

# **Sagkeeng First Nation**

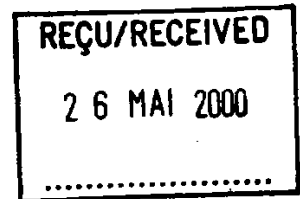
## **Treaty Land Entitlement**

### **Statement of Historical Fact**

May, 18, 2000

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## Historical Background of Indian Activity around Sagkeeng First Nation

In the first half of the 19<sup>th</sup> Century, the Indians around Fort Alexander were nomadic, their frequent trips to the Hudson's Bay post being of short duration, usually only long enough to trade and obtain food supplies. In the 1822-23 "Report on Districts" from Fort Alexander, the trader in charge of the post described their territory:

**"The Indians who visit us extend their hunting excursions to Broken River on the East and North East side of the Lake and to the White River and Jack Head on the West . . ."**<sup>1</sup>

This nomadic life was quite structured, with the Indians grouping regularly at the same times and at the same places for various reasons. In late June and early July, the entire band met at the Manitou Rapids, on the Winnipeg River, to fish and make grand medicine. Other favorite fishing spots in the early spring and late fall were long Catfish Creek, and at Point au Mitasse on the lake. In early August up to late September, many Indians went to Lac du Bonnet, especially where the Pinawa River enters the Winnipeg River to gather wild rice. Even the hunting grounds of the Indians were fairly regular and stationary throughout the winter. Each family had their own favorite territory which could have been as close to the Fort as Catfish Creek, or as far away as the Dalles, Eagles Nest, Big

Island, or along the Lake as far north as Black River. At some of the better winter hunting grounds, several families would camp close together. The Hudson's Bay Company, in competition with the Red River and American free traders, would frequently establish an outpost at these groupings. The Dalles and Eagle's Nest were two major outposts used by the Indians who would later become the Fort Alexander Band.

### **The Houses of the Fort Alexander Indians**

In 1861 the chief trader at Fort Alexander was proud to write that all the Fort workers had their own houses, even the Indian, Jonas Scott.<sup>2</sup> The journal of Reverend Henry George, at Fort Alexander from April to May 1855, reveals the early start of settlement. He records visiting at the house of a Saulteaux:

**"the only Indian who has raised himself a house here."<sup>3</sup>**

In his writing he specifies that this lone house is the only one built by a pure Indian. Reverend George also makes reference to other tents around containing women and children while their men were out hunting. At this time, few Indians

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<sup>1</sup>Hudson's Bay Company Archives, B. 4e/1d. "Report on Districts 1822-23"

<sup>2</sup>Public Archives of Manitoba, MG 1/C2, Journal of Occurrences, Fort Alexander, November 22<sup>nd</sup>, 1861; Jonas Scott, Indian, employed at the Fort; listed in Harris's survey as not having a house. The other two Hudson's Bay Workers named in the entry both became treaty members of the Fort Alexander Band.

<sup>3</sup>Public Archives of Manitoba, Church Missionary Society Records, 13, C 1/0, A.87; Henry George; Journal kept at Fort Alexander, April - May 1855. This House belonged to Anselme Auge who later signed treaty as a member of the Fort Alexander Band.

remained very close to Fort Alexander during the winter, although they did live quite close to the outposts. <sup>4</sup>

In 1863 the Reverend R. Phair came to Lansdowne Mission, where he would work for the next seven years, shortly after his arrival he writes that only one pure Indian had a house built, but another had the wood cut and hauled for his house.<sup>5</sup>

In another entry seven years later Reverend Phair refers to the fact that on his arrival there were not ten houses in connection with the Mission now there are more than forty.<sup>6</sup> During the summer of 1864 Reverend Phair records that two more houses were built.<sup>7</sup> This fact is corroborated by Harris's survey book which lists them as being the houses of Antoine Canard and Petonikwefe, two full-

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<sup>4</sup>Public Archives of Manitoba., Church Missionary Society Records, 13, C 1/0, A.87; Henry George; Journal kept at Fort Alexander, April - May 1855. Rev. George wanted to spend the winter at an outpost, where the close proximity and constant contact with the Indians would enable him to learn to speak their language faster.

<sup>5</sup>Public Archives of Manitoba., Church Missionary Society Records, 21, C 1/0, A 95; Journal of R. Phair, 1863-69, May 12, 1863.

<sup>6</sup>Public Archives of Manitoba., Church Missionary Society Records, 21, C 1/0, A 99, Annual Letter from Lansdowne, February 16, 1871. This seems to be corroborated by Harris's 1873 survey, which shows only 27 houses by the end of 1870, but excluded buildings of the Fort and Mission, and 4 houses for which no dates of erection are given.

<sup>7</sup>Public Archives of Manitoba., Church Missionary Society Records, 21, C 1/0, A 95; Journal of R. Phair, 1863-69, Letter from Reverend Phair to H.V. Monck, October 29, 1864

blooded Indians.<sup>8</sup> In addition, a road was also constructed from the Mission to the Indian Village, about a mile and a half away.<sup>9</sup>

The number of houses built by the mid 1860's was not large but the number of people living in these dwellings was considerable. Reverend Phair remarks:

**"It is astonishing how many of them contrive to live in one small house . . . Each house was occupied by three or four families."**<sup>10</sup>

The number of houses were few in comparison with the population.

As the decade progressed the number of Indians living in the vicinity of the Fort and the Mission year round increased substantially. Winter church services were regularly well attended, and the village homes were for the most part occupied throughout the season.<sup>11</sup>

In 1868 a Roman Catholic priest came to the settlement and wanted to

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<sup>8</sup>Harris, J.W. Field Book # 7 for 1873 survey of Fort Alexander Indian Reserve., p.52

<sup>9</sup>Public Archives of Manitoba., Church Missionary Society Records, 21, C 1/0, A 95; Journal of R. Phair, 1863-69, October 8, 1864

<sup>10</sup>Public Archives of Manitoba., Church Missionary Society Records, 21, C 1/0, A 95; Journal of R. Phair, 1863-69, February 19, 1866

<sup>11</sup>Public Archives of Manitoba., Church Missionary Society Records, 21, C 1/0, A 95; Journal of R. Phair, In Passim, 1867-69

buy the house and land of an Indian who wanted to sell. Reverend Phair persuaded the Indian to sell it to the Anglican Mission instead.<sup>12</sup> This action forced the priest to build his own house.<sup>13</sup>

Early in the year, Reverend Gardiner from Red River came to their mission, and the two ministers went to visit the Indians in their homes. According to Reverend Phair they walked to the Indian village, two miles away on the same side of the river, where they visited four homes. They then crossed the river and walked another half a mile to the house of a heathen Indian, which housed three families numbering about nine people. Another half mile away was a sixth home in which two families were living. The last house they visited was the neatest and most prosperous.<sup>14</sup> This excursion can be corroborated with Harris's survey book which shows seven houses to the south of the mission at approximately the same distance as Reverend Phair reports.<sup>15</sup> The other houses built by this time, according to the Harris survey book, were not

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<sup>12</sup>Public Archives of Manitoba., Church Missionary Society Records, 21, C 1/0, A 95; Journal of R. Phair, 1863-69, November 19, 1968

<sup>13</sup>Public Archives of Manitoba., Church Missionary Society Records, 21, C 1/0, A 95; Journal of R. Phair, 1863-69, Phair's annual letter from Lansdowne, November 10, 1868

<sup>14</sup>Public Archives of Manitoba., Church Missionary Society Records, 21, C 1/0, A 95; Journal of R. Phair, 1863-69, February 7, 1868

<sup>15</sup>Harris, J.W. Field Book # 7 for 1873 survey of Fort Alexander Indian Reserve., p.50-52

visited. These were the houses belonging to Samuel Henderson, 3 miles north of the mission, and Kepais, another mile south of Reverend Phair's route.

