 1 SCR 1075, recognized not only the ancient occupation of land, but their contribution to the building of Canada,

and the special commitments made to them by successive governments. The protection of these rights, so recently and arduously achieved ... reflects an important underlying constitutional value.

How can we balance the decisions that follow Sparrow's lead against those that seem to deny its "promise"? The members of the Supreme Court change over time and new judges bring their own perspective to the law, so the "dance" is likely to continue. However, the decision in Marshall; Bernard is so far removed from the majority of the leading cases about Aboriginal and Treaty rights that future Courts may simply ignore it as an aberration. In the meantime the Crown may revert to its old behaviour of denying the existence of Aboriginal and Treaty rights and point to Marshall; Bernard as the reason for doing so. Aboriginal People must not succumb to any such denial. They must not despair when the Supreme Court occasionally runs off the road as it did in Marshall; Bernard. It is too late to turn back the clock. Aboriginal Peoples' rights, their recognition and affirmation are fundamental to the workings of a constitutional democracy. Canada's democracy is a work in progress. Some court decisions like Marshall; Bernard demonstrate that democracy stumbles. We can't allow it to fall.

The next article in this series continues to examine the Supreme Court's retreat from the promise it identified with Section 35 in the Sparrow decision in more detail. In particular it looks at how Marshall (No. 2), Mitchell, Van der Peet, Wewaykum and most recently Marshall; Bernard are at odds with the weight of common law jurisprudence and international instruments and law.

Waswanipi: A forestry program success story



Waswanipi, one of two James Bay communities participating in the Government of Canada's First Nations Forestry Program (FNFP), has been singled as one of the program's success stories. A history of Waswanipi's participation in FNFP—it has been a part of the program since its inception in 1996—is included in a cross-Canada compilation of FNFP's most innovative and successful partnerships. The publication is being made available to First Nations across Canada,

the Canadian public, members of the forest sector, academia, and senior officials in provincial and federal governments.

An FNFP representative says the selected projects represent a balanced look at the various types of projects supported by FNFP. Officials also wanted to make sure the publication represented First Nations and FNFP projects across the country. Mistissini is also an FNFP participant.

FNFP is a joint initiative between Natural Resources Canada and Indian and Northern Affairs Canada. In addition to supporting

the Government of Canada's commitment to a clean, healthy environment, FNFP is designed to create opportunities to build strong communities by working with First Nations. Projects supported by FNFP range from harvesting to eco-tourism.

"The forest offers a foundation for First Nation communities to develop an economic base while maintaining their traditional connections with the land," says the FNFP representative. "By highlighting some of the program's many successes, we believe we're opening the door to even more partnerships in the future."

The program has funded more than 1,700 forestry-related projects since 1996. During that time, partnerships among First Nations, the Government of Canada and industry have created opportunities for over 460 First Nations people to improve their skills and apply sustainable forest management practices.

In keeping with the FNFP's goal of providing employment opportunities whenever possible, the project called for the hiring of technical personnel to plan, supervise and assess the work. All of the work was carried out in accordance with the reserve's Integrated

Forest Resource Management Plan on category 1A and 1B land.

The story of Waswanipi's participation in FNFP is reprinted below with the permission of Natural Resources Canada and the Canadian Forestry Program.

Training opportunities secure Waswanipi's future

For generations, members of the Cree Nation of Waswanipi have relied on the surrounding forest to support themselves and their families. Even today, a substantial percentage of the community's 1,300 residents earn their livelihood from traditional activities such as hunting, trapping and fishing.

In 1982, the Waswanipi Band Council initiated forestry operations on its lands. Council members recognized that the Band's location—in the middle of a forest of black spruce and gray pine—offered a host of new economic opportunities. While that decision immediately produced significant social and economic advantages, it also caused some friction. On one side were those who favoured traditional uses for the forest, on the other those who wanted to pursue the opportunities available through a modern forestry industry.

In 1991, the Mishtuk Corporation, the community-owned organization created to oversee the Band's forest industry operations, responded to those concerns by reducing the amount of wood it harvested every year. More significantly, it abandoned conventional clearcutting in favour of a checkerboard cutting strategy. To minimize the impact on other forest resources, cutting blocks of no more than 40 hectares are spread carefully across an area of land.

Today, that checkerboard strategy is still in place. And the band's forest industry, in peaceful co-existence with the area's traditional trapping industry, remains a vital contributor to the community's economy.

Much of Waswanipi's success, says Alfred Jolly, the Senior Supervisor of Forestry Operations for Mishtuk, is due to the decade-long relationship it has enjoyed with the First Nations Forestry Program (FNFP). "Without their support for our training, harvesting and infrastructure activities, we could not have enjoyed the success we have in the forest industry."

That relationship has continued to prosper, he says, particularly in the area of training. Over the past few years, for example, FNFP support has helped the Mishtuk Corporation provide valuable training in commercial thinning. Also, those seeking work as forestry technicians or assistant technicians have been given the opportunity to gain hands-on experience.

"In the area of commercial thinning, we average about two trainees a year," says

Alfred. "The training period covers about 20 weeks, split between the classroom and the field." Instruction is provided by a qualified instructor employed by Mishtuk, again with the financial assistance of FNFP.

The training program is already reaping dividends in the area of employment, says Alfred. "The people who have taken part have gone on to find employment in the forest industry."

The Mishtuk Corporation training program also gives community members the chance to work with qualified forestry technicians over the summer. The two or three people who take part every year work in the field, gaining valuable experience in areas such as inventory, quality of plantation, precommercial thinning, scarification and regeneration. "These young people not only gain skills they can use throughout their working lives, they get paid for the summer they work," says Alfred. "That's a win-win situation for everyone."

