

The First Survey of Reserves
for the Cree Chipewyan Band
of Fort McMurray

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I. INTRODUCTION

A. GENERAL INTRODUCTION AND IDENTIFICATION OF ISSUES

The Cree-Chipewyan Band of Fort McMurray existed, on paper at least, for approximately half a century after the signing of Treaty Number 8. The date of the Band's creation is easy to fix - on August 4, 1899 the "Chipewyan and Cree Indians of Fort McMurray and the country thereabouts" adhered to Treaty 8 at Fort McMurray.¹ The exact date of the Band's official demise cannot be ascertained with the same precision. In early 1948 the Regional Supervisor of Indian Agencies for the Alberta Region recommended that Fort McMurray become the dividing line between the Edmonton and Athabasca Superintendancies, since reserves south of Fort McMurray were accessible by rail from Edmonton and reserves north of Fort McMurray could be reached by water or air from Fort Chipewyan.² This recommendation, among others, formed the basis for an April 1948 Order in Council (made retroactive to November 1, 1947) which included four Cree-Chipewyan Band reserves lying south and east of Fort McMurray in the Edmonton Superintendency and three reserves lying north and northwest of Fort McMurray in the Athabasca Superintendency.³

As tempting as it would be to describe either the actual (April 17, 1948) or effective (November 1, 1947) date of the Order in Council as marking the definitive end of the Cree-

¹ Report of the Commissioners for Treaty No. 8, September 22, 1899. DIAND Publication Number QS-0576-000-EE-A-16.

² G. H. Gooderham, Regional Supervisor of Indian Agencies, Alberta Region to R. A. Hoey, Director, Indian Affairs Branch, January 5, 1948, DIAND, File 701/1-1, Vol. 1.

³ Canada, Order in Council PC 188/1666, April 17, 1948.

Chipewyan Band of Fort McMurray, it is not possible to do so. The membership records of the Band were not affected until 1949, when 98 persons were transferred to the Edmonton Agency and the remaining 94 members became the Fort McKay Band.⁴ In 1951 the Department of Indian Affairs was still exploring the options for dividing the Band, including simultaneous resolutions requesting the split by the two groups making up the proposed new bands⁵ accompanied by individual elections from each head of family as to the band to which they wished to belong.⁶ There is no documentary confirmation that these suggestions were followed.

There is also confusion as to which (if either) of the Fort McKay or Fort McMurray Bands was the successor or continuation of the Cree-Chipewyan Band of Fort McMurray and which (if not both) of these entities was a new creation. Membership records from 1949 gave the impression that the Fort McKay Band was the successor to the earlier Band, as its members remained on the same payroll and retained their pre-1949 Band numbers.⁷ Correspondence from 1951, on the other hand, suggested that both Bands were new creations, referring to them collectively as the "proposed new Bands".⁸ Finally, land records implied that the Fort McKay Band was a new creation, since pre-existing Orders in Council for the Clearwater and Gregoire Lake Reserves remained in place, while

⁴ Annuity Paylist, Cree-Chipewyan Band of Fort McMurray and Fort McKay, June 7-9, 1949. DIAND, Genealogical Research Unit. In 1951, Cree-Chipewyan Band members residing at Fort MacKay completed and forwarded to Indian Affairs a petition asking that their band be known as the "Fort McKay Band." A note was placed on the petition in Ottawa that since they were already so identified in membership records, no action was necessary. DIAND, File 779/30-10/174, Vol. 1.

⁵ L. Brown, Reserves and Trusts to A. Leslie, Trusts and Annuities Division, February 7, 1951. PAC RG 10, Volume 10320, File 779/3-5, Part 4.

⁶ A. G. Leslie, Trusts and Annuities Division to J. W. Stewart, Indian Superintendent, Fort Chipewyan, March 19, 1951. Ibid.

⁷ Annuity Paylist, Cree-Chipewyan Band of Fort McMurray and Fort McKay, June 7-9, 1949. DIAND, Genealogical Research Unit.