The Indian village was growing rapidly in numbers, farms, and houses, by 1870 Phair describes the area of settlement:

**"From the Indian village to the Mission is about a mile and a half and nearly all this distance is now taken up and in many places some of the trees cut down and small patches cleared for gardens . . . In a short time if spared I trust I shall see a nice village spreading itself for miles along this river."<sup>16</sup>**

Most of the houses of these settled Indians were not built until 1871 - 1873.<sup>17</sup> Reverend Phair records that many of the Indians were taking wood from the bush in preparation for building houses the next spring which would be 1871.<sup>18</sup>

Reverend Cowley in his letter to Governor Archibald also mentions that only 30 houses were built, yet at the same time that 15 farms and 25

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<sup>16</sup>Public Archives of Manitoba., Church Missionary Society Records, 21, C 1/0, A 99; Journal of R. Phair, 1870, October 1870

<sup>17</sup>Harris, J.W. Field Book # 7 for 1873 survey of Fort Alexander Indian Reserve.,

<sup>18</sup>Public Archives of Manitoba., Church Missionary Society Records, 21, C 1/0, A 99; Journal of R. Phair, 1870, October 1870



smaller gardens were in use. In addition to this he reports thirty-one families contemplating building houses and who have already had their lots marked off and assigned to them by the Chief.<sup>19</sup>

In 1868, Reverend Phair reports on the progress of house building:

**“the few Indian tents have been changed for houses, which if not as substantial as one could wish are infinitely superior to a quantity of birch rind spread over a few sticks.”<sup>20</sup>**

Later, in his annual letter from Lansdowne Mission, Reverend Phair reports;

**“The first mark of progress to which I would allude is to be found in the number of additional houses recently sprung up throughout the settlement.”<sup>20</sup>**

In February of 1871 Reverend Phair counts more than forty houses with more than one quarter of that being erected in the past year.<sup>21</sup> According to Harris's survey book only 27 houses were built by the end of 1870. Cowley's estimate of

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<sup>19</sup>Public Archives of Manitoba, MG 12, A 1; Letter from A. Cowley to Governor Archibald, March 24, 1871

<sup>20</sup>Public Archives of Manitoba., Church Missionary Society Records, 21, C1/0, A 95; Journal of R. Phair, 1863-69, March 23, 1868

<sup>20</sup>Public Archives of Manitoba., Church Missionary Society Records, 21, C1/0, A 99; Journal of R. Phair, Annual Letter from R.Phair October 12, 1871

<sup>21</sup>Public Archives of Manitoba., Church Missionary Society Records, 21, C1/0, A 99; Journal of R. Phair, Annual Letter From Lansdowne, February 16, 1871.

thirty houses built by March of 1871<sup>22</sup> reinforces Harris's survey records.

Harris recorded that eleven houses were built in 1871.<sup>23</sup> Reverends Cowley and Phair both remarked on the considerable preparatory activity in the spring of that year, Cowley stating that thirty-one houses were being contemplated, and Phair reporting that:

**“ . . . no Indian appears to loiter about idle as has been the case heretofore all are busy, some clearing land others cutting and hauling logs preparatory to building their houses.”<sup>24</sup>**

In summary by 1871, the year that Treaty One was negotiated and signed, there were a minimum of thirty-eight private houses around Fort Alexander which were owned by Indians, Half-breeds, and whites, all of whom at some point during the 1870's, entered treaty.<sup>25</sup> In addition to this there were 40 plots of land where permanent improvements had been made through cultivation and agriculture.

When the first official survey was conducted in October of 1873 there were twenty-three more houses.<sup>26</sup> The total number of houses built by Fort Alexander

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<sup>22</sup>Public Archives of Manitoba, MG 12m A1; Letter from A. Cowley to Governor Archibald, March 24<sup>th</sup>, 1871

<sup>23</sup>Harris, J.W. Field Book # 7 for 1873 survey of Fort Alexander Indian Reserve.

<sup>24</sup>Public Archives of Manitoba, Church Missionary Society Records, 21, C1/0, A 99; Journal of R. Phair, Annual Letter From Lansdowne, February 16, 1871.

<sup>25</sup>Harris, J.W. Field Book # 7 for 1873 survey of Fort Alexander Indian Reserve.

<sup>26</sup>Harris, J.W. Field Book # 7 for 1873 survey of Fort Alexander Indian Reserve.

people prior to the Date of First Survey is fifty-seven.

This number is corroborated by the Indian Affairs Treaty Land Entitlement Profile of the Fort Alexander Band which states that 8208 acres were improved and occupied at the date of first survey<sup>27</sup>. 8208 divided by 57 is 144 which is the size of the lots it was customary for the Chief to give at that time. This acreage of each lot is further corroborated by the McPhillips Survey which surveyed all privately held lots with an area of 144 acres <sup>28</sup>

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<sup>27</sup>Indian Affairs, Treaty Land Entitlement Profile, Fort Alexander Band

<sup>28</sup>McPhillips Survey of Settlers Lots on the Fort Alexander Indian Reserve on the Winnipeg River..

### **Agriculture by the Indians of Fort Alexander**

By the late 1850's, soon after the establishment of the Lansdowne Mission, the Indians had begun to take an interest in agriculture as another means of obtaining food. The influence of the missionaries was instrumental in encouraging the start of farming. This effect of the missionaries on the living patterns of the Indians was much to the consternation of the Hudson's Bay Company as Indian settlement hindered the fur trade. Sir George Simpson specifically told Reverend G., who was to go to Lansdowne Mission, that he:

**“was to confine himself to the Fort, not to civilize and evangelize the heathen; not to form a locality or permanent dwelling for the Indians.”<sup>29</sup>**

In 1861 the post journals make reference to the “Indian Village”, which is not far from the Fort, the reference states that two company men are employed at the village.<sup>30</sup> There are references to the fact that the Indians were selling produce to the Hudson's Bay after this point in time.<sup>31</sup>

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<sup>29</sup>Hudson's Bay Company Archives, “Report from the Select Committee on the Hudson's Bay Company, together with the Proceedings of the Committee, Minutes of Evidence, Appendix and Index. 1857. p.139; items 2692-4. Quoted in a letter from Rev. Taylor to Rev. G.O. Corbett, n.d.

<sup>30</sup>Public Archives of Manitoba, MG 1/C2, Journal of Occurrences, Fort Alexander, 1860-62; July 19, 1861.

<sup>31</sup>Public Archives of Manitoba, MG 1/C2, Journal of Occurrences, Fort Alexander, September 12, 1862;

In 1862, the Post Journal records that the Indians at the village were engaged in agriculture. On May 24, the chief trader sent a boat to the Red River Settlement "to get potatoes for the Indians themselves to plant."<sup>32</sup> In the Fall, the Post bought a bushel of Indian corn from Old Toosoosis, a chief.<sup>33</sup>

In 1863 Reverend Phair refers to some attempts at agriculture by the Indians of Fort Alexander. He engaged some Indians to help hoe the Mission farm for potatoes, although he had to teach them how first.<sup>34</sup> Reverend Phair also mentions that Joseph Kent, an Indian, had a cow which gave milk.<sup>35</sup>

In 1865 the Chief asked to borrow the plough for his farm<sup>36</sup>. In the fall of that year some Indians asked the Reverend if they could help him reap the Missions wheat.<sup>37</sup>

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<sup>32</sup>Public Archives of Manitoba, MG 1/C2, Journal of Occurrences, Fort Alexander, May 24, 1862;

<sup>21</sup><sup>33</sup>Public Archives of Manitoba, MG 1/C2, Journal of Occurrences, Fort Alexander, September 12, 1862;

<sup>34</sup>Public Archives of Manitoba, Church Missionary Society Records, 21, C1/0, A 95; Journal of R. Phair, 1863-69, May 7, 1863.

<sup>35</sup>Public Archives of Manitoba, Church Missionary Society Records, 21, C1/0, A 95; Journal of R. Phair, 1863-69, May 12, 1863.

<sup>36</sup>Public Archives of Manitoba, Church Missionary Society Records, 21, C1/0, A 95; Journal of R. Phair, 1863-69, May 9, 1865.

<sup>37</sup>Public Archives of Manitoba, Church Missionary Society Records, 21, C1/0, A 95; Journal of R. Phair, 1863-69, August 5, 1865.

In 1867 Reverend Phair gave the following reports on the progress of agricultural life among the Indians.

**"I visited the Indians, they are all still busy at their farming - at one house as many as five men were hauling a plough, others of them are busy putting down their potatoes; others again clearing the ground of the roots."<sup>38</sup>**

They were also planting wheat and had asked the Reverend Phair for more seed.<sup>39</sup>

In 1870, there is evidence that Indians from places such as the Brokenhead River came to the village to buy fish and potatoes from the villagers.<sup>40</sup> The villagers also traded their excess produce, fish, and wild rice to the Hudson's Bay Company:

**"The Big Grass brought us some bushels of potatoes as did some other Indians."<sup>41</sup>**

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<sup>38</sup>Public Archives of Manitoba, Church Missionary Society Records, 21, C1/0, A 95; Journal of R. Phair, 1863-69, May 22, 1867.