These training opportunities are particularly important for Waswanipi, says Director General Jack Blacksmith. "We are an exceptionally young community," he points out. "More than 60 per cent of our population is under 35 years of age. Their future lies in modern economic activities, such as forestry, that will play an increasing role in our local economy. With the help of the FNFP, we can be sure these young people get the chance to acquire the skills and training to participate in a forest-based economy—and to contribute to their community."



Health and Social Services Agreement takes shape *in* EYYOU ISTCHEE

A new agreement has been signed to resolve issues relating to health and social services for the Crees of Eeyou Istchee. Signed March 21, 2005 in Chisasibi by the Government of Québec and the Crees of Eeyou Istchee, the agreement relates to Section 14 of the James Bay and Northern Québec Agreement (JBNQA).

The Agreement successfully concludes discussions initiated in November 1999. The negotiations were tailored to reflect the New Relationship "Paix des Braves" agreement signed by the Government of Québec and the Crees in February 2002.

The Health and Social Services Agreement includes:

- New Strategic Regional Plan for the Cree Board of Health and Social Services of James Bay to improve delivery of health and social services in the Cree communities;
- New Cree Integrated Service Units in each of the Cree communities, featuring a new integrated model of service delivery and extended service hours;
- Emphasis on first-line health and social services in the Cree communities and, where appropriate, certain specialized services, such as dialysis;
- Special measures to address priority needs in the Cree communities, including public health, diabetes, dental services, mental health, services for the elderly and disabled and social services;
- Staffing, operational resources, housing and capital facilities necessary to implement the Strategic Regional Plan;
- Funding arrangements on a stable, predictable basis;
- Provisions to ensure accountability in the implementation of the Strategic Regional Plan, including the establishment of a joint Cree-Québec Steering Committee;
- Discontinuance of certain legal proceedings instituted by the Crees in 1990 against the Government of Québec regarding obligations under Section 14 of the JBNQA.



Top left to right: Marcel Villeneuve, John Hurley, Paul Lecavalier, James Bobbish, Louise Montreuil, Abel Bosum, Robert Mainville, Andrew Webster **Bottom left to right:** Paul Gull, Philippe Couillard, Dianne Reid, Ted Moses, Geoffrey Kelley

The Government of Québec was represented by Dr. Philippe Couillard, Minister of Health and Social Services, and Mr. Geoffrey Kelley, Minister for Aboriginal Affairs. The Crees of Eeyou Istchee were represented by former Grand Chief Dr. Ted Moses, of the Grand Council of the Crees (Eeyou Istchee), and Ms. Dianne Reid, Chair of the Cree Board of Health and Social Services of James Bay.

"This Agreement marks a turning point for the Cree Board of Health and Social Services of James Bay," Chairperson Dianne Reid said. "The Agreement and the Strategic Regional Plan provides us with the tools to start to address certain priority health and social needs in the Cree communities. We are fully committed to implementing the Agreement and the Strategic Regional Plan so as to deliver quality health and social services to the Cree communities."

"I wish to thank the many staff and managers of the Cree Board of Health and Social Services of James Bay and the Cree Negotiating Team who, working closely with the Cree communities, contributed to the development of this Agreement and the Strategic Regional Plan. With this team, I am confident that we can take up the challenge of improving health and social services for the Crees of Eeyou Istchee," Ms. Reid concluded.

WASHAW SIBI

A HISTORY *of* INJUSTICE

“Our objective is to work towards a legally recognized tenth Cree First Nation community with full rights and benefits under the James Bay and Northern Quebec Agreement. We, the leadership of Washaw Sibi, with the support of our people, have decided to take matters into our own hands. We will no longer wait for others to correct the injustice which has been done to us.” —Chief Billy Katapatuk Sr.

The Washaw Sibi Eeyou is a community of approximately 350 Cree people, most who live in the Abitibiwinni Algonquin First Nation (Pikogan Reserve). However, many continue to occupy their traditional territory in the Abitibi region of Quebec.

Historically, the Washaw Sibi Eeyou were one of a number of groups of Cree families who traditionally hunted and trapped in the southern James Bay area. These families congregated during the summer months in Waskaganish and Waswanipi to sell fur. However, the Washaw Sibi Eeyou later chose to bring their furs down to the Harricana River to trade at various outposts in the southern part of the territory.

In fact, Washaw Sibi is the Cree name for the Harricana River. It literally, means the river that runs into the bay.

In the summers, the Washaw Sibi Eeyou would meet in the southern part of their traditional hunting grounds near what is now the town of La Sarre. They met there every year until the late 1950s when the Department of Indian Affairs forced them to relocate to the Pikogan Reserve.

Although they were a distinct Cree group with acknowledged Cree traplines, the Washaw Sibi were being told they would have to be governed by an Algonquin First Nation. To make matters worse, the Algonquin First Nation did not become party to the James Bay and Northern Quebec Agreement (JBNQA). As a result, even though the Washaw Sibi people are formally Cree beneficiaries under the JBNQA, they could not obtain the benefits now available under the agreement to the Cree people residing in the nine Cree communities.

This has resulted in serious hardships for the Washaw Sibi Eeyou. Not only have they encountered significant discrimination in the areas of housing and employment, it has become increasingly difficult for them to maintain their Cree language and cultural practices, particularly in the context of an Algonquin community.

Over the years, the Washaw Sibi Eeyou have continued to fight for the establishment of a new Cree village where they can ensure the preservation and promotion of their Cree language and culture.