⁸ Supra., note 6.

those for the Fort McKay, Namur Lake and Gardiner Lake Reserves were superseded by new Orders in Council setting them aside for the Fort McKay Band.⁹

Recent historical research has raised the possibility that some or all of the questions raised by the 1949 division of the Cree-Chipewyan Band of Fort McMurray may be moot. This research arose in the context of a claim filed by the Fort McMurray Band in March 1990 alleging that, based on their share of the 1949 population of the Cree-Chipewyan Band of Fort McMurray, they received a disproportionately small share of the common reserve land surveyed previously.¹⁰ Review of the claim by the federal government led to the conclusion that the Fort McMurray and Fort McKay Bands were distinct entities at the time reserves were surveyed for them in 1915 and that the later split of the Cree-Chipewyan Band simply formalized a pre-existing division. As a result of this conclusion, the claim of the Fort McMurray Band was validated on the basis of a shortfall in the amount of reserve land surveyed for it as a discrete entity in 1915,¹¹ since the location of the reserves surveyed in 1915 pre-determined the Band which would receive them when the Cree-Chipewyan Band was officially divided.

Two issues arise out of the federal response to the Fort McMurray Band's claim. The first is whether the groups which were later recognized as the Fort McKay and Fort McMurray Bands existed as distinct entities in 1915. If the answer to this first question is positive, the second issue is

⁹ Canada, Orders in Council PC 1954-660, 1954-661, 1954-662, May 6, 1954. Interestingly, the surrender of the mines and minerals had been accepted by Privy Council Order a week before they were set aside. Canada, Order in Council PC 1954-623, April 29, 1954.

¹⁰ The claim was initially styled as a surrender claim, relating to the loss of reserve land held in common by the Cree-Chipewyan Band of Fort McMurray. Specific Claims Status Report, November 1994.

¹¹ Ibid.

that of the division of the 1915 population of the Cree-Chipewyan Band between the two successor bands, which would allow the calculation of the land entitlement of each band in 1915. The comparison of this land entitlement to land received would not only address the issue of the validity of the Fort McMurray Band's claim but would provide one of the inputs in determining the validity of a treaty land entitlement claim filed by the Fort McKay Band¹² under the 1982 Specific Claims Policy¹³ and the research guidelines issued by the Office of Native Claims in 1983.¹⁴

B. METHODOLOGY

The focus of analysis herein is extremely specific, dealing with that time in June, July and early August of 1915 when reserves were surveyed for the Cree-Chipewyan Band of Fort McMurray.¹⁵ However, in studying this two month period, documents covering two centuries (1778 - 1992) have been consulted. The reasons for doing this are both philosophical and methodological. With regard to the former, the use of documents covering a broad range of time reflects the belief

¹² This analysis relates only to those persons paid as Cree-Chipewyan Band members in 1915 and those persons who received or should have received arrears for that year. Late adherents, landless transfers (including persons who were always living at Fort MacKay but who were not placed in Band membership until after 1915) are discussed in G. Neil Reddekopp, "Post 1915 Additions to the Membership of the Fort McKay Band," Report to the Indian Claims Commission, December 1994.

¹³ Outstanding Business: A Native Claims Policy (Ottawa: Queen's Printer, 1982).

¹⁴ "Office of Native Claims Historical Research Guidelines for Treaty Land Entitlement Claims," Office of Native Claims, May 1983.

¹⁵ The surveyor arrived at Fort McMurray on June 5, 1915 and conducted the surveys in the following order:

- 1) Fort MacKay, June 7 and 8;
- 2) Namur Lake and Namur River, June 12-22, July 1-5;
- 3) Clearwater River, July 19-23;
- 4) Gregoire Lake, July 26 - August 4.

Survey Diary for D. Robertson, 1915 Season, PAC, RG 10, Volume 4065, File 412,786-4.

that history is a continuum rather than a series of random events and that observations made both before and after 1915 can aid in reconstructing a picture of the situation in the year in question.

The methodological problem relates to the largely inverse relationship between the proximity of available documentation to the year 1915 and its value. Put another way, the central question of the residence of Cree-Chipewyan Band members immediately before and in 1915 could most convincingly be answered through contemporary documents, but these documents do not contain this information. Further, the information contained in these documents may actually distort rather than record the actual situation. For example, annuity payments were not made at Fort MacKay¹⁶ until 1916,¹⁷ and in earlier years annuity payments to residents of Fort MacKay were recorded at either Fort Chipewyan or Fort McMurray.