<sup>39</sup>Public Archives of Manitoba, Church Missionary Society Records, 21, C1/0, A 95; Journal of R. Phair, 1863-69,

<sup>40</sup>Public Archives of Manitoba, MG 1/C2, Journal of Occurrences, Fort Alexander, 1868-70; December 14, 1868 and April 10, 1869

<sup>41</sup>Public Archives of Manitoba, MG 1/C2, Journal of Occurrences, Fort Alexander, 1868-70; October 12, 1869

The following year, Joseph Kent also traded two bushels of potatoes to the fort in partial payment of his debt.<sup>42</sup> Reverend Phair was also reported of the Indians progress in animal husbandry. He stated that some of the settled Indians were:

**“now in possession of cows and oxen and nice stacks of wheat besides potatoes and vegetables.”<sup>43</sup>**

Reverend Cowley also described the progress of agriculture at Fort Alexander:

**“There are 15 small farms upon which a plough could be used . . . There are 25 small enclosures upon which at present, owing to stumps of trees, only hoes can be used.”<sup>44</sup>**

Reverend Cowley went on further to state that in the summer of 1870, 12 -1/4 bushels of wheat, 4 -1/2 bushels of barley, and 157-1/2 bushels of potatoes were sowed<sup>45</sup>. According to Bishop Cowley's letter there were forty separate plots of land where the Indians of Fort Alexander were engaged in agricultural practice.

In 1870 the Red River Rebellion occurred in Manitoba and the coming of the troops to quell the rebellion caused a lot of excitement, fear, and anxiety among

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<sup>42</sup>Public Archives of Manitoba, MG 1/C2, Journal of Occurrences, Fort Alexander, 1868-70; May 20, 1870.

<sup>43</sup>Public Archives of Manitoba, Church Missionary Society Records, 21, C1/0, A 99; Journal of R. Phair, 1870, October (no further date information)

<sup>44</sup>Public Archives of Manitoba, MG 12, AL; Letter from A. Cowley to Governor Archibald, March 24, 1871

<sup>45</sup>Public Archives of Manitoba, MG 12, AL; Letter from A. Cowley to Governor Archibald, March 24, 1871

the Indians of Fort Alexander. Reverend Phair feared the destruction of their farms and cattle as a result of this panic and possibly from the troops themselves:

**“I have had to try hard to keep them the Indians from killing their cattle lately and now if their farms are destroyed they will be obliged to do this.”<sup>46</sup>**

The Indians had farms and cattle by the time of the 1870 Red River Rebellion.

Reverend Phair later that year reports that the Indian village was growing rapidly in numbers and farms and reports:

**“From the Indian village to the Mission is about a mile and a half and nearly all this distance is now taken up and in many places some of the trees cut down and small patches cleared for gardens . . . In a short time is spared I trust I shall see a nice village spreading itself for miles along this river.”<sup>47</sup>**

Reverend Phair considered the area between the mission and the village as “taken up” and gardens started, however most of the houses of these settled Indians were not built until 1871 - 1873.<sup>48</sup> Reverend Phair records that many of

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<sup>46</sup>Public Archives of Manitoba., Church Missionary Society Records, 21, C1/0, A 99; Journal of R. Phair, 1870, April 25<sup>th</sup>, 1870.

<sup>47</sup>Public Archives of Manitoba., Church Missionary Society Records, 21, C1/0, A 99; Journal of R. Phair, 1870, October 1870

<sup>48</sup>Harris, J.W. Field Book # 7 for 1873 survey of Fort Alexander Indian Reserve.,



the Indians were taking wood from the bush in preparation for building houses the next spring which would be 1871.<sup>49</sup>

Reverend Cowley reported, in his letter of March 24<sup>th</sup>, 1871, to Governor Archibald that only 30 houses were built, yet at the same time that 15 farms and 25 smaller gardens were in use. In addition to this he reports thirty-one families contemplating building houses and who have already had their lots marked off and assigned to them by the Chief.<sup>50</sup>

In October of 1871 Reverend Phair recorded the following in regards to the agricultural pursuits of the people of Fort Alexander:

**“It is scarcely necessary to state that in consequence of the additions to our numbers large additions have also been made to the farms, and older settlers by the zeal and energy of the new ones have been urged to increase the size of fields and yields . . . so that much larger quantities of provisions have been secured during the past year than any preceding one.”<sup>51</sup>**

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<sup>49</sup>Public Archives of Manitoba., Church Missionary Society Records, 21, C1/0, A 99; Journal of R. Phair, 1870, October 1870

<sup>50</sup>Public Archives of Manitoba, MG 12, AL; Letter from A. Cowley to Governor Archibald, March 24, 1871

<sup>51</sup>Public Archives of Manitoba., Church Missionary Society Records, 21, C1/0, A 99; Journal of R. Phair, Annual letter from Reverend Phair, October 12, 1871

This corroborates the previous statements of Reverend Cowley regarding the agricultural productivity of the Indians of Fort Alexander.

### **Treaty Negotiations and Government Policy Re: Pre-Treaty Settlement**

The Fort Alexander band was a signatory to Treaty One which was signed at Lower Fort Garry on August 3<sup>rd</sup>, 1871. The treaty was a result of negotiations between the Chiefs of the Treaty One and the Indian Commissioner, Weymuss Simpson representing the Queen in the right of Canada.

The specific text of Treaty One does not contain all the points of agreement which the treaty Commissioners and the Indians finally arrived at. The Treaties were drawn up before the government delegations were sent out, points of clarification and additional conditions agreed upon during the negotiations were not incorporated.

One area of agreement that was not included in the final document was the disposition of the lands which the Indians had already settled and occupied by the time of treaty.

During the negotiations of Treaty One, Henry Prince, Chief of the Indian settlement at St. Peters clearly asked the Commissioners about the disposition of Indian Farms:

**"My father settled some of his children in the Indian**

**settlement. Are you now going to make a reserve for them outside that, or what are you going to do?"<sup>52</sup>**

There is no recorded answer to this question, although the comment of government officials shortly thereafter suggests that the Indians' farms were to be considered as their own land, exclusive of the reserve lands. Within the first five years after the signing of the treaty there are letters and memos from government officials which reflect that government policy at the time recognized that the Indians who had settled land prior to treaty were entitled to the same amount of land as other settlers. Weymuss Simpson, Indian Commissioner at the treaty negotiations, first recognized this right in respect of the farms at the Indian Settlement:

**"In reply I beg to state the Indians of Henry Prince's band residing at the Indian Settlement below the Stone Fort on the Red River, were known to be in possession of houses and small plots of ground fenced in, at the time of the signing of Treaty One and that it was agreed that such plots should be considered as their own property, and the reserve to be laid out should comprise enough land to give one hundred and sixty acres to each family of five exclusive of any land held as**

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<sup>52</sup>The Manitoban, August 12, 1871, See also: Hall, D.J., "A Serene Atmosphere"? Treaty 1 Revisited, The Canadian Journal of Native Studies iv, 2(1984):pp.321-358

**settlers at the time of the signing.”<sup>53</sup>**

The Assistant Commissioner, Molyneaux St. John, corroborated this in a memorandum several years later:

**“I remember the Indians asking the question whether the amount of land set apart for each family; that is 160 acres for each family of five; was meant to include the land already occupied by them. The answer was that the allotment now provided for was irrespective of and in addition to their holdings on the river”<sup>54</sup>**

Provencher, Indian Commissioner several times from 1873 to 1875, informs the Minister of the Interior of such promises made to the Indians at the time of the Treaty negotiations:

**“The Indians thoroughly understood that these holdings were their own severally, and were not a portion of the Reserve beyond being within its limits”<sup>55</sup>**

And in particular, to the band members of the Fort Alexander reserve:

**“I told the Indians at Fort Alexander that all the lands occupied by them inside the reserve at the time of the treaty was**

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<sup>53</sup>Public Archives of Canada, RG 10, Black, Volume 3614, file 4311, Simpson to Meredith, February 15<sup>th</sup>, 1875.