Washaw Sibi vow to stay until injustices addressed

Forced to leave their traditional land more than 50 years ago, the Washaw Sibi Eeyou have returned to their home in northern Quebec. This time, says Chief Billy Katapatuk, Sr., they will stay until the federal and provincial governments correct the historical injustice that now threatens the Washaw Sibi language and culture.

Approximately 300–400 Washaw Sibi people left Amos on the morning of August 15 to begin the dramatic and courageous journey back home. After marching for five days, they set up camp in the former Joulac campground on the Abitibiwinni First Nation Reserve (formerly the Pikogan Reserve), intending to live in tents until the federal and provincial governments agreed to negotiate with them.

In the face of continuing government indifference to their concerns, the Washaw Sibi are preparing for an extended stay. By the end of September, some 30 cabins had been built and more were under construction. The abandoned campground is also home to scores of tents. Community leaders were drawing up plans to ensure that school-age children had the opportunity to pursue their education. Others were addressing food and health care issues for what many fear will be a long and cold vigil.

Washaw Sibi Chief Katapatuk, Sr. believes the sacrifices that his people are being forced to make are necessary if the community is

to survive. “We cannot wait for anyone to solve our problems for us,” he said before the Washaw Sibi set on their 125-kilometre journey. “It is up to us to take the first step to finding a solution to our problem. Our Elders have told us that if we wait any longer, we risk losing our language and our culture for good.”

“We simply cannot afford to wait any longer.”



Grand Council supports **WASHAW SIBI** efforts

The Washaw Sibi tragedy goes back to the 1950 when the federal Department of Indian Affairs announced plans to attach all Indian people to a specific reserve. At that time, the Washaw Sibi Cree resided in their traditional territory in the LaSarre area of northern Quebec. When representatives of the Department of Indian Affairs warned the Washaw Sibi that they withhold Government of Canada services unless the community agreed to the federal plan, the Washaw Sibi moved to a newly created reserve near Amos, Quebec.

However, the inhabitants of the Abitibiwinni First Nation Reserve are predominantly Algonquin. In essence, this made the Washaw Sibi Crees a minority within another aboriginal community. As a result, they found themselves without access to adequate programs and services in the areas of employment, housing, education and health. Also, the fact that the Washaw Sibi no longer lived in a recognized Cree community meant they were not eligible to receive the benefits available to other Cree people under the James Bay and Northern Quebec Agreement signed in 1975.

The results of the forced move and the ensuing neglect have had a serious impact on the Washaw Sibi nation. In recent years, especially, the Washaw Sibi people have become increasingly concerned about the gradual loss of their language and culture. This has been particularly evident among the community's young people.

In response, the Washaw Sibi people have sought the assistance and support of both the

provincial and federal governments for establishing a new village, one where they can express their Cree culture and reinforce their Cree language. And, of course, they are continuing their fight to receive the same benefits as do recognized Cree communities. The refusal of both governments to respond to these requests prompted the decision of the Washaw Sibi to reclaim their traditional homelands, say community leaders.

The walk was an emotional one, says band council member Kenneth Weistche. "It went very well," he added. "We completed a very important journey, we got a lot of exposure and we met a lot of people."

"An historical injustice was done to our people when they were forced to live with the Algonquins over 40 years ago," says Washaw Sibi Chief Katapatuk Sr. "We're Crees, not Algonquin. And we want a place where we can be Cree and practise our traditions and learn our language."

While the decision to make the journey was a difficult one, Chief Katapatuk said it was made easier because of the support of the community's Elders and youth. "Now it's up to Ottawa to make the next move and give us a place where we can raise our children—and, most importantly, be Cree."

Chief Katapatuk says the municipality of James Bay has expressed its support for the Crees and has no problem with them trying to set up a community in that area. "The mayors of the surrounding towns have called us to express their support. Everyone is very

supportive, native as well as non-native." In fact, the town of Matagami passed a resolution supporting the Washaw Sibi. And the town of Amos sent the Washaw Sibi a letter of support.

"The walk has put us high on the agenda to resolve our issues," says band member Weistche. "There were people that didn't know that there were Cree people living in Pikogan and that even though we were Cree beneficiaries, we didn't get any benefits or programs or services. Hopefully, we've succeeded in letting people know what we want and why we want it."

Chief Katapatuk says the goal of the journey and the encampment is straightforward—to establish a new Cree community for the Washaw Sibi Crees.

"We are seeking an end to our marginalization and dispossession from our own lands. We are seeking respectful relations with the federal and provincial governments. We want to be dealt with fairly and equitably."

He says the decision to relocate to their traditional territory is an expression of the Washaw Sibi commitment to that objective.

"We have left a place where we should never have been forced to live and which has been a source of continuing difficulties for our people. Now, we are taking matters into our own hands."

The Washaw Sibi people enjoy the full support of the Grand Council of the Crees in their efforts to secure a permanent home for their people. In fact, in 2004 the annual General Assembly of the Cree Nation, meeting in Waskaganish, passed a resolution recognizing the Washaw Sibi Eeyou as the 10th Cree First Nation.

Since then, the Grand Council has continued to assist the Washaw Sibi Eeyou in their efforts to become integrated into the life of the Cree Nation. It has taken an active role in facilitating their integration into all Cree entities so that the people of Washaw Sibi can receive the programs and services they deserve. The Grand Council has also provided financial support, as have the Board of Compensation, the Cree Trappers Association and several Cree communities, notably Waskaganish and Waswanipi.

Newly elected Grand Chief Matthew Mukash says he will continue to support the Washaw Sibi Eeyou cause. It is "important that they get some land," he has said. "I would like to see that happen, for them to get a community so that they can have peace of mind and start developing as a nation."

