DOCUMENTS TWO AND THREE: DENE/METIS AGREEMENT IN PRINCIPLE WITH THE FEDERAL GOVERNMENT

EDITOR'S INTRODUCTION

On the 5th of September, 1988, the Dene and Metis of the Northwest Territories and the Government of Canada signed an "Agreement-in-Principle" to resolve the long-standing comprehensive land claim of the Native people. The Dene and Metis are concerned that the official version of the agreement published by Canada, some 178 pages long, fails to include their perspective on the land claim and, in particular, those areas of the claim which are subject to future negotiations.

The Native Studies Review is pleased to publish the following documents (Documents Two and Three) which, we feel, should be read in conjunction with the official Agreement-in-Principle to provide a full perspective. These documents are published by permission of Bill Erasmus, President of the Dene Nation, to whom we are extremely grateful.

James B. Waldram

NATIVE STUDIES REVIEW 4, Nos. 1 & 2 (1988).

DOCUMENT TWO: NOTES FOR AN ADDRESS BY BILL ERASMUS, PRESIDENT OF THE DENE NATION, ON THE SIGNING OF THE AGREEMENT-IN-PRINCIPLE WITH THE GOVERNMENT OF CANADA, FORT RAE, DENENDEH, SEPTEMBER 5, 1988

Welcome to Denendeh. Denendeh means "The Land of Our People." We, the Dene, are a nation of people, who have lived in Denendeh for thousands of years. Through these years, with the guidance of the creator, we have decided for ourselves how we live. We have our religion, our values and our understanding of the world. We have our languages, and we have our laws for taking care of our land and governing our people. For thousands of years, we have been a self-determining nation.

In early days, the explorers depended completely on us for our knowledge of the land they claimed to be "discovering." They depended on us for food and clothing, and to rescue and take care of them when they were lost or starving. Those explorers of Denendeh whom Canadians honour as great men--Hearne, Franklin and Mackenzie--were to us like helpless, if courageous, children. They would not have survived without the help of our people. Those early times, we encountered for the first time their different values, their languages, and their laws, but there was never any question that our land and our right to self-determination as nations, was respected.

Then came the fur trade. The traders also depended on us for their survival--for their food and for the fur which kept them in business. Later in the days of the fur trade, the traders imported their food and supplies from the south, and so no longer depended completely on the Dene. Not long after this, the fur market collapsed, and fur prices fell. New ways of exploiting our land were found. This new form of exploitation was much more threatening.

The fur trade had made the Dene more dependent on others for our way of life, but the fur trade never demanded that we give up our land, or our way of making a living. The fur trade did not bring in tremendous numbers of people from other places, to work and live on our land. These pressures on the Dene came with the demand by developers for our oil, gas, and minerals.

In 1899 and 1921, our nation made two treaties with the Crown. For our people, the treaties were agreements between nations. We govern ourselves by agreements, and therefore we value agreements highly, and we measure people and other nations by how they keep their word. We did not read or write when the treaties were made, and so our understanding of the treaties was based on what was said and what we heard at the treaty meetings. At these meetings, we promised to live in peace and friendship with the people who passed through our lands. In return, we heard and understood that the Crown would respect us as a self-governing nation, pursuing our own way of life. In recognizing our hunting, trapping, and fishing rights, the Crown recognized the Dene economy. By promising to supply us with nets and ammunition, the Crown promised to continue to support our economy, and not to do it harm. We heard the Crown's representatives say that these promises would last as long as the sun rises, as long as the river flows, and as long as this land shall last.

In the years since the treaties were signed, nearly every term of the treaties has been broken by the Government of Canada. Even as Treaty 11 was signed, Canada put into effect an agreement with the United States and Mexico, restricting our treaty right to hunt migratory birds to a few weeks in the fall. The government has passed many other laws that purport to give it authority over our land, without our consent.

In the 1950s and 60s after the fur trade had collapsed, the Dene experienced economic hard times. This is when the government

moved into Denendeh. Schools and welfare programs were established, and we became even more dependant on others. Our people were offered family allowances and old age pensions, then told that they would have to move off the land and into the communities managed by government, or they would not be eligible. We had no say over how such programs were developed, and so the institutions of government, the curriculum in the schools, and the ideas behind the health, housing and social services programs which followed, were totally foreign to us. We always opposed this arrangement, but it was not until the 1960s that we began, collectively, to take action as a nation. The founding of the Indian Brotherhood of the Northwest Territories was a key step in this process.