<sup>54</sup>Public Archives of Canada., “Memorandum in reference to understanding with Indians under Treaties # 1 & 2 as to proprietary rights of Indians in property held by them prior to the negotiations at the Stone Fort or No. 1 Treaty”, Molyneaux St. John to the Department of the Interior, n.d., c. 1873-4

<sup>55</sup>Public Archives of Canada., Provencher to the Minister of the Interior, January 10, 1875

returning to and would be kept by the Government for the use of the occupiers who could dispose of it in favour of some member of the same band with the approval of the Indian Commissioner, but of nobody else.”<sup>56</sup>

And as printed in the Sessional Papers:

“Many Indians had acquired properties within the actual limits of the reserve, before the treaties . . . All property held by Indians within the limits of the reserve may remain in the hands of the possessor, who would have the full power, to dispose of it in favor of another member of the same band , but not in favor of persons who were strangers to the tribe . . . In regard to those who, at the same time possess properties outside the reserve, they should have permission to dispose of them in favour of Whites, but only for the purposes of going to reside on the reserve assigned to the band of which they are members.”<sup>57</sup>

According to Section 10 in the 1885 Indian Act, “An Act to amend and consolidate the laws respecting Indians”, gave statutory recognition to this agreement:

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<sup>56</sup>Public Archives of Canada, unsigned & undated memo. Probably written by Provencher, for a discussion of this see: Jim Gallo, “Property Rights and Treaty Entitlement, Fort Alexander, Preliminary Report.” footnote # 12.

<sup>57</sup>Canada. Sessional Papers, 38 Victoria, A.1875, No. 8; J.A.N. Provencher, Indian

**“Any Indian or non-treaty Indian in the Province of British Columbia, the Province of Manitoba, the Northwest Territories or in the District of Keewatin, who has, or shall have, previously to the selection of a reserve, possession of and made permanent improvements on a plot of land which has been or shall be included in or surrounded by a reserve, shall have the same privileges, neither more nor less, in respect of such plot as an Indian enjoys who holds under a location title.”<sup>58</sup>**

According to Section 8 of the 1885 Indian Act the effect of having a location ticket was as follows:

**Section 8 - The conferring of any such location title as aforesaid shall not have the effect of rendering the land covered thereby subject to seizure under legal process, or transferable except to an Indian of the same band, and in such case, only with the consent of the council thereof and the approval of the Superintendent-General, when the transfer shall be confirmed by the issue of a ticket in the manner prescribed in the next preceding section.”**<sup>59</sup>

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Commissioner to Minister of Interior, December 31, 1873.

<sup>58</sup>Statutes of Canada.1876, 39 Victoria, Chapter 18, Section 10.

The effect of this provision was to confirm, by statute, the agreement in the treaty negotiations that any Indians who had made permanent improvements on the land prior to the time of treaty had the right to receive a location ticket for a lot. What it also did was expand the application of the agreement to include any permanent improvements to the land, by people who eventually took treaty, made before the selection and survey of the reserve. This section did not add anything to the situation where band members had settled land prior to the treaties which lands were later included within the reserve boundaries. These latter types of lands were still governed by the promises made during the negotiations of Treaty One.

In summary First Nation band members were entitled to retain any property they had settled by the time of the signing of Treaty One in 1871. If this land was outside the boundaries of the reserve they could dispose of it to whomever they pleased with the permission of the Indian Agent. If this land was inside the boundaries of the reserve they could dispose of it but only to another member of the same band. In both cases the fact of their ownership of this land did not affect their right to also be counted in the bands treaty land entitlement.

This was later expanded by early government policy which recognized the rights of Indians to individually own land, with similar restrictions of alienation, upon

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<sup>59</sup>Statutes of Canada, 1876, 39 Victoria, Chapter 18, Section 8



which they had settled previous to the selection of a reserve as stated in the Section 10, Indian Act, 1876. The difference being that the 1885 Indian Act did not make the pre-reserve survey lots exclusive of and in addition to the members treaty land entitlement allotment. This Act only deals with the band members right to receive a location ticket for their lots.

Any lands that were added to a reserve because they were settled prior to treaty were done so because of the promises received during the negotiations for Treaty One. This is the only place the power to do this could from because it is not part of the powers that are in Section 10 of the 1885 Indian Act.

### **Treaty Land Allotment of the Sagkeeng First Nation**

The original location for the Fort Alexander Reserve was to be one mile above the Manitou Rapids. In 1872 Chief Kakekapenais asked if the location of the reserve could be moved further north so that it would be located from the mouth of Catfish Creek to the Manitou Rapids. In this letter the Chief informs Minister Provencher that many of his people had already settled in the area around the Fort and did not wish to move to the reserve.

In a letter dated August 23<sup>rd</sup>, 1873 J.A.N. Provencher informs the Minister of the Interior of the Indians' request to move the reserve. Provencher also reports that the Indians already have forty houses built at the location where they want the reserve moved to. In addition to this Provencher also reports that there are 25 Halfbreed families residing within the proposed limits of the new reserve site. 60

Provencher recommended that the Indians request to move the limits of their reserve be granted citing the industriousness of the Indians in agriculture and stating his belief that they would make good use of the land if the move is allowed. The receipt of this letter was acknowledged by Mr. Dennis, Acting Deputy to the Minister of the Interior on September 4<sup>th</sup>, 1873. In this letter Mr. Dennis states that there is no objection to the move subject to final approval of

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60National Archives Canada, RG10, vol.7772, file 27125-4 v.1, T.P. Letter from Provencher to Minister of the Interior.

the Surveyor General of Dominion Lands.<sup>61</sup>

**Harris Survey - November 24, 1873 - January 2, 1874**

The terms of Treaty One entitle the Bands who signed the treaty to 32 acres of reserve for each Indian who is a member of that band. In his survey, done in February of 1874, J.W. Harris surveyed the outside boundaries of the reserve to include 25,000 acres. The Fort Alexander Band was allotted 17,500 of these acres with the rest being taken up by the river, the Hudson's Bay Company, and white settlers. Harris listed the following band members as having houses on the reserve:

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<sup>61</sup>National Archives of Canada, RG10, Vol.3556, file 22, Letter from Dennis to Provencher.

1. Alexander Bruyere
2. Okesains
3. Sam Henderson
4. George Rupert
5. Thomas Boyd
6. John George Henderson
7. Jack Linklater
8. Baptiste Courchaine
9. Charles Linklater
10. Maxime Courchene
11. William Arkson
12. Charles Land
13. Andre Guimond
14. St. Jean Mainville
15. Joseph Bruyere Sr.
16. Alexander Kennedy
17. Benjamim Kent
18. Joseph Kent
19. Petonikewefe
20. John Daurie
21. John Alexander
22. Potawaskie
23. Sepais Jr.
24. Joseph Linklater
25. Kepais
26. Kocross
27. Ntakwanin
28. Ungain
29. Charles Starr
30. Big Grass
31. Antoine Canard
32. Kakeka Penais
33. James Mans
34. Peter Henderson
35. Joseph Abraham
36. Lewis Abraham
37. Antoine Scott
38. John Scott
39. Baptiste Canard
40. Joseph Daniels
41. Joseph Henderson
42. Joseph Bruyere jr.
43. John Guimond
44. Joseph Guimond
45. Augustine Guimond
46. Moise Fontaine
47. Baptiste Morriseau
48. Anselme Auge
49. George Swampy
50. Francois Canard
51. Jacob Morriseau
52. Qwesaine
53. Jonas Scott-not listed by Harris as having a house; however earlier reports say Jonas Scott was one of the first Indians to build himself a house. See footnote-2
54. Thomas Bates - / although Mr. Bates was removed from treaty in 1874, he transferred his property to Joseph Kent which property was later included in the reserve.
55. William Bruyere\*
56. Joseph Bruyere jr.\*  
\*both listed as having a foundation for a house laid.
57. Robert McDonald-see #62 Jeroboam 1905 annuity payroll.
58. Baptiste Charbonneau\*
59. Pierre Adams\*
60. Edward Gase.\*
61. Pierre Muskego.\*  
\*Not listed as ever taking treaty or receiving a settlers lot; but their were houses on their lots. Someone must have moved into them.

These figures show that the number of houses built on the reserve before the date of first survey is 59 with 2 more in the process of erection.