"The Cree people of Washaw Sibi have an inherent right to build a new community for its members, to govern themselves and to have a home where we they ensure the survival and health of their people, language, and culture."

Grand Chief Mukash says that other communities, such as Mocrebec, also deserve a place in the Cree Nation.

Study questions benefits of pig farm in CHAPAIS region



The future of a massive pig farm proposed for the Chapais area appears to be in doubt. Polls have shown that support for the project is lukewarm at best while a new study questions the project's economic benefits and raises serious environmental and health concerns.

The pig farm proposal even appeared to play a role in recent elections. The mayor of Chapais, a major force behind the pig farm, was re-elected by a mere 40 votes.

The proposal for the pig farm project was first put forward by the community's Economic Development Corporation. With an initial investment of \$80 million, the Corporation said, it would be possible to establish a large-scale industrial hog-farming and processing complex in the Chapais area. When completed, the pig farm would be the largest in Quebec, if not in all of Canada.

Plans call for the project to be developed over the next 5 to 10 years. Eventually, the farm would produce and process up to 135,000 pigs per year, creating up to 140 jobs immediately and between 200 and 300 when completed. Developers

maintained that local residents could be easily trained for most of the positions.

The structures required to raise and breed livestock would be located about 20 kilometres southwest of Chapais. A feed mill, abattoir, processing facility, water treatment plant and office would be located within 2 km of the community. The farm itself would sit on or be directly adjacent to Cree trapping grounds in the area.

Highly controversial since it was first proposed, the project is now being questioned on several fronts. A study conducted by the Cree Board of Health and Social Services of James Bay casts serious doubts about the project in the following two areas:

Impact on employment and the economy Impact on health and the environment

Impact on employment and the economy

While the study acknowledges that there is a critical need for economic and social development in the Chapais region, it expresses doubt that a large-scale pig farm would be economically viable or create jobs for local citizens.

In terms of economic viability, the study points out that pork prices are low compared to prices for other meat products. What's more, projected price increases for pork products are slower than the general inflation rate. The cost of feed, expected to account for a large proportion of the farm's total operating costs, may also be a problem, especially given the farm's remote location. In fact, the study says, the high transportation costs associated with such an isolated location would also be a factor in getting meat products to market.

As for the creation of jobs for the local population, the study points out that there is now little agricultural activity in the Chapais Region. As a result, it is uncertain that the capacity exists locally to carry out a large-scale agro-business project such as the proposed pig farm. As the study points out, operating such a large project successfully requires in-depth knowledge and skills in the areas agriculture and economics. If the capacity does not exist locally, the study goes on to say, any jobs created by this project will likely go to skilled workers from outside the region. As a result, employment opportunities for the local population would be limited.

Of the limited number of local jobs created by the project, a certain percentage was to be reserved for the Cree population of Waswanipi and Oujé-Bougoumou. However, the proposal did not provide precise details of the involvement of Cree communities in sharing the benefits of the project.

Impact on health and the environment

The study makes it clear that health-related information about the project is extremely limited. It maintains that an in-depth study of the farm's potential impact on human health would be required before any formal recommendations could be made from a public health perspective.

The study also found insufficient evidence regarding who will bear the burden of most of the environmental health risks. However, it felt the pig farm is most likely to affect the Cree people who use the land adjacent to the proposed site for hunting, fishing and trapping.

Despite the limited information about the project's impact on health and the environment, the Cree Board of Health and Social Services of James Bay did



If the pig farm proposal is accepted, the plume from the Chapais Cogen Plant, now produced by burning bark, will often be generated by burning pig manure.

The Grand Council of the Crees commissioned its own independent environmental impact study into the proposed pig farm. It was carried out by Dr. Alain Rousseau of the Institut National de la Recherche Scientifique. Recently completed, the study is now being assessed.

present some preliminary comments in its study. In general terms, the study says, the major health risks relating to pig farms concern the contamination of air, water and soil. This contamination leads to human exposure through inhalation, ingestion and direct contact, resulting in discomfort and disease. However, given its size, the Chapais project could also affect the health and well-being of local Cree populations by interfering with traditional ways of life such as hunting, fishing and trapping.

The study points to growing scientific evidence that the unpleasant odours and other forms of air contamination related to large pig farms can have adverse health effects on neighbouring populations. These odours can cause mood changes and severely decrease the quality of life. Also, exposure to such odours depends on the winds. According to the impact assessment, the prevailing winds in the Chapais region come from the south and west. Since all three of the proposed sites for the pig farm are located southwest of Chapais, the winds are most likely to carry the air contamination to Chapais, as well

as to the hunting, fishing and trapping camps in the nearby Lake Cavan area.

Previous studies have found that pig farming can lead to contamination of rivers, groundwater and other potential sources of drinking water in the form of chemical and microbial pollutants. The Chapais pig farm would produce approximately 500 cubic metres of treated effluents per day, of which 373.5 cubic metres would be disposed of in the Obatogamau River. Although the impact study claims that the river's water flow would sufficiently dilute this effluent to meet environmental standards, it may be insufficient to ensure the quality and safety of local drinking water supplies.

Pig farms have also been associated with the contamination of drinking water by nitrates and byproducts of the disinfection process. Micro-organisms, such as fecal coliforms, may enter the water supply and contaminate drinking water, leading to gastroenteritis and even death. This is especially important in rural areas where many homes obtain their drinking water from non-chlorinated sources such as private wells.

In conclusion, the study says it is unclear whether the proposed Chapais pig farm project will be economically viable and whether it will truly provide jobs or any other benefits for the local community. It also maintains that there is a strong likelihood of environmental and health risks. As a result, the study says, Cree people unlikely to benefit but will probably be exposed to environmental and health risks.