Indian Agency records, which provide valuable (though non-genealogical) information regarding the residence of components of the Cree-Chipewyan Band of Fort McMurray, are more useful after 1915 than before, likely reflecting the fact that, beginning in 1916, the Indian Agent visited the various locales frequented by Band members rather than compelling all Band members to meet with him at either Fort Chipewyan or Fort McMurray. Annuity paylists after 1915 contain more accurate information about residences, but they do not record names of family members other

¹⁶ There is considerable inconsistency regarding the use of "Fort McKay" and "Fort MacKay". The settlement located on the west bank of the Athabasca River (and the river which runs into the Athabasca at the same point) are named MacKay, while I.R. 174 on the east bank of the Athabasca River (and the local Indian Band) are named McKay. The former spelling appears to be more appropriate, since Fort MacKay was named after Doctor William Morrison MacKay, a surgeon (later chief trader) with the Hudson's Bay Company from 1864 to 1898. Eric J. Holmgren and Patricia M. Holmgren, Place Names in Alberta (Saskatoon: Western Produce Prairie Books, 1976), p. 102.

¹⁷ Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, June 5, 1916, DIAND, Genealogical Research Unit.

than the ticket holder until 1945.¹⁸ The most informative paylists are those for 1948¹⁹ and 1949,²⁰ which detail the division of the membership of the Cree-Chipewyan Band. Most of the members of the Band in 1948 - 1949 can be traced back to families which were members in 1915, and the Band which members joined in 1949 may provide some evidence as to the residence of their family in 1915. But the use of 1949 records to draw conclusions about residence in 1915 involves some uncertainty as to causation, not answering by itself the question of whether a reserve was surveyed at a precise location in 1915 because certain people lived there or these people moved there after 1915 because a reserve was there.

Early church records can also lead to inaccurate conclusions regarding residence if not used with caution. The Fort McMurray-Fort MacKay area was first visited by missionaries in 1853,²¹ but for over 60 years records of the sacraments administered during the visits of missionaries were contained in the registers of the parish church of the missionaries in Fort Chipewyan.²² A permanent mission was built at Fort McMurray in 1914,²³ and records of sacraments administered there date

¹⁸ Annuity Paylist, Cree-Chipewyan Band of Fort McMurray and Fort McKay, June 18 and 19, 1945. DIAND, Genealogical Research Unit.

¹⁹ Annuity Paylist, Cree-Chipewyan Band of Fort McMurray and Fort McKay, August 3 and 5, 1948. DIAND, Genealogical Research Unit.

²⁰ Annuity Paylist, Cree-Chipewyan Band of Fort McMurray and Fort McKay, June 7-9, 1949. DIAND, Genealogical Research Unit.

²¹ Father Maurice Beauregard, omi, "The Roman Catholic Church at Fort McMurray, Alberta" unpublished manuscript, [1979?] (copy at Provincial Archives of Alberta), p. 2.

²² The first missionary to pass over Methye Portage was Father Alexandre Tache, omi, in 1847. A site for a Catholic mission at Fort Chipewyan was selected in 1849 and the mission was built by 1851. The first resident priest was Father Henri Faraud, omi. Sister Archange J. Brady, sgm, A History of Fort Chipewyan: Alberta's Oldest Continuously Inhabited Settlement, (Athabasca: Gregorach Printing, 1983), p. 95.

²³ Supra, note 21.

from that time. Thus records of baptisms, marriages and burials which took place at Fort McMurray between 1853 and 1914 will be found in the parish records for Fort Chipewyan.

The situation at Fort MacKay is even more problematic. While the permanent mission at Fort MacKay actually predated that at Fort McMurray, being established in 1904,²⁴ there are no available independent records for the mission before 1949. Thus baptisms, marriages and burials conducted at Fort MacKay between 1853 and 1914 were registered in the parish register for Fort Chipewyan, while those conducted between 1914 and 1949 may be found either in the records of Fort Chipewyan or Fort McMurray.