When the Dene first began to talk about the "colony within," some members of the territorial government and some southern Canadians said this was a radical idea that we must have picked up from somewhere else. Colonization was not a radical idea; it was and is our reality. We were treated as inferiors who needed to be protected until we could change and become just like other Canadians. The results were devastating, and we still suffer from them today. If you want to know why alcoholism and suicide are rampant in our communities, why the jails are full of our young people, why our unemployment rate and failure rates in school are sky high, look at the process that has taken place since the Crown signed treaties with the Dene.

In the 1960s translators visited every community of the Dene, and we heard the written versions of Treaties 8 and 11. For the first time, we learned that the written version was far from what we had heard and understood. The part of the written version of the Treaties which said that all Dene rights to their lands were surrendered, was never part of the agreement we made with the Treaty Commissioners. This is what the Dogrib Elders who were there when the Treaties were signed said when they learned about this part of the written treaties:

Jimmy Bruneau: We made an agreement, but land was never mentioned . . . a person must be crazy to accept five dollars to give up his land . . . it was never mentioned that there will be such things as reserves in the future, nor that the Treaty was against the land.

Noel Sotchia: Land was never mentioned and we did not take the Treaty to give our land to the Crown. If such was the case we would not have accepted the Treaty money.

When we learned that the written version of the treaties was wrong, we began to prepare ourselves, and later went to court. Judge Morrow agreed with the Dene understanding of the Treaties.

Our solution was first contained in the proposed Agreement-In-Principle which we, the Dene, presented to the Government of Canada in 1976. In this proposal, the Dene told the Government that in our minds, our relationship with the Crown is still based upon what we understood at the time of the Treaties. But because the written version of the Treaties is wrong, and because the Government of Canada has broken the promises made by the Treaty Commissioners, we need to go back again, and to examine and rebuild not only the treaties themselves, but the relationship between the Dene nation and the Crown, which the treaties represent. So, when we say that we are negotiating to clarify the meaning of the Treaties, we are talking not about "renovating" or "implementing" the written treaties; we are making sure that the fundamental principles of the original treaties as we understand them, are reflected in the agreement we sign. This agreement will be based on the following fundamental principles:

-The Dene have the inherent right to self-determination as a people and as a nation.

-The Dene, as an Aboriginal people, have a special status under the Constitution of Canada.

-The Dene, as an Aboriginal people, have the right to own and control as much of Denendeh as will enable us to be self-reliant.

-We have the right to define ourselves, and control our membership.

-The Dene have the right to practice, preserve and develop our languages, traditions, customs and values.

-We have the right to develop our own institutions, and to exercise our rights through these institutions.

-We have the right, within Confederation, to self-government. At the community level, we will have our own jurisdiction over our lands. At the community, regional, and territorial level of government, we will have our own jurisdiction over subject matters essential to us, and there will be guarantees that the laws of public government will not infringe upon our rights. The structure and process of decision-making of government at all levels, will guarantee our participation. It will be based on consensus, and will support our customs and traditions.

-The Dene will be compensated by the Government of Canada for the past use of Dene land, without our consent.

-Between the signing of the Agreement-In-Principle and the final settlement, the Government of Canada will not take any action which violates either the letter or the spirit of our Agreement-In-Principle.

Our proposal also included guarantees to the other residents of Denendeh, that their right to self-determination will be respected, and their existing property rights honored.

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Today, we sign an Agreement-In-Principle with the Government of Canada. It is not a final agreement. Many parts of the AIP are strong, and both of the negotiating parties should be proud of them. Other parts need strengthening before the Dene will accept the final agreement. In the joint memorandum contained in the document we sign today, the Government recognizes that the Dene have major concerns with the AIP, and that we will be seeking changes before we reach a final agreement. Although the Government has said that it will be tough on some issues, the Government has agreed to address these concerns in the next, and most important round, of negotiations. Without this assurance, the Dene would not be signing the AIP today.

In our future negotiations, the Dene will continue to build on the fundamental principles on which negotiations have always been based. Because we believe in these principles; because we know that they are fair and reasonable, and because we have taken our decision to sign this document with great care, we enter the last phase of these negotiations confident that we will succeed. Our confidence is based on our strength as a nation, and on our knowledge that the people of the Northwest Territories and Canada want to respect our rights.

Let me make a few comments on the AIP we are signing today, as a reflection of the fundamental principles I have described. First, we must recognize that the AIP covers only some of our rights--only some of the matters which define the relationship between the Dene and the people of Canada. This AIP addresses only the ownership and management of land and resources. It does not address our right to self-determination as a self-governing nation. The final agreement must resolve this to our satisfaction.