The study goes on to recommend that the Cree people be more involved in the decision-making process. Even then, the study says "it would be warranted at this stage to consider alternative projects that would be more likely to lead to economic and social development but have fewer environmental and health consequences."

The study was commissioned by the communities of Oujé-Bougoumou and Waswanipi, with support from the Grand Council of the Crees and the Cree Board of Health and Social Services.



Truck load of pig manure.

Poll shows divided support for pig farm



The Grand Council of the Crees hired POLLARA Inc., Canada's largest public opinion and marketing research firm, to determine how area residents felt about the proposed hog farming complex in the Chapais-Chibougamau region. In total, POLLARA conducted 716 telephone interviews with non-Cree residents (18 years or older) of Chapais and Chibougamau between May 14–19, 2004.

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Highlights of their findings:

- The majority (77%) of non-Cree residents in Chapais and Chibougamau had heard of the proposal. In Chapais, 94% of the residents were aware of the pig farm proposal.
- Initial support for the proposed complex was 62%. Both supporters and opponents identified job creation and employment as the main benefit of the project.
- More than 80% of residents said they were more likely to support the complex knowing that it will create either up to 75 or up to 150 jobs.
- The majority of opponents to the complex said pollution and contamination of the environment and the bad odours were the main reasons for their opposition.
- When forced to choose, 49% of residents said avoiding bad odours and protecting the local environment was more important than creating jobs.



Alternatives to the pig farm

As the study points out, the people of Chapais/Chibougamau are deeply concerned about employment. Even with the likelihood of odour and risks to health and environment, the possibility of another 75 to 150 jobs that might be generated by the pig farm is enormously appealing. Still, when all of the risks are factored in, polls show two out of three residents are opposed to the idea.

Since its inception, the Chapais Economic Development Corporation (CEDC) has put forward many ideas to advance economic and social development in the area. The study identifies several alternatives for the CEDC to consider:

- Marketing meats such as venison may be more profitable, better adapted to the northern climate and less problematic in terms of environmental and health-related concerns. Also, there is a growing demand for free range products (food products produced in their natural habitat, without the use of growth hormones, insecticides, pesticides and confinement) such as deer. Canada is looked upon as one of the cleanest countries in the world for deer production because of cold winters (which kill disease) and open spaces (which allow the deer to roam).

- The Chapais energy generating station may produce enough thermal waste products to create several hectares of hothouses for agricultural and medicinal plant production. If so, it might be possible to create 20 jobs per hectare, as well as indirect jobs relating to processing. In a similar vein, using excess woodchips from the lumber industry could form the basis of a plywood-manufacturing project.
- Building on past successes, such as expanding the Chapais energy generating station or developing other ecologically friendly energy-generating projects such as wind and solar power, are worth investigating. Newly elected Grand Chief Matthew Mukash has made it clear he favours wind energy alternatives to hydro power.
- The study suggests a closer look at developing eco-tourism, a growing and lucrative industry that could capitalize on local knowledge of flora and fauna while attempting to protect and minimize environmental impacts.

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Children's artwork inspires forestry board LOGO



It's difficult to miss the colour, the imagination and the Cree influence when looking at the Cree-Québec Forestry Board's new logo. The reason is simple, says board spokesman Nicole Lavigne. "The logo (unveiled less than a year ago) was inspired by children's drawings submitted from various communities in Northern Quebec. They were part of a contest, open to school children in all of the areas covered by the Forestry Board."

Nicole says the logo illustrates the Board's desire to unify traditional and modern knowledge of forestry for sustainable development. Components belonging to Cree culture, such as a skin stretched inside a round frame, are superimposed over the province of Quebec. The teepee and caribou are presented in a natural environment, among pine trees and near water. The celestial body above them, representing both the sun and the moon, illustrates the cycle of life, the ever-regenerating forest.

The colours are also representative of the logo's symbolic meaning, says Nicole. "Green represents the forest, brown the earth and blue the province of Quebec." To the right of the logo, the Forestry Board's identification, printed in both languages, is directed toward the future.

Students were asked to enter an illustration that represented the mandate of the Cree-Québec Forestry Board. Thirty-one drawings were submitted: 22 from Mistissini, seven from Waskaganish and one each from Lebel-sur-Quévillon and Matagami. The judges narrowed down the 31 entries to 12, then selected three contest finalists. A fourth drawing received special attention.

"Several of the finalists' elements were used as the starting point for the creation of the organization's official logo," says Nicole. She pointed out that the children were also asked to provide a text explaining their vision and the various elements that made up their drawings.

"We received a lot of support from the teachers and school directors to promote this activity. Many associated the contest with their courses and helped provide direction in the presentation and description of the drawing. With their help, the activity fostered discussion among the students over the vital role played by forests, the importance of traditional values while finding ways to develop a sustainable forestry and protect wildlife habitats."

These were the four finalists:

- Carrie Weistche (1st prize) drew a tepee to represent the Cree house, Cree culture and nature. She drew the caribou because it lives in the forest and depends on it. The colours she chose represent nature and the forest, the beauty of nature and aspects of Cree culture.
- Cheryl Moar (2nd prize) also chose to use the tepee along with a tamarack to represent Cree culture and the importance of the Cree house and nature. She used the sun to unify the Cree house, culture and the forest.
- Melanie Georgekish (3rd prize) drew the trees to represent the forest. Their reflection on the water represents the beauty of the forest. She also set her forest within the shape of the province of Québec in relation to the mandate of the Board.
- Josephine Diamond (special distinction) used a laced circle to represent the Cree traditional lifestyle. Included were the sun, the forest, the cut trees and the tepee.