Census records, while valuable for recording residence at the time the surveys are conducted, do not exist (at least on a nominal basis) for any of the years 1915. The most complete census records dated from an 1899 census conducted by the Royal North West Mounted Police in anticipation of the work of the Treaty Commissioner for Treaty 8.²⁵ The Dominion Census of 1901 excluded Treaty Indians from consideration, and thus listed only the 28 non-Indians resident at Fort McMurray.²⁶

Thus while the normal genealogical sources have been used judiciously, the attempt to establish the residence of the 1915 members of the Cree-Chipewyan Band of Fort McMurray has required a greater than usual reliance on non-genealogical records such as Indian Agency records

²⁴ Ibid.

²⁵ Census of Indians and Half-Breeds, Athabasca District, April 1899, PAC, RG 10, Volume 143S, File 76, part 2.

²⁶ Census of Canada, 1901, District 206 (Unorganized Territories) Sub-District A (Athabaska), Ward 6 (Fort Chipewyan and Fort McMurray), p. 8.

and correspondence, survey documents, homestead declarations, police reports and evidence from elders.

II. HISTORICAL BACKGROUND

A. GENERAL COMMENTS

An earlier paper dealing with a related topic has summarized the author's views regarding the extremely atomistic nature of the tribes which signed Treaty Number 8 at the time the Treaty was signed in 1899,²⁷ and a detailed analysis of the same issue will not be repeated here. It is sufficient to note that the "bands" which executed Treaty 8 lacked the social organization which characterized earlier signatories to earlier numbered treaties and were to a large extent artificial constructs created as an essential part of the treaty-making process. This fact was noted by the Treaty Commissioners themselves, who reported that "[n]one of the tribes appear to have any very definite organization."²⁸

In light of the above, the creation of the Cree-Chipewyan Band of Fort McMurray was particularly curious. Despite noting the importance of linguistic affiliation in differentiating between the groups met by them,²⁹ the Treaty Commissioners, as noted above,³⁰ signed an adhesion to Treaty Number 8 with a mixed Cree and Chipewyan Band represented by a Headman from each linguistic group. Thus the creation of this entity represented the combination of an artifice and an anomaly.

²⁷ Supra., note 12, pp. 1-5.

²⁸ Supra., note 1.

²⁹ Ibid.

³⁰ Ibid.

As a result, any attempt to comprehend the demographic reality of the Cree-Chipewyan Band of Fort McMurray in either 1899 or at the setting aside of reserves in 1915 must transcend the artificial world of the administrative records of the Department of Indian Affairs. As noted in the Introduction, this inquiry must of necessity consider evidence which pre-dates the signing of Treaty 8. The treaty-making process did not initiate contact between European and aboriginal society. Rather, it followed more than two centuries of indirect and one century of direct contact through the fur trade. Not only do documents associated with the fur trade era provide valuable information about the nature of the society met by the first Europeans to visit the Athabasca region, they detail the impact which the interaction between European and aboriginal society had on the development and organization of the latter, an impact which was even more extreme in the area covered by Treaty 8 than the corresponding contact in the more southerly parts of the Prairie Provinces. In his monumental work The Metis in the Canadian West Marcel Giraud described the almost complete reliance of woodland tribes on the fur trade,³¹ a dependence which was from the earliest contact such that when the Hudson's Bay Company wished to impose a severe punishment on the Beaver Indians of the upper Peace River area in response to the massacre of H.B.C. employees at Fort St. John in 1823, they inflicted considerable suffering on the Beaver not by taking any overtly aggressive action but by closing the trading post at Fort Dunvegan for three years.³² There is evidence that involvement in the fur trade affected not only the employment patterns and hunting-trapping areas of the population of the lower Athabasca, but even the membership of the Cree-Chipewyan Band and its successors.

³¹ Marcel Giraud, The Metis in the Canadian West, translated by George Woodcock (Edmonton; University of Alberta Press, 1986), volume 1, p. 41.

³² Ernest Voorhis, compiler, Historic Forts and Trading Posts of the French Regime and of the English Fur Trading Companies (Ottawa: Department of the Interior, 1930), p. 63.