The Department of Indian Affairs Treaty Land Entitlement profiles<sup>62</sup> shows the following information about the number of people receiving treaty payments for

1873:

paid & present = +394  
+68 absent & paid arrears = +68  
double counts = -12  
members = 450  
New Adherents = +55  
Married Non-treaty Native Women = +40  
new entitlement members = +95  
Total Treaty Land Entitlement members = 545 x 32 = 17,440 acres

The D.I.A.N.D. T.L.E. profile also counts 57 pre-treaty settlers. The use of these numbers produces the following figures:

(+) 57 Pre-survey allotments - 8,208 acres  
(+) 450 members paid treaty in 1873 x 32 acres - 14,400 acres  
(+) 95 new entitlement members x 32 acres - 3,040 acres  
(=) Total entitlement - 25,648 acres  
(-) Land received in 1874 - 17,500 acres  
Date of First Survey entitlement shortfall - 8,148 acres

The total shortfall using Department of Indian Affairs Treaty Land Entitlement data would therefore be 8,148 acres in 1874.

The Sagkeeng First Nation is willing to accept the data from the Department of Indian Affairs Treaty Land Entitlement office as it regards Band Population at date of First Survey, New Adherents, and Non-Treaty Native Women Marrying into the Band. The Sagkeeng First Nation is also willing to accept the Department of Indian Affairs data as it pertains to the 57 pre-survey settlers who

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62 Treaty Land Entitlement Profile - Fort Alexander Band, Department of Indian Affairs  
2263 Treaty Land Entitlement Profile - Fort Alexander Band, Department of Indian Affairs

were members of the Sagkeeng First Nation in 1873, the date of survey.

**McPhilips Survey of Settler's Lots, August 21, 1890 - October 24, 1890**

In 1891, the reserve was surveyed again by R.C. McPhilips for the purpose of identifying non-Indian settlers claims on the Fort Alexander Reserve. There were a total of 15 lots surveyed. The individual lots were on average 144 acres in size with the Hudson's Bay Company lot and the grant to the Archbishop of Ruperts Land being the exceptions at 640 acres and 256 acres respectively. In the original survey there is no lot 7A whereas there is a lot 7A on a later copy of the same drawing. Lot 7A covers 251 acres. Lot 10 was lined but not chained.

The total breakdown of the area covered by these lots is as follows:

<b>Lot 1 – 144 Acres</b>	<b>Lot 6 - 640 Acres</b>	<b>Lot 11 - 144 Acres</b>
<b>Lot 2 – 144 Acres</b>	<b>Lot 7 - 256 Acres</b>	<b>Lot 12 - 144 Acres</b>
<b>Lot 3 – 143.89 Acres</b>	<b>Lot 7A - 251 Acres</b>	<b>Lot 13 - 144 Acres</b>
<b>Lot 4 – 143.99 Acres</b>	<b>Lot 8 - 144 Acres</b>	<b>Lot 14 - 144 Acres</b>
<b>Lot 5 – 143.87 Acres</b>	<b>Lot 9 - 144 Acres</b>	<b>Lot 15 - 144 Acres</b>
	<b>Lot 10 - Not Chained</b>	

The total area covered by these lots is 2874.75 acres.

In the McPhilips Survey there were 15 lots that were surveyed because it was thought that they belonged to non-Indian settlers. McPhilips instructions clearly indicated that he was to survey only non-Indian lots.<sup>64</sup>

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<sup>64</sup>Department of Indian Affairs, Instructions to Survey certain lines bounding Settlers

In the Harris survey not one of these lots is shown as being completely under cultivation<sup>65</sup>. Barnard Ross a white settler is shown to have a house with only a few acres cleared<sup>66</sup>. Thomas Bates is shown as having a house and 5 acres of cleared land while Alexander Lillie is listed as only having a house<sup>67</sup>. In correspondence from Ottawa dated April 18<sup>th</sup>, 1905 the heirs of Barnard Ross are acknowledged to have a claim to a Free Grant to Lot 9 despite the fact that Ross had only cleared a few acres and that the Chief had maintained he was only entitled to 5 acres<sup>68</sup>. R.C. McPhilips surveyed 144 acre lots for all of these settlers.

Most of the Indians had improvements equal to or exceeding the improvements that entitled the non-Indian settlers to 144 acres. Even the Hudson's Bay Company and the English Missions did not have all their lands cultivated<sup>69</sup>.

When the Treaty was negotiated there was never any stipulation that all the land had to be under cultivation:

**"In reply I beg to state the Indians of Henry Prince's band**

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claims within the Fort Alexander Indian Reserve, Winnipeg River., April 28<sup>th</sup>, 1890, Public Archives of Canada, RG 10, volume 772, file 27125-4, N.1, T.P.

65Harris Survey Book pp.51

66Harris Survey Book pp.51

67Harris Survey Book pp.51

68Indian Affairs, (RG 10, Vol.3564,, file 82 pt.28) on file at the Treaty and Aboriginal Rights Research Center.

residing at the Indian Settlement below the Stone Fort on the Red River, were known to be in possession of houses and small plots of ground fenced in, at the time of the signing of Treaty # 1 and that it was agreed that such plots should be considered as their own property, and the reserve to be laid out should comprise enough land to give one hundred and sixty acres to each family of five exclusive of any land held as settlers at the time of the signing."<sup>70</sup>

The only qualification was that it had to be settled prior to the signing of the Treaty. That was later changed and the qualification became settlement prior to the reserve being surveyed.<sup>71</sup>

All of the Indian settlers who had houses were entitled to retain their lands with the only other qualification being the restriction on alienation to the Government for the Band. There were 62 houses belonging to band members on the Fort Alexander Reserve that had been up as of the date of the Harris Survey.

R.C. McPhillips surveyed a number of lots that were later found to belong to Sagkeeng First Nation band members. In each and every case where this was

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<sup>69</sup>Harris Survey Book pp.51

<sup>70</sup>Public Archives of Canada, RG 10, Black, Volume 3614, file 4311, Simpson to Meredith, February 15<sup>th</sup>, 1875.

<sup>71</sup>Indian Act, Statutes of Canada. 1876, 39 Victoria, Chapter 18, Section 10.



found to happen Officials with the Department of Indian Affairs directed that the land was to be added to the Sagkeeng First Nation's reserve<sup>72</sup>. In at least one

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<sup>72</sup> Historical Documentation Re: Land on the Sagkeeng First Nation

December 17, 1876 – Letter to the Governor of Manitoba from the Chief and Council of the Fort Alexander Reserve requesting that he assist in finding vaccine and provisions for the band members who are starving and sick. Also requests Governor to ask Government to live up to the treaty that was signed.  
Public Archives of Manitoba 1381

April 24, 1884 – Letter from E. McColl Inspector Indian Agencies for Winnipeg, informing the reader of the complaints of the Indians regarding the lands claimed by the HBC. The complaint was for the HBC claim taking up to much river frontage and some of the Indians hay lands.  
Public Archives of Canada, RG 10, 7772, file 27125, v..2, pt. 4

February 13, 1886 – Memorandum to the Minister of the Interior relaying to him a petition signed by a number of half-breeds. The petition requested that they be allowed to leave treaty and that they be allowed to keep the lands and houses that they then occupied stating that they lived and occupied these lands and houses before the laying out of the reserve. The petition also states that the reserve was only moved to take in the settlement after the half-breeds agreed to enter into treaty along with the Indians.  
RG 10. Volume 3747, file 29701

October 13, 1886 - Memorandum to the Deputy Minister of the Department of Indian Affairs regarding HBC survey conducted by Mr. A.H. Vaughn. Memorandum also discusses the improvements made by John Fair for which the writer recommends he be compensated.  
PAC RG 10, 7772, file 27125, v..2, pt. 4

December 6, 1886 – Memorandum to the Superintendent General of Indian Affairs recommending that the half-breed petition to be allowed to leave treaty be denied because it would entail the band surrendering the land claimed by the Half-breeds before they could be given patents to their lots.  
RG 10. Volume 3747, file 29701

Undated letter referred to in September 12, 1887 letter from Muckle to McColl. The Chief & Council forward a number of requests including the following.

1. Request for a 2 square mile lot at JackFish Creek for hay lands which Chief and Council request be added to the reserve.
2. Enforcement of regulations passed by the Chief and Council regarding responsibility for loose animals destroying peoples crops.
3. 4 sets of harnesses for oxen,
4. A plough and a harrow.

DIAND office Ft. Alexander 501-20-3-4, vol.2.