Since 1982, the Dene have used two other processes to negotiate recognition of our right to self-government--the first ministers conferences, at which aboriginal nations all across Canada have been working to entrench this inherent right in the Constitution

of Canada, and the constitutional alliance in the Northwest Territories. In the constitutional alliance, aboriginal nations have been working to define and entrench our right to self-government, along with the other cultural communities of the Northwest Territories. Through this process, we will establish Denendeh and Nunavut.

The fact that the Dene have been negotiating self-government separately from the land claims table, is not something we chose. For years, we fought the Federal Government to negotiate a truly comprehensive agreement in one process. The Government refused. It was only when the Government of Canada pledged its support to the Constitutional Alliance of the Northwest Territories, that we agreed to negotiate in earnest. In the end, self-government must be united with the ownership and management rights which are not in the AIP. Before we sign final agreements, it must be clear that all of our rights will be entrenched in the Constitution of Canada, so that the commitments made to the Dene are clear and understood, and so that the government can never again change its agreement with the Dene without our consent.

On this important day, I now call on the Prime Minister and Minister McKnight, to pledge their government to entrench self-government agreements in the Constitution of Canada through land claims agreements, and further, to support and advocate an amendment that will entrench the agreement we reach with other northerners in the constitutional alliance. Such an agreement will not only protect and implement our aboriginal right to self-government; it will recognize and implement the political rights of the other cultural communities in the north. I also call upon the Government of Canada immediately to provide the funding and resources necessary to rapidly complete negotiations in the constitutional alliance.

In further negotiations after the AIP, the Dene will also be seeking to strengthen our control over our lands, and our participation in the management of shared lands, elsewhere in the settlement area. Let me say once more that the Dene are not involved in these negotiations in order to extinguish our rights. We are here to entrench them. The recognition and entrenchment of our traditional title to our lands will continue to be a cornerstone of our rights in Yukon, Alberta and in the other provinces whose boundaries cross our homeland. Let me say to all residents of the north, that the entrenchment of our rights and jurisdiction does not threaten anyone, especially the other residents and businesses in our settlement area. We wish to clarify your rights and ours, so that there is certainty for all parties. Upon this foundation, we can all build Denendeh.

In the Denendeh of tomorrow, the Dene will be partners with the Metis, Inuvialuit and other cultural communities, in the economy and government of Denendeh. Our society will be multilingual and multicultural. The Dene do not seek to separate ourselves from Canada or other Canadians. Rather, we wish to enter confederation on the basis of mutual respect.

In order to achieve these goals, we all have a huge task ahead of us. We must always keep reaching out to each other, and promote better understanding between us.

The Dene look forward to taking up this work once again. We thank our leaders of the past, and our Elders for making it possible to accomplish what we have before us today. I would like to give special thanks to the past executives of the Dene Nation, and particularly to Georges Erasmus and Steve Kakfwi, the presidents who were in office before me during these negotiations. I also wish to thank the chief negotiators of the Dene--Bob Overvold, and Ted Blondin--for their dedication and hard work, and with them, all of the others who have helped in this work. We know that the wisdom of the Elders who are with us today,

and the energy of the young people who are now taking on new leadership roles, will serve us well in the days ahead.

DOCUMENT THREE: DECISION ON THE AGREEMENT

THE DENE/METIS DECISION ON THE AGREEMENT-IN-PRINCIPLE: JULY 1988

INTRODUCTION

The Dene/Metis view of Treaties 8 and 11 has always been that these were agreements made as nation to nation, and that the Dene/Metis did not surrender their aboriginal rights in those agreements. After the Treaties were signed, governments and others refused to recognize the rights of the Dene/Metis and their status as First Nations. In 1976 the Dene/Metis submitted their comprehensive claims to the Federal government, seeking positive recognition of their original rights.

After more than fifteen years of working towards settlement of Dene/Metis rights, including vigorous land claims negotiations over the last five years, the federal and Dene/Metis negotiators recommended an Agreement-in-Principle for a land claim settlement to their leaders this May.

The process of negotiation called first on the Dene/Metis to consider whether to sign the Agreement-in-Principle, and then on the federal cabinet to do the same. After both parties sign an AIP, two years of negotiations towards a final agreement are proposed. Such a final agreement would create a constitutionally protected land and resources settlement.