CTA proposes updated trapper training program

In spite of the many changes brought on by the James Bay and Northern Quebec Agreement of 1975, the Cree Nation has worked hard to retain and practise most of its traditional activities. In fact, many of these pursuits, such as trapping, remain a key part of everyday life in Eeyou Istchee.

In communities such as Mistissini, where trapping is at the very centre of the region's history and culture, trapping is still a large part of the economy. An estimated 38 per cent of the community's residents hunt, fish or trap on a full-time basis. Still others, particularly seasonal workers, continue to work their trap lines in the fall.

Yet, the future of trapping, like so many of the Cree Nation's traditional pursuits,

is under increasing pressure. The area's population is growing, long-time hunting and trapping areas are being considered for development, more people than ever are moving into urban areas.

Recognizing that an important part of Cree history is under threat, the Cree Trappers Association is taking steps to ensure young people have every opportunity to learn the trapping profession. In its 2005–2006 budget proposal, the Cree Trappers Association has earmarked \$100,000 to update and refresh a training program for young trappers.

Vice-president Thomas Coon says the Cree Trappers Association is committed to "making sure that our young people have the ability to live on the land as Cree



hunters have always done." He says the Cree Trappers Association is pleased to see that an increasing number of young people are turning to trapping as a way of learning the skills of traditional Cree culture. The Cree Trappers Association is committed helping them.

As far back as 1990, the Cree Trappers Association put together a strategy for training youths who wanted to learn the trapping profession. With the financial support of the province and two Cree Bands, a pilot project was carried out in Chisasibi and Eastmain. A total of 43 instructor groups and 102 students participated in that project.

While the response to the pilot project was extremely positive, efforts to introduce an ongoing program for all nine Cree communities faltered, largely as a result of insufficient funding. Over the past years, few formal training programs have been available to young trappers.

Thomas Coon says the program aligns perfectly with the Cree Trappers Association's goal of preserving traditional economic activity in Northern Quebec.

While the proposed training program is basically an update of the program developed in the early 1990s, it would also address the following:

- Boating regulations
- Firearms Act interpretation
- Training for Cree instructors
- Quebec Trappers Education Program
- Training in the areas of bush radio repair, cabin and infrastructure construction and wildlife studies technician

The Status of Indian Residential Schools

General background

The impacts of the federal government's Residential School Initiative are far reaching. Not only did it attempt to destroy the cultural and political way of life of First Nations but it also segregated these individuals from mainstream society thereby not only estranging them from their ancestral ways but did not outfit them with anything to replace what was lost.

A Cree Task Force on Indian Residential Schools was created by the Grand Council in December 2003, to engage in a series of consultations with Cree communities. The Task Force provided its final Report in September 2004, shedding light on the complexity of the Indian residential school

issues, outlining a range of options to deal with them and commenting on the legal and other avenues of remedy. In June of this year, Grand Council of the Crees (Eeyou Istchee)/Cree Regional Authority and the Department of Indian Residential Schools Resolution Canada held a Cree Regional Conference in Mistissini with representatives from all Cree communities to discuss these issues.

At the annual general assembly of the GCCEI/CRA held in Waswanipi on August 9th, 10th, 11th, 2005, a preliminary report on the Cree regional conference was tabled and approved, subject to community input and further consultations with the ten Cree communities.

Bud Clunz/National Film Board of Canada/PA-134110



'Thou Shalt Not Tell Lies'. Cree students attending the Anglican-run Lac La Ronge mission School in La Ronge. Lac La Ronge, SK. March 1945

Challenges

Expiration of the Aboriginal Healing Foundation Program (AHF) Funding

The Aboriginal Healing Foundation (AHF) was established to fund community initiatives designed to address the legacy of physical and sexual abuse arising from the residential school system including its intergenerational impacts. The mandate of the AHF forces it to focus on spending or committing the \$350 million within a five year time span (1998–2003) as opposed to giving more careful consideration to long-term effective healing processes.

As such, projects that are active when these funds are spent will be forced to close down or try to secure funding from other sources. The closure of projects will cause greater harm and risk to those survivors who have been begun their healing journey.

It is imperative that Grand Council of the Crees put pressure on AFN and the Government of Canada to begin negotiations with the AHF without delay on a longer-term

strategy to effectively address the intergenerational effects of the residential school system without artificial investment limitations.

Most of the Cree communities have been very active in developing healing programs with funding from the Aboriginal Healing Foundation. The following communities have received close to a million dollars of total funding from the AHF, Mistissini, Waswanipi, Eastmain, Wemindji, Nemaska, Waskaganish and Chisasibi. The description of their projects can be found in Cree Task Force report on Indian Residential Schools.

The AHF proposal process is lengthy and requires many revisions to the proposal—which can take up to eight months to meet all criteria and get approval for funding. Issues raised by community members, individuals and groups include: the application form is confusing and at times redundant; Regional Coordinators are not trained to answer layman questions; projects cannot assist with litigation processes; and the terminology is somewhat intimidating.



THOMAS MOORE, AS HE APPEARED WHEN ADMITTED TO THE REGINA INDIAN INDUSTRIAL SCHOOL.



THOMAS MOORE, AFTER TUITION AT THE REGINA INDIAN INDUSTRIAL SCHOOL.

Thomas Moore before and after his entrance into the Regina Indian Residential School in Saskatchewan in 1874

Included within the negotiations between the AFN, Canada and other interested groups (the “Iacobucci process” see below) is an ongoing attempt to continue funding for the Aboriginal Healing Foundation. It now seems likely that funding will continue for another five years. The level of funding is yet to be determined.