B. THE FUR TRADE

Quite possibly the seminal event in the history of the Canadian fur trade, and certainly the development which allowed the industry to prosper into the nineteenth century took place in 1778, when Peter Pond crossed Methye Portage (or Portage La Loche), a 20 kilometre height of land separating the watersheds of Hudson's Bay and the Arctic Ocean. At the north end of the portage lay the headwaters of the Clearwater River. Pond descended the Clearwater to its confluence with the Athabasca and wintered on the Athabasca River between Fort MacKay and Lake Athabasca.³³

Pond was the first fur trader to bring trade groups directly to the Chipewyan Indians, and in return he received "thousands of the richest, darkest, silkiest beaver skins he had ever seen,"³⁴ with which he returned to eastern Canada in 1779. By the next year, Pond's success was the talk of the annual meeting of the partners of the Northwest Company at Grand Portage,³⁵ and those involved in the fur trade were quick to realize that Pond had reached what modern historians have described as "the continent's richest storehouse of quality furs."³⁶

It is impossible to overstate the importance of Pond's discovery. The wealth of the Athabasca region finally forced the Hudson's Bay Company from its century of lethargy huddled in forts on the shores of Hudson's and James Bays³⁷ and into more direct competition with the Northwest

³³ Marjorie Wilkins Campbell, The Northwest Company (Vancouver: Douglas and McIntyre, 1983), p. 9.

³⁴ Ibid.

³⁵ Ibid., p. 27.

³⁶ Peter C. Newman, Company of Adventurers (Toronto: Viking, 1985), p. 281.

³⁷ Supra., note 31, pp. 191-197.

Company, and the final struggle between the two companies was largely fought out in northern Alberta.³⁸ Among the most important consequences of these developments was the establishment of permanent European trading posts throughout the Athabasca region. In 1788, Fort Chipewyan became the first permanent European settlement in Alberta,³⁹ and in 1790 a post was constructed within the present boundaries of Fort McMurray on the left bank of the Athabasca opposite the mouth of the Clearwater.⁴⁰ At some point in the next dozen years the first post in the Fort MacKay area, Pierre au Calumet, was building on the west bank of the Athabasca River about 25 kilometres below Fort MacKay.⁴¹

The fervour with which the rival trading companies and the hunters and trappers trading with them went about their business quickly denuded the lower Athabasca valley of fur-bearing animals, and the fur trade moved on. Although Fort Chipewyan remained significant as the centre of a trading system which extended west along the Peace River and north along the Slave and Mackenzie Rivers,⁴² the Fort McMurray - Fort MacKay area declined in importance, at least from the point of view of direct trade. The posts at Fort McMurray and Pierre au Calumet were both abandoned by the late 1840s,⁴³ and one historian has suggested that the latter was closed as early as 1820.⁴⁴ A post

³⁸ Ibid., pp. 204-205.

³⁹ Supra., note 22, p. 28.

⁴⁰ Supra., note 32, p. 107.

⁴¹ Ibid., p. 137. Voorhis concluded that Pierre au Calumet was built the same time as Fort McMurray, but a more recent study estimated the construction date for Pierre au Calumet at 1802. D. J. Comfort, Meeting Place of Many Waters: A History of Fort McMurray (? : Comfort Enterprises, 1973), p. 36

⁴² Supra., note 31, p. 207.

⁴³ Supra., note 32, pp. 63, 137.

⁴⁴ John W. Chalmers, "A Century of the Fur Trade" in John W. Chalmers et al, The Land of Peter Pond. (Edmonton: Boreal Institute, 1979), p. 59.

was built at the confluence of the MacKay and Athabasca Rivers (the current site of Fort MacKay) about 1870,⁴⁵ but 1898 and 1913 R.N.W.M.P. patrol reports described the difficulties in hunting and trapping which persons trading at the post were encountering.⁴⁶