On July 10, 1988, the Dene and Metis met as a Joint Assembly to consider the proposed AIP. This was the first occasion on which

the Dene/Metis Assemblies had been presented with a formal offer from the government, for their decision. It was always the understanding of the Dene/Metis that once an Agreement-in-Principle was initialled by their negotiators, the Dene/Metis Assemblies would have input, and could propose changes if necessary. Everyone at the Assemblies in Hay River expressed their views, including elders, youth, chiefs and delegates. 276 of the 280 delegates present decided that the AIP could be signed if government would agree to continue to negotiate some specific concerns they have with the AIP during the planned final agreement negotiations.

The Meaning Of The Joint Assembly Motion

Unfortunately, the Dene/Metis decision has been widely misunderstood as rejection of the AIP. In part, this misunderstanding is based on confusion about paragraph one of the Joint Assembly's motion detailing the decision. This paragraph means that the Dene/Metis approve all matters not specifically listed in the motion for further negotiation. The Dene/Metis are willing to have their signatories formalize this approval as soon as the Government of Canada agrees that the listed matters can be negotiated further prior to the Final Agreement.

Paragraph one of the motion means that the Dene/Metis are willing to approve the majority of the AIP without changes. The Dene/Metis accept 70,000 square miles of land, 3,900 square miles of which includes subsurface title. The Dene/Metis accept $500 million, paid over a number of years, as cash compensation. The Dene/Metis accept 10 percent of government revenues from oil, gas and mineral development. This was a major decision taken with great care.

Misunderstanding of the Dene/Metis decision is also based in large part on lack of knowledge of the Agreement-in-Principle and

confusion about the seven areas for further negotiation listed in Appendix "A" of the motion. The AIP is a complex legal document, 178 pages long. It is written as a final land claims agreement will be, but with land selection maps and other details yet to be added. The detail of the AIP is a credit to the negotiators. But it is precisely this detail which, when presented to the Dene/Metis Joint Assembly for its decision, required a very specific response. The Dene/Metis know the government can decide later not to reopen any item not already flagged in the AIP for further negotiation. This is why the list of concerns identified in the motion for further discussion is so detailed.

The first thing to be understood about the content of the matters listed in the motion is that the Dene/Metis are not seeking any guarantees as to the results of further discussions. They are prepared to sign the AIP immediately, provided that the Government of Canada merely agrees in the AIP that the matters listed can be negotiated further prior to the Final Agreement.

Next, it should be understood that of the matters listed for further negotiation, virtually none are new to the negotiators. A few items are identified as "new" in the motion, but this label indicates only that such items are not provided for in the AIP. Of these items, several have already been the subject of discussion at the negotiating table, such as lands in the vicinity of Fort Fitzgerald, a Dene/Metis role in the sale of water, taxation, and protection of non-resident aboriginal interests.

Thus, the Dene/Metis are not seeking a chance to present new demands to the Government of Canada. Rather, the matters listed in Appendix "A" are put forward to ensure that the Final Agreement delivers on the basic promises made in negotiations, and to ensure that the Final Agreement is fair and complete.

Matters For Further Negotiation

The AIP states that the land claims agreement will not prevent the Dene/Metis from negotiating self-government agreements. This clause needs strengthening to ensure that the establishment of a Denendeh government will not be hindered. The negotiators assume that future negotiations of self-government on Dene/Metis lands could alter laws of general application and the management provisions of the AIP, but the Final Agreement must say so.

The AIP calls for the surrender of aboriginal title to the entire traditional land base of the Dene/Metis in the Northwest Territories - 340,000 square miles. The Dene/Metis feel that surrendering aboriginal title to 270,000 square miles while retaining their title on Dene/Metis lands, is enough. The AIP states that if the courts find in future that the Treaty provisions of the final agreement do not accomplish their aim, the Dene/Metis are liable to government as though they were insurers, and must cover any damages which the courts might order government to pay. Government has its own lawyers, and has not offered to insure the Dene/Metis after a final settlement is reached.

The Dene/Metis accept that third parties should have reasonable access to Dene/Metis lands, but a close examination of the AIP has shown that several of the access clauses need tightening if the Dene/Metis are to maintain their position as owners of these lands. The AIP promises to clarify and protect Dene/Metis harvesting rights, but some of its terms give government greater power to interfere with those rights than it had before. The AIP promises the Dene/Metis joint decision-making in relation to wildlife and land and water management, but some of its terms guarantee the Dene/Metis less than an equal role and the detail of the AIP falls short of guaranteeing the Dene/Metis more than advisory status.

These are examples of the substantial concerns reflected in the Dene/Metis decision. A few truly "new" items, such as ownership of the herd of bison recently discovered to be diseased, and threatened with slaughter by government officials, are also included, but these items are added because they have to be addressed, not because the Dene/Metis want "more."