September 12, 1887 – Letter from Indian Agent Muckle to Inspector McColl forwarding to him details of the requests passed on to him by Councillor Francis Abiston. At this meeting the Chief and Council of the Fort Alexander Band drafted a request for hay land at Jackfish Creek which Mr. Muckle describes as being about 3 ½ miles from the reserve. The band also requested more ploughs, as well as recognition of the laws they passed regarding loose dogs. Mr. Muckle says they have enough hay land for the present but many of the young men are wishing to raise cattle. The band sees a shortage of hay land in the future and that is the reason for the request: He then explains that the band has received all the ploughs they were promised under treaty but suggests that some of the harrows that are still owed be substituted for ploughs.

DIAND office Ft. Alexander 501-20-3-4, vol.2.

September 17, 1887 – Letter from E. McColl, Inspector of Indian Agencies, Winnipeg, to Superintendent General of Indian Affairs. McColl sent him a copy of the minutes of a meeting of Chief and Council requesting that a piece of hay land be added to the reserve. The letter also contains references to laws passed by the band regarding livestock and dogs.

DIAND office Ft. Alexander 501-20-3-4, vol.2.

September 30, 1887 – Letter to E. McColl informing him of the procedure to be followed by the Indian Agent when helping Chief and Council to draft laws. The letter goes on to say that Mr. McColl did not express his opinion as to

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whether or not the band needed the land. The writer then asks for a sketch of the ??mile square piece being requested by the band for hay lands and directs him to inquire of the Department of the Interior as to whether or not the land is available.

DIAND office Ft. Alexander 501-20-3-4, vol.2.

March 20, 1890 – Memorandum to the Department of the Interior, Technical Branch, requesting any files the branch has regarding Roman Catholic Mission, Joseph Brier, and other settlers lots.  
PAC RG 10 Black, File no. 27125 vol.2 pt. 4

March 28, 1890 – Letter to E McColl, Inspector Indian Agencies, Winnipeg, asking that he determine how much money John Fair wants as compensation for his house and improvements situated on the S.E. corner of the HBC lot.  
PAC RG 10 Black, 7772, file 27125, v..2, pt. 4

May 2, 1890 – Letter from E. McColl, Inspector Indian Agencies, Winnipeg. To J. VanKoughnett Deputy Superintendent General of Indian Affairs, replying to his request by informing him that Mr.Muckle Indian Agent for Fort Alexander has informed him that John Fairs house and improvements are not worth more than \$40.00.  
PAC, RG 10, 7772, file 27125, v..2, pt. 4

May 4, 1890 – Letter from Leo Schamus, representing all outside settlers, to the Mr. Stevenson, Crown Timber Inspector, protesting the Indians request for Hay Lands at Jackfish Creek.  
PAC RG 10, v.3670, file102-28

May 12, 1890 – Memorandum from the Deputy Minister requesting that the plan of the HBC lot in Fort Alexander be forwarded for approval and registration with the Department of the Interior. Also asks for a cheque in favour of John Fair for his improvements on the lot and asks that a receipt be obtained from him.

May 16, 1890 – Letter to E. McColl, Inspector of Indian Agencies, Winnipeg, enclosing a cheque for \$40.00 for the improvements of John Fair on the HBC lot and requesting he obtain a receipt for the cheque from John Fair. The receipt was given dated July 15, 1890.  
PAC RG 10, 7772, file 27125, v..2, pt. 4

September 18, 1890 – Letter from E. McColl to L. VanKoughnett, requesting information about a surveyor on the reserve who seems to only be surveying lots owned by non-indian men before the treaty. Mr. McColl expresses his belief that this man is working for the half-breeds and goes on to say that the Indians are very anxious about it  
PAC, RG 10, 7772, file 27125, v..2, pt. 4

September 27, 1890 – Memorandum to the Deputy Minister of Indian Affairs. Memorandum directs him to inform Mr. McColl that the survey is being conducted under the authority of the Department of the Interior. The purpose of the survey is to survey Settler's lots within the Fort Alexander reserve.  
PAC, RG 10, 7772, file 27125, v..2, pt. 4

September 27, 1890 – Letter to E. McColl from the Department of the Interior to inform Mr. McColl that the survey is being conducted under the authority of the Department of the Interior. The purpose of the survey is to survey Settler's lots within the Fort Alexander reserve.  
PAC, RG 10, 7773file 27125, v..2, pt. 4

September 30, 1890 – Letter from E. McColl to Deputy Superintendent VanKoughnett forwarding the receipt from John Fair for his improvements on the HBC lot.

October 30, 1890 – Letter to Indian Office, Ciandeboye, from A. Muckle, Indian Agent, Fort Alexander. This letter was in regards to the lots surveyed by R.C. McPhillips and gives further information about the holders of each of the lots along with a brief history of each lot. Mr. Muckle states that the Indians of Fort Alexander had no complaints about the road being surveyed on the west side of the river. It goes on further to state that the band members did however "most decidedly object" to the HBC claims on lots on the east side of the river. As regarding the lots which were surveyed and their owners Mr. Muckles wrote the following:

-Jacob Morrisseau is a treaty man,

-Joseph Daniels took treaty but went out as a half-breed,

-Thomas Bates a white man was married to Jos Kents sister, an Indian who owned the land. Thomas Bates received treaty for 2 or 3 years before it was stopped. Thomas Bates died and his wife and children continued to live on the land until she died. They all died and Jos Kent took the land and was farming it.,

-Mr. Bernard Ross bought a point of land from Louis Pruden a half-breed who got it from the Chief. The point did not consist of more than 2 or 3 acres and the Indians most strenuously objected to the lot being surveyed as 144 acres instead of the 2 or 3 he bought. Muckle also says that an Indian, Sougain, who lives on the back of the surveyed lot, has

made quite a clearance and he has a good house with a shingle roof. He values the band members improvements to be at least 3 hundred dollars.

-Mr. Lillie bought his lot from Louis Jourdain, an Indian, two years after the treaty was made.

- Mr. Muckle also writes that the Indians have no problem with Joseph Brier sr. retaining his lot.

-Mr Muckle goes on to request that the reserve be further surveyed to divide it into lots for the band members who are each claiming 9 chains of river frontage. The letter goes on to say that many of the "pure indians" are against the survey while almost all of the half-breeds who took treaty are in favor of one being done.

PAC RG 10, vol.7772, file 27125-4 v.1 T.P.

November 2, 1890 – Memorandum to the Deputy Minister from Sam Bray recommending he comply with Mr. Muckles suggestion that the river lots on the Fort Alexander reserve be surveyed. Also suggests that it may be much more expensive to do a more intricate survey at a later date. Indication by writing over the top of this memorandum that the recommendation was approved and that instructions for the survey would be forwarded from that office.

PAC RG 10, vol.7772, file 27125-4 v.1 T.P.

November 24, 1890 – Memorandum to the Deputy Minister of Indian Affairs from Sam Bray. Referring to the information in Mr. McColl's letter especially that obtained from Mr. Muckle's letter of October 30<sup>th</sup>. Informs the D.S. that according to Mr. Burgess of the Department of the Interior the subdivision and adjustment of the claims will be handled by that Department. This memorandum also includes the following information and recommendations:

-The Department of Indian Affairs is not in a position to comment in full on Mr. Muckle's statements about the survey and the claims and will Mr. Burgess not take any steps to confirm the survey until the contentions of the Indians have been adjusted.

-The Department of Indian Affairs will not recognize any claims within the boundaries of the reserve unless that person or the person who they claim through had possession of the claimed lots prior to signing of the treaty on August 3<sup>rd</sup> of 1871.

- The Department of Indian Affairs will not recognize any land transactions between Indians and Whites which occurred after the date of treaty. This suggests that any Indian who had settled land prior to the treaty would have had the right to sell that land and the person who bought it would have a valid claim to that land.

- Memorandum also asks that Mr. Burgess's attention be drawn to the clause in the treaty which provides that when such claims are dealt with the extent of the land allotted to the Indians is not to be diminished.

- With reference to the cases mentioned by Mr. Muckle, Mr. Burgess is asked to take note of the following:

1. Jacob Morrisseau being as stated a treaty-man has no title to any lands other than that held in common with the other members of the band.
2. Joseph Daniels having left the reserve as a half-breed has no claim to any land in the reserve.
3. The estate of Mr. Bernard Ross is not entitled to any more land than that actually held in possession by him prior to the signing of the treaty; this appears to consist of a point of land containing only 2 or 3 acres.
4. With regard to the lot of Mr. Lillie the department cannot recognize any such claim if conducted after the signing of the treaty.
5. With regards to the HBC claims on the east side of the river the Department is not aware of any claim by the company with regards to these lots.