A post at Fort McMurray also re-opened in 1870, but its primary purpose was to act as transfer point for goods travelling back and forth over Methye Portage.⁴⁷ Within 15 years, Methye Portage had largely passed into history as the Hudson's Bay Company had put into place a new method of transporting trade goods and furs to the Athabasca region. The route followed the Saskatchewan River system to Edmonton overland to Athabasca Landing and down the Athabasca by steamboat.⁴⁸ But Fort McMurray did not decline with Methye Portage, for it still fulfilled a vital role as a portage point around impassable rapids on the Athabasca just above the post, where goods were transported overland back and forth between steamboats operating north and south of the post.⁴⁹

Both the decline in direct trade and the shift in the function of the post at Fort McMurray had effects on the demography of the lower Athabasca River area. The thinning of the fur-bearing population led residents of the Fort MacKay area to expand their hunting and trapping activities beyond their land of traditional use. Elders have recounted how, by the early twentieth century, hunting and trapping had reached far beyond the traditional lands at Namur Lake to the Lake Claire

⁴⁵ Supra., note 32, pp. 131-132.

⁴⁶ Canada, Parliament, "Annual Report of the R.N.W.M.P. - 1897 - Sessional Papers (Commons) 1898, p. 160.

⁴⁷ Supra., note 44.

⁴⁸ Peter C. Newman, Merchant Princes, (Toronto: Viking, 1991), p. 182.

⁴⁹ Ibid.

area near Lake Athabasca.⁵⁰ This brought persons trading at Fort MacKay into closer contact with groups trading at Fort Chipewyan and Little Red River.

The incorporation of Fort McMurray into the H.B.C. transportation system provided the population residing there with a separate set of interactions. The most important of these was with the population of Portage La Loche at the south end of Methye Portage. This contact was sufficiently strong that it continued well into the twentieth century, long after the decline of Methye Portage as an important transport route. There was considerable movement of people and intermarriage between the two groups, and until the La Loche Band was officially constituted in 1923, persons who became its members were referred to as Fort McMurray Band members and Fort McMurray "Stragglers" living at Portage La Loche.⁵¹ Contacts from even farther away were also seen, as some of the original members of the Cree-Chipewyan Band of Fort McMurray appear to have moved to the area from the Lesser Slave Lake area, central Saskatchewan and even Red River and married into local families.⁵²

⁵⁰ Fort McKay First Nations, There is Still Survival Out There (Edmonton: Canada-Alberta Partnership Agreement in Forestry, 1994), pp. 19-20.

⁵¹ The first payroll for the La Loche Band was in 1909, and it referred to the "Stragglers of McMurray paid at Portage La Loche." Annuity Paylist, Stragglers of McMurray paid at Portage La Loche, July 12, 1909. DIAND, Genealogical Research Unit. Persons previously paid as part of the Cree-Chipewyan Band of Fort McMurray first appeared in 1910, bringing with them the ticket numbers under which they had been paid earlier. Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, July 12, 1909, Annuity Paylist, Fort McMurray Band paid at Portage La Loche, July 12, 1910. DIAND, Genealogical Research Unit. For the relationship between the Fort McMurray Band and Portage La Loche and the eventual creation of the La Loche Band, see PAC, RG 10, Volume 6912, File 671/28-3, Parts 2 and 3.

⁵² These families are discussed in more detail in Section II, E below.

C. POPULATION ESTIMATES

Because the relationship between Europeans and the aboriginal population of the Fort McMurray area was primarily a commercial one, it is not surprising that some early population estimates only make reference to the number of hunters in the area, rather than the entire population.

Thus in the early 1870s, the Hudson's Bay Company noted that 16 hunters and their families traded at Fort McMurray,⁵³ a figure which was increased to a figure of 40 hunters in an estimate given to the Department of Indian Affairs in 1891.⁵⁴

Population estimates made by missionaries did attempt to take into account the families of hunters. Thus an 1873 Anglican census estimated the population at 74,⁵⁵ while an 1881 census from the same source raised the estimate to 111.⁵⁶

As noted in the Introduction, a census was conducted by the R.N.W.M.P. in early 1899 in anticipation of the Treaty Commission of that year. Visiting both Fort MacKay and Fort McMurray, they compiled a family by family census of 106 persons.⁵⁷ However, the completeness of this census was brought into question when 132 persons adhered to Treaty 8⁵⁸ and 18 persons received

⁵³ Henry John Moberly, When Fur Was King (New York: L. P. Dutton, 1929), p. 148.