All of the matters listed in the motion represent legitimate concerns. All of them fall within the federal government's comprehensive claims policy. These concerns have been put forward after careful deliberation on the AIP by the Dene/Metis. There is no reason why government should be unwilling to discuss them further.

Conclusion

The Dene/Metis have always sought a truly comprehensive settlement of their rights with the federal government. Control over their land base, and pursuit of a Denendeh government which is constitutionally entrenched and which fully incorporates their right to self-government, continue to be the fundamental objectives of the Dene/Metis. The path to a settlement involves genuine negotiation and compromise on both sides. The decision made by the Dene/Metis at their Joint Assembly is a landmark decision, and a major step towards a final land claims agreement. It is in the interest of all Canadians to support further negotiations which will bring the Dene/Metis land claim to a just conclusion.

3.2.5 Recognizing that the Dene/Metis have expressed concerns relating to certain provisions in this Agreement, the Parties agree that upon ratification of this Agreement, the matters identified in Annex "A" shall be negotiated further prior to the Final Agreement.

(Annex "A" is per Appendix "A" of motion no. 1 from the Hay River Reserve Dene/Metis Joint Assembly, July 10, 1988)

To be inserted at the end of Section 3, Sub-section 2 (Interim Provisions of General Provisions)

THE ADDITION OF THIS SINGLE CLAUSE TO THE PRESENT AGREEMENT-IN-PRINCIPLE WOULD SATISFY MOTION NO. 1 OF THE HAY RIVER RESERVE DENE/METIS JOINT ASSEMBLY AND ALLOW THE DOCUMENT TO BE SIGNED BY THE DENE/METIS.

MOTION NO. 1

JOINT DENE/METIS ASSEMBLY
HAY RIVER RESERVE, N.W.T.
JULY 09-11, 1988

WHEREAS aboriginal rights were never surrendered in Treaties 8 and 11 or the related Scrip Agreements, and they cannot be taken away in future; and

WHEREAS the Dene/Metis are committed to implementing their aboriginal rights; and

WHEREAS the Joint Dene/Metis National Assembly has discussed the AIP; and

WHEREAS through the Iqaluit Agreement, agreements on political rights including the following have been reached between

the Dene/Metis and the Legislative Assembly of the Northwest Territories which bear directly or indirectly on aspects of the AIP, and these negotiations have been held with the full support of the Federal Government:

> ". . . the (two) constitutions (of the Northwest Territories) must recognize, affirm and guarantee the unique rights of the Inuit, Dene, Metis and Inuvialuit, including their land claims rights and their rights of self-government"
>
> ". . . communities should have control over those matters which affect them exclusively and they should have input in and influence over those decisions which affect them as well as others"
>
> "Aboriginal rights relating to language, culture and any other political rights which are not included in claims agreements shall be entrenched in the constitution and means shall be found to help ensure that all aboriginal rights are protected"
>
> "There shall be a guarantee of aboriginal participation in government and significant impact on decision-making in the future including perhaps exclusive aboriginal jurisdictions in limited areas of direct concern to aboriginal people; the focus would be on cultural matters and on the special relationship that exists between aboriginal peoples and the land and the political protections required to ensure its maintenance"
>
> "The constitution or those parts which address each of these principles and objectives must not be amendable without the approval of aboriginal and non-aboriginal peoples"

> "It is intended that if negotiations toward a western constitution succeed, they will result in a constitution whose relevant sections are designed to constitute, together with provisions and land claims agreements, the definition of aboriginal self-government in the western jurisdiction. Any such definition must fully reflect any right of self-government held by the Dene, Metis and Inuvialuit."

WHEREAS the attached conditions together with acceptable sections of the proposed AIP are consistent with the Federal government's Comprehensive Claims policy and the negotiating mandates of the Dene/Metis;

BE IT RESOLVED THAT

1. The Joint Dene/Metis National Assembly hereby informs the Government of Canada that it has mandated its appropriate signatories to sign the AIP when the Government of Canada agrees in the AIP, to negotiate or renegotiate the matters set out in Appendix A.
2. The Government of Canada is hereby given notice of the attached instructions to the Dene/Metis negotiators, set out in Appendix B.
3. The Government of Canada is hereby given notice that the Dene/Metis will not ratify a Final Agreement until it is fully satisfied with the results of the negotiation of Aboriginal self-government for the Dene/Metis.

MOVED BY: George Kurszewski, Voting Delegate
Fort Smith, N.W.T.

SECONDED BY: Cece McCauley, Chief
Inuvik, N.W.T.