PAC RG 10, vol.7772, file 27125-4 v.1 T.P.

December 3, 1890 – Letter to Mr. Burgess at the Department of the Interior from , repeating what was said in the memorandum to the Deputy Superintendent of Indian Affairs dated November 24, 1890.

PAC RG 10, vol.7772, file 27125-4 v.1 T.P.

September 14, 1891 – Memorandum to the Deputy Minister of Indian Affairs recommending that the Department of the Interior be informed on the Settler's Claims within the boundaries of the Fort Alexander reserve. States that the only recognized claim so far is the HBC claim on the west side of the river. Requests that the Department of the Interior forward a schedule of the claims and any information regarding how the claimant lays claim to the lot.

PAC RG 10, vol.7772, file 27125-4 v.1 T.P.

September 24, 1891 – Letter to Mr. Dewdney, Minister of the Interior from the Acting Deputy Minister of the Interior giving him history of the 15 lots surveyed by R.C. McPhillips.

PAC RG 10, vol.7772, file 27125-4 v.1 T.P.

October 6, 1891 – Letter to John R. Hall, Acting Deputy Minister of the Interior, informing him that the Department of Indian Affairs cannot recognize any claim within the boundaries of the Fort Alexander reserve unless the claimant can prove possession, or possession of the person who they are claiming through, prior to the date of the signing of the treaty. The only other claims the department can recognize are the claims of persons who are members of the Fort Alexander band.

PAC RG 10, vol.7772, file 27125-4 v.1 T.P.

October , 1891 – Memorandum to the Deputy Minister of Indian Affairs. This memo informs him that the number of lots

surveyed was 15, a number of which were not to be surveyed as they belonged to band members, and he was instructed only to survey non-Indian lots. Lots 1,3,4, & 5 are occupied by band members and as there is no question regarding the ownership of them the writer suggested they should be allowed to retain them. This is approved in writing over the face of the document. In regards to Lot 10, Jos Kent, a band member, is now in possession and he received it through his sister who received it through her husband Thomas Bates then deceased. The comment on the face of the document says this situation will be allowed to stand. Lot 15 was occupied by Joseph Bruyer who bought it from a treaty Indian but the date of the sale is not known and although the Indians have no objection to the land going to Mr. Bruyer the writer advised against it as it was Indian land and at the present his title to it is not clear. This last sentence seems to indicate that if the land was purchased prior to the signing of the treaty then it would rightfully belong to Joseph Bruyer. PAC RG 10, vol.7772, file 27125-4 v.1 T.P.

November 7, 1891 – Memorandum to McNeil directing him to write to the Department of the Interior and inform them of the following directions regarding the lots. Lots 1,3, 4, 5, and 8 will be held by the Indian Claimants but as forming part of the reserve. Lot 10 was occupied by a treaty Indian at the time and he may continue to hold it but only forming part of the reserve. PAC RG 10, vol.7772, file 27125-4 v.1 T.P.

November 21, 1891 – Letter to L. Vankoughnet, Deputy Superintendent General of Indian Affairs, from Burgess at the Department of the Interior. Lots 1,3,4,5, and 8 will be held by the Indian Claimants but as forming part of the reserve. Regarding Lot 9 the writer suggests that if Louis Pruden, from whom Barnard Ross bought the Lot, was in possession prior to the date of treaty then Ross has a valid claim to Lot 9 and the Chief has no authority to interfere. In regards to Lot 11 the date at which Louis Jourdain conveyed title to Alexander Lillie and whether or not he was in treaty at the time are once again the defining characteristics as to whether or not Lillie has received good title. The writer also requests information regarding how many more lots, other than Indian held lots, the Department of Indian Affairs will be issuing patents for. Also suggests that the Department of the Interior be the Department that receives any money which the English Mission might pay for Lot 7-A. PAC RG 10, vol.7772, file 27125-4 v.1 T.P.

December 4, 1891 – Letter to E. McColl, Inspector Indian Agencies Clandeboye Agency, from A. Muckle, Indian Agent Fort Alexander band. Provides information on Jean Baptiste Morrisseau who sold Lot 2 to the R.C. Church indicating that he draws treaty under the name Baptiste Morrisseau. Also writes that the Indians will be willing to surrender Lot 15 so that it can be patented to Joseph Brier (Bruyer). PAC RG 10, vol.7772, file 27125-4 v.1 T.P.

December 22, 1891 – Memorandum to the Deputy Superintendent of Indian Affairs, from W. A. Austin. States that the Department has never issued a patent to the HBC for Lot 6 and could not as this was never part of the reserve. Patent will have to be issued by the Department of the Interior. Agrees with the recommendations set out above regarding who should issue patents and receive monies. Also says that any lands not part of the reserve proper should be part of the Dominion and should be handled by the Department of the Interior. Any more information of Lot 11 and Louis Jourdain should be directed towards Inspector McColl at the Clandeboye Agency. PAC RG 10, vol.7772, file 27125-4 v.1 T.P.

December or February 27, 1892 – Memorandum in the Department of the Interior by S. Goulet, indicating uncertainty as to whether or not Augustine Mainville was in treaty when he sold the lot to Joseph Brier. Also expresses the Departments willingness to compensate the band if the lot is to be patented.

January 8, 1892 – Letter from the Department of Indian Affairs to the Department of the Interior affirming the information of December 22, 1891 Memorandum. Strongly suggesting that because the Department of the Interior is responsible for any patented lots that it is that Department that should pay for any costs associated with their administration including the costs of surveying these lots. PAC RG 10, vol.7772, file 27125-4 v.1 T.P.

January 26, 1892 – Memorandum from Surveyor General to Burgess at the Department of the Interior submitting a bill for the cost of the survey and suggesting that the Department of Indian Affairs should for \$803.97 of the \$1615.20 total cost because more than half of the lines surveyed involved reserve boundary lines. PAC RG 86, vol.277, file 0500, pt. 3

May 8, 1893 – Letter to Vankoughnet, Deputy Inspector of Indian Affairs, from E. McColl, Inspector of Indian Agencies Clandeboye Agency. Mr. McColl informs the reader that the Indians are willing to surrender Lot 15 so that Mr. Brier will receive title to it however they want an equal amount of land adjacent to the reserve to be added to the reserve. McColl thinks it can be done quite easily however he suggests the better alternative would be to give Joseph Brier a life lease which he would pass on to his sons who are band members. This would allow the band to remain as intact as possible. PAC RG 10, vol.7772, file 27125-4 v.1 T.P.

August 9, 1893 – Letter from the Acting Deputy Superintendent of Indian Affairs to the Department of the Interior. Informs the reader that the Department of Indian Affairs would be satisfied with the arrangement suggested by Inspector McColl regarding Lot 15 and Joseph Briere. The suggested arrangement was that Mr. Brier would be given a life lease which upon his death would be passed on to his sons who as members of the Fort Alexander band would hold the land but the land would be part of the reserve.  
PAC RG 10, vol.7772, file 27125-4 v.1 T.P.

February 1, 1894 – Letter to the Deputy Superintendent General of Indian Affairs from E. McColl Inspector of Indian Agencies Winnipeg, informing him of Joseph Brier's acceptance of the condition of leaving the Lot to his sons but wanting his wife to receive a license to live on the reserve for the remainder of her life should he die before her.  
February 10, 1894 – Letters to Burgess at the Department of the Interior confirming Joseph Brier's acceptance of the conditions.  
PAC RG 10, vol.7772, file 27125-4 v.1 T.P.

February 10, 1894 – Letter to McColl at the Indian Agency in Clandeboye confirming Joseph Brier's acceptance of the conditions and attaching a copy of the suggested form for Mr. Brier's last will and testament leaving Lot 15 to his sons.  
PAC RG 10, vol.7772, file 27125-4 v.1 T.P.

March 31, 1894 – Letter to the Deputy Superintendent General of Indian Affairs acknowledging the information provided as to the procedure required in witnessing Mr. Brier's will and informing him of assigning the task to Indian Agent Muckle.  
PAC RG 10, vol.7772, file 27125-4 v.1 T.P.