⁵⁴ Memorandum of Proposed Treaty With Northern Indians, nd [1891?]. PAC, RG 10, Volume 3848, File 75,236-1.

⁵⁵ Census of the Population of the Athabasca District in 1873 (excluding Hudson's Bay Company employees and their families). PAA 70.387, Item A245/1.

⁵⁶ Census of Athabasca Indians 1881. Ibid, Item A245/3.

⁵⁷ Supra., note 25.

⁵⁸ Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, August 4, 1899. DIAND, Genealogical Research Unit.

scrip at Fort McMurray in August 1899.⁵⁹ Another 47 persons entered treaty in 1900, but this included not only persons from Fort McMurray and Fort MacKay but also from Portage La Loche and Bohn Lake (Janvier).⁶⁰

Most of the early population estimates noted that the population of the Fort McMurray - Fort MacKay area was made up both of Crees and Chipewyans. The reference made by the Hudson's Bay Company in 1870 indicated that some of the hunters trading at Fort McMurray were Cree and the others Chipewyan, but gave no more details.⁶¹ The Anglican censuses of 1873 and 1881 also distinguished between Chipewyans and Crees, in both cases indicating a majority of the former in a ratio of approximately 4:3.⁶² The R.N.W.M.P. census of 1899 made no tribal distinction, but indicated a slightly larger population at Fort MacKay than Fort McMurray,⁶³ the former of which was described by the R.N.W.M.P. in 1898 as a Chipewyan settlement.⁶⁴

D. DISTRIBUTION OF POPULATION

Both contemporary documents and the evidence of elders suggest that, for the most part, the Crees and Chipewyans of the Fort McMurray - Fort MacKay area lived in locations geographically

⁵⁹ James Walker and J. Arthur Cote to the Honourable Clifford Sifton, September 29, 1899. PAC, RG 15, Volume 760, file 504,454.

⁶⁰ Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, August 10, 1900, Annuity Paylist, Stragglers paid at Fort McMurray, August 10, 1900, DIAND, Genealogical Research Unit.

⁶¹ Supra., note 53.

⁶² Supra., notes 55 and 56.

⁶³ Supra., note 25.

⁶⁴ Canada Parliament, Annual Report of the R.N.W.M.P. 1897 Sessional Papers (Commons) 1898, p. 160.

distinct from each other. As noted above,⁶⁵ the R.N.W.M.P. described the residents of Fort MacKay as Chipewyan, and 22 of the 30 Indians at Fort McMurray in the 1899 census were identified by the surname "Cree."⁶⁶ Fort MacKay elders have described their traditional lands as surrounding Namur and Gardiner Lakes,⁶⁷ while evidence from Fort McMurray has placed their traditional lands between the Clearwater River and the Hangingstone area southwest of the current Gregoire Lake Reserves.⁶⁸ Several members of the Cree-Chipewyan Band of Fort McMurray had built homes and planted gardens at Fort MacKay,⁶⁹ while others had settled and made improvements on lands at the current Clearwater River⁷⁰ and Gregoire Lake Reserves.⁷¹

The most complete picture of residence patterns in the early twentieth century are found in a number of reports of R.N.W.M.P. patrols. The 1898 patrol to Fort MacKay has already been noted,⁷² and the most informative of the reports covering the area south of Fort McMurray detailed a patrol from Lac La Biche to Fort McMurray in January 1910. The patrol encountered 25 persons (described as Chipewyans) at the north end of Winefred (Big Jackfish) Lake, 40 persons (also described as Chipewyans) at Bohn (Weson's) Lake, eight persons at George's (Cheecham's) Lake and 30 persons at Gregoire (Red Willow) Lake, and estimated that about 30 Indians resided at Fort

⁶⁵ Ibid.

⁶⁶ Supra., note 25.

⁶⁷ Supra., note 50, pp. 61-121 passim; Interviews with Adam Boucher and Chief Philip McDonald, TARR, 1974.

⁶⁸ Dwayne Desjarlais et al, Traditional Land Use and Occupancy Study, Anzac, Gregoire Lake Reserve and Fort McMurray (Fort McMurray: Athabasca Native Development Corporation, 1993), pp. 14-18.