PASSED: July 10, 1988

APPENDIX A[1]

1. Political Rights
   a) Self-Government (3.1.24; 25.8.1)
   b) Laws of General Application (3.1.18; 28.1.1(c))
   c) Jurisdiction of Boards (13.3.1; 13.10.1; 13.10.2; 28.1.1(a); 28.2.5; 28.3.1; 28.4.1(a))
2. Dene/Metis Lands
   a) Retaining Aboriginal Title on Dene Metis Lands (3.1.9(a)(i); 3.1.9(b); 21.1.1)
   b) Dene/Metis Lands in Alberta (new item)
   c) Status as Indian Lands (21.1.14);
   d) Public and Commercial Access (22.1.6; 2.2.1; 22.2.1; 22.2.4; 22.4.1; 22.4.3)
   e) Changes to Municipal Boundaries (25.6)
   f) Selection Criteria (21.1.7; 21.1.8)
   g) Band/Local Ownership (5.1.2)
   h) Water Rights (27.1.7; 21.1.3; new items)
   i) Taxation on Dene/Metis Lands (11.4; 11.5.1; 11.5.2)
3. Land and Water Management
   a) Relationship Between Boards and Minister (16.5.3; 28.2.10; 28.4.2(b))
   b) Terms for Implementation (28)
   c) Impact Review (28.3.6; 28.3.7)
   d) Land Use Planning (28.2.11)
4. Renewable Resources
   a) Legislative Restrictions on Harvesting Rights (13.3.2; 13.3.6; 14.1.3)
   b) Other Government Restrictions on Harvesting Rights (13.4.14; 14.1.4(b); 15.1.3(b); 16.8.1; 17.1.5)
   c) Harvesting Compensation (20; 14.1.8(d); 15.1.7(d))
   d) Wildlife Management Board (13.10.5; 13.10.14; 13.10.10; 13.10.28; 13.10.31; new item)
   e) Economic Measures related to Harvesting (new item; 12.1.2; 12.1.4)

5. General Provisions
   a) Interpretation Clauses (3.1.15; 3.1.16)
   b) Indemnity Clause (3.1.12)
   c) Surrender of Rights South of 60 (3.1.9(a)(i); Protection of Non-Resident Rights (new item)
6. Settlement Corporations; Permitted Activities (11, Annex A)
7. Language and Incidental Amendments

APPENDIX B

INSTRUCTIONS TO NEGOTIATORS

1. Political Rights
   a) Self-Government

      The Final Agreement should recognize the continuing opportunity of the Dene/Metis to achieve recognition of their right to self-government through the Constitutional Alliance process or its successor. The Agreement should also recognize the Principles for Constitutional Development agreed upon by the Dene/Metis and Legislative Assembly of the Northwest Territories through the Iqaluit Agreement.

   b & c) Laws of General Application, and Jurisdiction of Boards

      These clauses must be made subject to the results of the political rights negotiations. The Agreement should allow for Dene/Metis jurisdiction over wildlife and land and water management on Dene/Metis lands.

2. Dene/Metis Lands
   a) Retaining Aboriginal Title on Dene/Metis Lands

      Aboriginal title on Dene/Metis lands should not be surrendered.

b) Dene/Metis Lands in Alberta

Provisions for Alberta land in the vicinity of Fort Fitzgerald and satisfactory to the South Slave Region, should be negotiated.

c) Status as Indian Lands

Dene/Metis lands should remain federal Indian lands under the Constitution Act, s.91(24) unless otherwise agreed in the political rights negotiations.

d) Public and Commercial Access

The access provisions should not permit commercial fishermen or outfitters to use Dene/Metis lands without charge or other reasonable terms set by Dene/Metis.

The application of public access rights should be identified in land selections.

Pubic access across Dene/Metis lands to reach places of recreation, should only be by public roads or with Dene/Metis consent.

Pre-existing commercial access rights should only be extended in any way where there is a legal right to renew or extend such rights, or with Dene/Metis consent.

No building of roads or airstrips without Dene/Metis consent should be permitted except by expropriation, unless specifically agreed upon during land selection.

Except as public access, there should be no access across Dene/Metis lands to neighboring lands for "commercial purposes," without Dene/Metis consent.

e) Changes to Municipal Boundaries

Changes affecting Dene/Metis lands would not be made without Dene/Metis consent, or by the expropriation process.

f) Selection Criteria

The clauses requiring that lands be of average value and topography, and that lands be set aside for public community purposes should be dropped.

g) Band/Local Ownership

The Agreement should recognize that the Dene/Metis may hold title to their lands through the Band/Local.

h) Water Rights

The Dene/Metis should be able to own part of the waterbed of a river or lake. Compensation should be payable by authorized users of water if their authority did not specifically permit the damage caused.