April 16, 1894 – Petition to E. McColl, Inspector of Indian Agencies, from the Fort Alexander band requesting that the interior lot boundaries of the reserve be surveyed. States that there is a lot of confusion over who owns what and that this situation affects their motivation to improve the land as if the land is later surveyed a man might lose all the improvements he has made to the land.  
PAC RG 10, vol.7772, file 27125-4 v.1 T.P.

April 19, 1894 – Letter to E. McColl, Inspector of Indian Agencies Winnipeg, from A. Muckle, Indian Agent Fort Alexander, requesting a survey be done to lay out lots for the band members because they are always disagreeing about land and the writer is constantly having to settle disputes. Encloses petition of April 16<sup>th</sup>.  
PAC RG 10, vol.7772, file 27125-4 v.1 T.P.

July 27, 1894 – Letter to Samuel Bray, Dominion Land Surveyors, Technical Branch, Indian Department, from the Deputy Superintendent of Indian Affairs informing him that a subdivision of the Fort Alexander reserve is needed.  
PAC RG 10, vol.7773, file 27125-4 v.1 T.P.

June 15, 1895 – Canada Gazette, Minister of the Interior strongly recommends that the English Mission in Fort Alexander be given title to Lot 7 containing 256 acres. States that their prior occupation and residence of the Lot, prior to transfer of the land to the province, has in the past been all that is needed to give a person a free grant to a lot.

February 18 1897 – Letter to John Brown, Notary; Edmonton, Alberta, informing him that Lot 9 has been excluded from the reserve and that inquiries regarding the lot should be made to the Department of the Interior.

February 4, 1897 – Letter to Hayter Reed, Deputy Superintendent General of Indian Affairs, from A. Muckle, Indian Agent Fort Alexander band, gives information to the reader concerning the lot and refers to the same information given in earlier correspondence, eg. The Chiefs contentions that he only sold a small piece of land, the subsequent sale to Bernard Ross, and the state of the lot at the time of the letter.  
Technical Branch, Department of Indian Affairs, Vol. 3967, file 151, 999

September 21, 1897 – Letter from Archdeacon Phair, to W.R. Mulock Queens Counsel, requesting that he assist in the Missions attempt to acquire a further 16 chains of land in the reserve stating that this is the amount that was given to the Mission by the Chief in 1864.

May 4, 1894 - Secretary's Branch – Letter to A. Burgess Department of the Interior, informing him that Augustine Mainville from whom Joseph Brier purchased the lot took treaty annuities and other Indian monies from the date on which the treaty was made.  
PAC RG 10, vol.7773, file 27125-4 v.1 T.P.

June 22, 1894 – Letter to E. McColl, Inspector Indian Agencies Winnipeg, informing him of the preference the Department? Has for the solution of a life lease to deal with Joseph Brier's claim. Also informs the reader that if

instance(see October 6, 1891 entry in footnote 23) this was acknowledged to be done in accordance with the terms negotiated at the signing of the treaty.

The only place where Canada could have received the power to make the non-entitlement reserve lands from the Harris survey into reserve lands is from the outside promises discussed in the correspondence from the government negotiators of Treaty One.

McPhillips only surveyed 2874.5 acres as Settlers Lots, whereas the Harris survey reserved 5750 acres for the settlement of the non-treaty, pre-treaty settlers claims. Presumably the difference between the settlers lots surveyed and settlers lots not surveyed was and is Indian lands. The only place where the government could have received the authority to add these lands to the reserve is from the outside promises.

Even after the 1885 Indian Act the only place the power, to make non-entitlement lands into reserve lands, could come from was from the outside promises. The 1885 Indian Act does not say anything about the holders of the pre-reserve lots having these lots exclusive of & in addition to their treaty land entitlement. All it says is that they are entitled to a location ticket to these lots.

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necessary the Department of the Interior would be willing to give an equal amount of land outside the reserve to settle the claim.

### **Reid Survey- Reserve Boundaries - September 18 - November 13, 1905**

J.L. Reid resurveyed the reserve in 1905. This survey subdivided the land that had been designated as reserve. It also increased the total amount of land recognized as being reserve land from 17,500 acres to 21,280.4 acres.

Although some of the land in the McPhilips survey was acknowledged to be reserve prior to this survey it was not actual reserve until this survey became official in 1930. The Reid Survey added lots 1, 3, 4, 5, 8, 10, 12, 13, 14, & 15, from the McPhilips Survey to the reserve. The Reid Survey was also the survey used to officially designate the excess land that was set apart as non-treaty Settler's claims, by the Harris Survey of 1874, as reserve land of Reserve # 3 by Order in Council P. C. 1930-1404.

### **The Excluded Lots**

Lot 2 was claimed by La Corporation Archeviescopale Catholique Romaine de St. Boniface and contained 144 acres. Part of this lot was purchased by the Crown who received a certificate of title for it in on July 30<sup>th</sup>, 1968. It was added to the reserve by Order in Council P.C. 1970-419.

Lot 6 was claimed by the Hudson's Bay Company and contained 640 acres. In

1941 583.5 acres of this lot was purchased by the Crown. It was administered by Indian Affairs for the Band until 1957 when it was added to the reserve by Order in Council P.C. 1957-127.

Lots 7 & 7A are still held by the Anglican Church and cover approximately 253 acres. The land on the west side of Provincial Trunk Highway #11 still lies vacant and unused.

There was a claim put on Lot 9 in 1932. The addition to the reserve of Lot 9 by the 1930 Order in Council was said to be invalid because the land had previously been patented. The lot was purchased with Band funds in 1932. The lot was 140 acres and was purchased for \$420. As Lot 9 was purchased by Band funds it should not be counted as forming any part of the treaty land entitlement of the Band. Lot 9 was added to the reserve by Order in Council 1970-419.

The title to Lot 11 was transferred to the Department of Indian Affairs in 1932. Lot 11 was added to the reserve by Order in Council P.C. 1970-419.

In the Treaty Land Entitlement Profile from the Department of Indian Affairs the Sagkeeng First Nation reserve is listed as being 22,269.9 acres in size. In 1996 our First Nation lands were listed as being 21,674 acres in total area.



### The Outstanding T. L. E. Owed to the Sagkeeng First Nation

The total treaty land entitlement of the Sagkeeng First Nation, using the population at date of first survey, absentees, new adherents, non-treaty native women marrying into the band, and pre-reserve settlers is 25,648 acres. The present size of the reserve is 21,674 acres. 140 acres was purchased with Band funds. The total land provided for treaty land entitlement is  $21,674 - 140 = 21,534$  acres. The total treaty land entitlement shortfall is  $25,648 \text{ acres} - 21,534 \text{ acres} = 4,114 \text{ acres}$ .

The Sagkeeng First Nation has never received all the land we are entitled to under the terms of Treaty One. This Treaty Land Entitlement is a treaty right and as such is protected by S. 35 of the Constitution Act of Canada. We, the Chief & Council and the members of the Sagkeeng First Nation, would like the Government of Canada to fulfill the treaty land obligations it undertook to provide us with, as signatories of Treaty One.

According to the Lac La Ronge Indian Band v. R.<sup>73</sup>, the amount of land owed to

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<sup>73</sup> Lac La Ronge Indian Band v. Canada, (1999) Saskatchewan Queen's Bench, [2000] 1 C.N.L.R. p. 245,

a Indian Band that has not received all their treaty land entitlement is to be determined using the population on the date that the treaty land entitlement is finally fulfilled. In 1996 the population of the Sagkeeng First Nation was 5,249 people. This means that in 1996 the Sagkeeng First Nation was owed 167,968 acres minus the 21,534 acres which have already been provided which results in a 146,434 acre shortfall. The Sagkeeng First Nation would like to have this land provided to us in fulfillment of the Government of Canada's Treaty #1 obligations.

The Sagkeeng First Nation is willing to negotiate with the Government of Canada for an arrangement that will satisfactorily conclude this issue. Please find attached a draft copy of the Sagkeeng First Nation's Statement of Claim naming the Government of Canada as a defendant in the proceedings. We will hold off on the filing of this Statement of Claim for a reasonable period of time from the date this document has been signed by Chief and Council and mailed to the Government of Canada. In the event that there has been no communication from the Government of Canada, to the Sagkeeng First Nation, which clearly indicates the Government of Canada's intention to fulfill the Sagkeeng First Nation's outstanding treaty land entitlement; the Statement of Claim will be filed with a court of competent jurisdiction to remedy this treaty and constitutional breach.