Indian Residential Schools Resolution Canada (IRSRC)

In 2001, the IRSRC was introduced as a new department within the federal government. In December 2002, they introduced the Resolution Framework that includes an alternative dispute resolution project for individuals and groups; health supports for people with abuse claims and commemorative initiatives—along with litigation.

The main objective of the IRSRC is to resolve claims associated with the legacy of the residential school system. It will examine how to resolve claims in or outside of the court system and implement the government’s wider objectives of healing and reconciliation with residential school survivors and their communities.

Unfortunately, this framework is “incomplete” as it focuses solely on incidents of physical and sexual abuse and does not address the cultural and language loss that resulted from the schools and the subsequent inter-generational effects. It is estimated that 90% of the current court cases within the legal system involve loss of culture and language. Any initiative aimed at Cree community residential school survivors must have their input to ensure a holistic approach to healing.

Linkages/Community Needs

The various issues affecting Indian residential school survivors at the community level will continue to be monitored and maintained through the Offices of CRA/GCCQ. In addition, Grand Council of the Crees has offered to interested Cree communities, access to workshops, discussion groups and community forums to discuss residential school issues.

There is, not surprisingly, a lot of confusion about the various options open to individuals. Some have consulted lawyers, but most have not. In many cases, the individuals were contacted by lawyers looking for clients, but have had very little communication

or information since. In an ideal world, each Cree survivor would have access to reasonably objective legal advice in order to determine what his or her best option would be. Unfortunately, this is an expensive proposition and many lawyers expect to “sign up” clients if they go to the expense of traveling to the communities especially when they come from across Canada. This means that the individuals do not always have much time to consider their options before agreeing to have that lawyer represent them.

Alternative Dispute Resolution

The Alternative Dispute Resolution announced by AFN and the Minister of Indian and Northern Affairs Canada in 1999 was intended to protect claimants from further abuse through and by the court process.

This ADR process is supposed to be a holistic approach in providing additional choices to former students seeking compensation for sexual abuse, physical abuse and wrongful confinement. The government sees this

process as a voluntary process that provides former students with a fair, timely and supportive option to settle claims outside of the courts.

The national leadership of AFN has concluded that the ADR process is not working and is not meeting its goals of just and fair compensation leading to reconciliation. Consequently, the AFN undertook a comprehensive study to determine what practical and reasonable changes can be made to the ADR plan to make it more acceptable and accessible to survivors. These changes would be made to achieve the final goal of fair and just compensation with reconciliation. This resulted in a detailed report entitled, ‘Assembly of First Nations, Report on Canada’s Dispute Resolution Plan to compensate for Abuses in Indian Residential Schools’.

The Federal Government’s response to AFN’s report led to the signing, on May 30, 2005, of a Political Agreement between the National Chief of the AFN and the Federal Government

Inuit Children who lived too far away and had to stay at school during the summer. Anglican Mission School. Aklavik, NWT. 1941



Eeyou Eeno Nation Winter 2005



A group of Nuns with Aboriginal Students. ca. 1890

to deal with a lasting resolution of the legacy of Indian Residential Schools. The Honourable Frank Iacobucci (an ex-justice of the Supreme Court of Canada) was appointed as the Government's Representative to lead discussions toward a fair and lasting resolution of the legacy of Indian Residential Schools.

Iacobucci Process

Approximately 19 class actions have been filed by various lawyers across the country (in addition to thousands of individual claims). The Political Agreement signed between the AFN and Canada is meant to help settle these class actions. The situation is very complex, with many survivors being covered by 2, 3, 4, or more separate class actions. Most survivors have little or no idea that this is going on. Only one of the class actions (the Cloud class action) has been certified—that is, authorized by the Court to go ahead. All class actions have now been suspended pending negotiations.

The negotiating meetings are taking place with some 40–50 lawyers for plaintiffs. Diane Soroka has been attending these for the Grand Council/CRA. It should be noted that the GCC/CRA is one of the very few aboriginal organizations which has a

representative at the table—in addition to the Crees, the AFN is there, as well as several Inuit organizations.

The discussions are proceeding on the basis of confidentiality. There are a number of very serious issues and concerns which must be dealt with because they will affect the rights of all survivors, whether or not the survivors know about them. Lawyers are only permitted to divulge what is occurring at these meetings to the extent that they need to do so in order to consult their clients.

Justice Iacobucci is required to report back to the Government of Canada by the end of March 2006, although he has said he would try to do so before the deadline. After that, Cabinet will have to consider his report and decide what to do. It is therefore unlikely there will be any decision before next spring. However, the time to influence the process is now.

In addition to arranging for lawyer Diane Soroka to participate at the negotiating table, the GCC/CRA has written to Justice Iacobucci to request a meeting with him this autumn. The GCC/CRA should be ready with specific concerns and proposals for this meeting, which has yet to be scheduled.

The Supreme Court of Canada Decision in Barney/Blackwater

On October 21, 2005, the Supreme Court of Canada rendered its decision on the Barney and Blackwater cases. These were the first two cases dealing with some of the main aspects of the legacy of residential schools.

The results were mixed. On the positive side, the Supreme Court held that the government of Canada and the Church (in this case the United Church of Canada) were jointly liable for the damages caused to the students—Canada 75% and the Church 25%.

In practice, both the United Church and the Anglican Church have recognized their responsibility and have been paying a share of settlements with former students. The Catholic Church, however, has refused to do so. This judgment may help convince the Catholic Church to accept its responsibilities. This is important for former students because, to date, Canada has refused to pay what it considered to be the share of the Catholic Church and so former students who went to schools run by the Catholics and who have settled their cases have only been able to get 70% of the amount awarded to them. This may now change.