Dene/Metis ownership of water on Dene/Metis lands should be negotiable.

Hydro revenues should be negotiable as part of the resource revenue sharing and leading to an increased share of resource revenue in the AIP.

i) Taxation on Dene/Metis Lands

Tax-free activity on Dene/Metis lands should be negotiable.

3. Land and Water Management

a) Relationship Between Boards and Minister

This should be set out in the Final Agreement. Ministerial review should only be by disallowance.

b) Terms of Implementation

These should be set out in the Final Agreement

c) Impact Review

There should only be one review process, with 50:50 Dene/Metis and government representation.

d) Land Use Planning

Plans should be binding on government agencies and users of the land.

4. Renewable Resources

a) Legislative Restrictions on Harvesting Rights

There should be no such restrictions except as are necessary.

Reference to restrictions under the Migratory Birds Act should be removed.

b) Other Limits

Limits on Dene/Metis harvesting of trees where it would conflict with authorized activities on Crown Lands, should be removed. Park management plans should not be allowed to override Dene/Metis harvesting of trees.

The protected area clause should be deleted.

The arbitration clause should be deleted.

c) Harvesting Compensation

Compensation should be payable for losses relating to all renewable resources. It should be based on loss of opportunity as well as past use. It should be payable on a family or community basis.

d) Wildlife Management Board

The Minister should not select the chair; the Dene/Metis component of the quorum should be in the Agreement, and Dene/Metis Board Members should not be removed without Dene/Metis consent.

The Minister should not be entitled to change an interim decision of the Board.

Negotiations respecting the Boards responsible for land and water management, should also be based on these instructions.

Ownership and management of a herd of free-roaming bison in the Slave River Lowlands should be negotiable.

e) Economic Measures Related to Harvesting

There should be negotiation regarding income tax and other taxes on activities related to traditional harvesting. In the Economic Measures section, government's commitments should be binding, and reform of existing programs should be required where necessary.

5. General Provisions

a) Indemnity Clause

The indemnity clause should be removed.

b) Interpretation Clauses

The clause requiring that doubt should not be settled in favour of either party should be removed. The clause permitting the Final Agreement to be used to assist in understanding settlement legislation should also refer to the Treaties.

c) Surrender of Rights south of 60, and Protection of Non-Resident Rights

Aboriginal Rights and all Treaty Rights south of 60, outside Wood Buffalo National Park, should not be surrendered.

Dene/Metis in the Provinces should not be prejudiced by the provisions of the Final Agreement.

6. Settlement Corporations: Permitted Activities

This entire part should be reviewed. If it is kept, the Final Agreement should clearly state that the Settlement corporations will not be requested to spend money on programs and services that should be provided by the Government of Canada or the Government of the Northwest Territories.

7. Language and Incidental Amendments

Amendments which follow from the changes noted above, but which are not mentioned, should be made in the Final Agreement.

Prior to the Final Agreement, there should be a comprehensive review of the wording of the Agreement, to make it more precise, and to clarify government's commitments.

DENE/METIS JOINT LEADERSHIP MEETING
AUGUST 16-19, 1988
YELLOWKNIFE, N.W.T.

Resolution #7
August 19, 1988

Whereas the Joint Dene/Metis Assembly decided at the Hay River reserve, Denendeh on July 10, 1988 to approve the Agreement-In-Principle dated May 30, 1988, on condition that Canada agrees to negotiate or re-negotiate all of the items identified in the motion prior to a Final Agreement, and the Hay River reserve motion is attached hereto as Appendix "A";

And Whereas Canada has now responded positively to the Hay River reserve motion in letters from the Minister of Indian Affairs and Northern Development dated August 8, 1988 and from the Chief Negotiator for Canada dated July 29, 1988 which are attached hereto as Appendix "B";

And Whereas in his letter the Minister of Canada's behalf has made the commitment to place the Agreement-in-Principle before Cabinet and ensure that Cabinet has notice of the Hay River reserve motion, and of the attached letters, as soon as he is advised that the Dene/Metis are prepared to accept the Agreement-in-Principle on the basis of the understandings expressed in the attached letters;

And Whereas the attached letters also contain commitments by Canada to engage in further negotiations after the Agreement-in-Principle which will address all of the concerns in the Hay River reserve motion, which commitments are understood by the Dene/Metis to be in conformity with the intent and purpose of the Hay River reserve motion;

And Whereas the Dene/Metis also rely on Canada's commitment in the attached letters, to further address in such negotiations, the existing provisions of the Agreement-in-Principle, and the

Dene/Metis hereby notify Canada and the Government of the Northwest Territories that interim land protection is a major concern and that the Dene/Metis will seek interim protection of certain lands immediately, and will propose as may be necessary, changes to the Agreement-in-Principle regarding interim protection as soon as these negotiations commence;

And Whereas the commitments made by Canada have been further explained to this Joint Leadership by Assistant Deputy Minister Van Loon on behalf of the Minister, and the transcript of this explanation is attached hereto as Appendix "C";

And Whereas the Leader of the Government of the Northwest Territories has assured the Dene/Metis on behalf of the Government of the Northwest Territories that it will support the resolution on the concerns expressed in the Hay River reserve motion in negotiations after the Agreement-in-Principle as well as through other processes;

And Whereas the Dene/Metis rely on Canada to honour its commitments, and on the Government of the Northwest Territories to stand by its assurance, if the Dene/Metis sign the Agreement-in-Principle, and the Dene/Metis wish to make it clear that any withdrawal by either government from these commitments and assurances will nullify Dene/Metis approval of the Agreement-in-Principle;

And Whereas the Dene/Metis affirm that a Final Agreement will not be entered into with Canada unless it is completely acceptable to the Dene/Metis people;

And Whereas the Dene/Metis wish to affirm again, as did the Joint Assembly, that the Dene/Metis never surrendered their aboriginal rights in Treaties 8 and 11 or the related Scrip Agreements;

Therefore Be It Resolved That
In reliance upon the commitments made by Canada in the attached letters and upon the assurance of the Government of the Northwest Territories, as the Dene/Metis understand these commitments and assurances;

And without in any way modifying the position of the Dene/Metis adopted in the Hay River reserve motion attached hereto as to the changes they seek in the Agreement-in-Principle, or agreeing with the positions stated on behalf of Canada in the attached letters regarding such changes;

The Dene/Metis Joint Leadership hereby authorizes the Dene/Metis Joint Executive to sign the Agreement-in-Principle on behalf of the Dene Nation and the Metis Association of the N.W.T. at an appropriate ceremony to be held in Denendeh.

MOVED BY: Grace Blake, Chief Arctic Red River
SECONDED BY: Rene Mercredi
ABSTENTIONS: None
CARRIED UNANIMOUSLY

DENE/METIS JOINT LEADERSHIP MEETING
AUGUST 16-19, 1988
YELLOWKNIFE, N.W.T.

Resolution #8
August 19, 1988

INTERIM LAND PROTECTION NEGOTIATIONS

WHEREAS the Dene/Metis have agreed to sign an Agreement-in-Principle for their comprehensive land claim with the federal government, and the provisions of the agreement call for the Dene/Metis to begin selecting their land; and

WHEREAS lands are now being alienated and potential selections complicated due to non-renewable resource and business development activities, land leases, and tourist and renewable resource activities licencing and permitting; and

WHEREAS the federal government has committed to negotiating interim protection of lands for land selection purposes.

THEREFORE, BE IT RESOLVED that the Government of Canada support the Dene/Metis in their land selection process by negotiating and instituting the following interim land protection measures immediately for all Dene/Metis Settlement Area lands:

1) Withdrawals of any and all areas identified by the Dene/Metis as critical or priority lands.

2) Obtaining the written consent of all affected Dene bands and Metis locals before granting any land leases, land sales, land use permits, water use licenses or recording any mineral claims or granting any mineral leases.

3) Obtaining the written consent of all affected Dene bands and Metis locals before undertaking any action or practice, or implementing any policy which will affect potential use, enjoyment or occupation of land and water or the harvesting and conservation of wildlife on that land or water.

4) Obtaining the written consent of all affected Dene bands and Metis locals before giving approval to or allowing to proceed any resource exploitation activity or military use of lands.

5) Supporting the negotiation of rational and fair municipal boundaries for all communities as outlined in the Agreement-in-Principle; and

Further, Be It Resolved that the Joint Executive of the Dene Nation and the Metis Association of the Northwest Territories take all possible steps to ensure the Government of Canada honours this resolution.

MOVED BY: Bobbi Bulmer, President, Metis Local 55
SECONDED BY: George Morin, President, Metis Local 51
CARRIED UNANIMOUSLY

EDITOR'S NOTE

[1]Items pertain to sections of the Agreement-in-Principle.