On the negative side, the Court did not grant Mr. Barney's appeal in regard to the way in which damages were calculated. Mr. Barney went to school in B.C. and

his case was governed by the B.C. law on limitations periods (note that the case would probably be different in Ontario or Quebec which have different rules). In B.C., there is an "ultimate" limitation period of 30 years after which no legal claim can be made for anything. The only exception to this rule is for claims for sexual assault.

In Mr. Barney's case, he was severely beaten and traumatized even before he was sexually assaulted. Canada and the United Church of Canada argued that, because he would have been traumatized in any event, even without having been sexually assaulted, and because the physical assaults which caused him trauma were time-barred, they were only required to pay him an amount of compensation which reflected the difference in the level of trauma caused by the physical assaults and the level of trauma caused by the sexual assaults. In other words, they argued that, because he had been traumatized by physical assaults, he was entitled to less compensation than he would have been if he had only been sexually assaulted.

The Supreme Court of Canada agreed with this argument, stating that this was the result of the way the B.C. limitations periods were set up. The Court therefore did not grant Mr. Barney's appeal on this point.

Wind Power in Quebec

Author: Phillip Raphals



In just a few short years, wind power has evolved from a fringe concern for environmentalists to Quebec's fastest growing source of new electric power.

While wind energy has been commercially viable for decades, it has taken its time in coming to Quebec. Today, there are just 212 MW of wind power in service in Quebec, but contracts have already been signed for the installation of almost 1000 MW over the next seven years. In addition, a call for tenders has just been issued for an additional 2000 MW, to be commissioned between 2009 and 2013. And many prominent voices are suggesting that this is just the beginning.

According to a study commissioned by the Quebec Ministry of Natural Resources released last summer, Quebec's wind

potential is enormous. More recently, Pauline Marois, then a leading contender to head the Parti Québécois (PQ) into the next election, proposed that Quebec should commit itself to building an additional 10,000 MW over the next ten years.

At the same time, others insist that there are unavoidable limits in the amount of wind power that can be developed in the Quebec system. Pierre Corbeil, Minister of Natural Resources, stated recently that Hydro-Québec cannot absorb more than 4000 MW of wind power by 2015.

What are the real limits? And what role can the Cree Nation play?

In June 2005, the Quebec Ministry of Natural Resources published a study by Helimax and

AWS Truewind, two leading wind power consulting firms, that evaluates the technical potential for wind power in Quebec. The results of this study are astounding. It testifies to the existence of a potential of almost 4 million megawatts of wind power in Quebec, 85% of which (3.4 million MW) are found in the administrative region of Northern Quebec.

These figures describe the amount of wind power that could theoretically be produced, without reference to the capacity of Hydro-Quebec's transmission system to take the power produced to southern markets, both in Quebec and beyond. The transmission system must not only be able to transmit the power, but also to do so in a way that allows the grid as a whole to continue to function without disruption.

Like all transmission grids, the Hydro-Quebec grid must ensure that the amount of power being generated and the amount being consumed are in perfect balance at every moment. Even small discrepancies can lead to variations in voltage and frequency. If not rapidly controlled, these can quickly lead to major instabilities and even collapse of the grid (blackouts).

The output of most generating resources can be controlled by their operators. Thus, as Quebec's power needs increase and decline throughout the day, operators adjust the output of Quebec's hydropower plants to maintain the supply-demand balance. In thermal systems, the same thing is done by adjusting the output of certain plants.



Because its output varies constantly based on a parameter that its operators cannot control (wind speed), wind power poses a unique challenge to a transmission system. When the total wind generation is relatively small in relation to the whole system, its variability is of little importance—the variations in wind generation will simply mix with the moment-to-moment variations in power demand, sometimes increasing them, sometimes canceling them out. But, beyond a certain point, the problem of wind integration is very real.

A second report commissioned by the Quebec Ministry, also released last summer, seeks to address these issues. Carried out by the consulting firm RSW, Inc., the report seeks to evaluate the amount of wind power from

each region of Quebec that could be successfully integrated into the transmission system. Unfortunately, given the complexity of the issues and the limited time available to complete the study, its authors were unable to carry out the detailed analyses necessary to fully respond to these questions, limiting themselves rather to confirming that Hydro-Québec's assumptions are not unrealistic.

With respect to Northern Quebec, the transmission constraints identified by RSW eliminate the possibility of exploiting all but a tiny percentage of the potential described above. For the La Grande-Montreal transmission axis, it found that only 2,000 MW of additional resources can be added, given that 1,200 MW of the available transmission capacity will be

taken up by the Eastmain and Eastmain-1A hydropower developments. This limit could only be exceeded by building a new 735-kV transmission line, which would add an additional 3,000 MW of transmission capacity.

Even the construction of such a line—with its substantial cost and environmental and social impacts—would not necessarily permit the integration of 5,000 MW of wind power from the North. Despite its inability to answer many of the technical issues specific to the Quebec grid, RSW concluded that only 10% of the grid's installed capacity can consist of wind power. This translates to a limit of 3,600 MW in 2005, and about 4,000 MW in 2015—precisely the figure mentioned by Mr. Corbeil.

Between the wind farms already in production, those for which contracts were signed resulting from the first 1,000 MW tender, and those that will result from the upcoming 2,000 MW tender, that doesn't leave much room for new developments in the North—certainly nothing remotely approaching the technical potential identified by Helimax and AWS Truewind.

It remains possible, of course, that detailed analysis will reveal a substantially greater integration potential for wind power. The importance of a careful assessment of this potential—recommended by the Régie de l'énergie in June 2004—cannot be underestimated.