⁶⁹ Ante., Section III B.

⁷⁰ Ante., Section III D.

⁷¹ Ante., Section III E.

⁷² Supra., note 64.

McMurray.⁷³ Another report from March 1914 lowered the estimate of persons at George's Lake from three families to one.⁷⁴

In 1914 the Department of Indian Affairs made their first explicit division of the Cree-Chipewyan Band by linguistic group and residence. Based on the report of the 1914 annuity payment, the Department estimated that 22 Cree families comprising approximately 55 persons resided at and desired a reserve at Gregoire Lake and 15 Chipewyan families consisting of about 60 persons wished a reserve at Namur (Moose) Lake. The Department identified a third group of 30 persons (17 families) who desired a reserve on the Gregoire River (Janvier Creek) near its confluence with the Christina (Pembina) River.⁷⁵

E. COMPOSITION OF POPULATION

The segment of the Cree-Chipewyan population which resided at and north of Fort MacKay consisted primarily of two families, the Bouchers and the Piches. The Bouchers were represented by five brothers (Louison, Adam, Joseph, Louis and Maurice) who in 1899 likely ranged in age from their early thirties to their mid-fifties.⁷⁶ Current elders among their descendants have repeated the

⁷³ Report on Patrol from Athabasca to Fort McMurray via Lac La Biche, January 29, 1910, PAC, RG 18, Volume 1643, File 125 pt. 1.

⁷⁴ Report on Patrol from Fort McMurray to Willow and Cheecham's Lake, March 10, 1914. PAC, RG 18, Volume 1753, File 130/20.

⁷⁵ H. J. Bury to Mr. Bray, November 11, 1914, PAC, RG 10, file 27134-1.

⁷⁶ The relationship among Joseph, Louis and Maurice can be established through baptismal records. *Registre des Baptêmes de la Paroisse de la Nativité de Marie, Fort Chipewyan 1847-1882* (copy in the Archives of La Société Historique et Généalogique de Smoky River, Donnelly, Alberta), entries September 25, 1853, May 26, 1861, May 29, 1864. The marriage of Louison establishes the same parentage as Joseph, Louis and Maurice. *Registre des Mariages de la Paroisse de la Nativité de Marie, Fort Chipewyan 1847-1986* (copy in the Archives of La Société Historique et Généalogique de Smoky River, Donnelly, Alberta), entry, June 5, 1865. The

tradition that one or more of the brothers emigrated from Montreal.⁷⁷ While it appears that all of the Boucher brothers were country born, the source of the story about eastern Canadian origin may be one or two generations earlier, as a Joseph Bouché was an interpreter for the Hudson's Bay Company at Fort Chipewyan in 1820.⁷⁸ The Piché family consisted of Charlot Piché, his adult children and their families.⁷⁹ Both of these families had strong links to families residing in the Fort Chipewyan area, as Charlot Piché and one of the elder Boucher brothers were brothers-in-law, each being married to a member of the prominent Martin family of Fort Chipewyan.⁸⁰

That portion of the Cree-Chipewyan Band residing east and south of Fort McMurray was more diverse. Among the significant families were the Crees, who were concentrated near the Clearwater River,⁸¹ and the Cheechams, who lived at George's Lake, which in the earlier twentieth century was identified by the family's name.⁸² These two families appear to have been related to

relationship of Adam Boucher to the others is established by the fact that a daughter of Joseph's was paid on Adam's Treaty ticket for a number of years, being referred to as a niece. *Ibid.*, entry July 2, 1905; *Supra.*, note 1; Annuity Paylist, Chipewyan Band of Fort Chipewyan, June 23, 1905, DIAND, Genealogical Research Unit.

⁷⁷ *Supra.*, note 50, pp. 64, 106.

⁷⁸ Peter C. Newman, *Caesars of the Wilderness* (Toronto: Viking, 1987), p. 200.

⁷⁹ *Supra.*, note 25.

⁸⁰ Charlot Piche's first wife was Josephte Martin. *Registre des Mariages de la Paroisse de la Nativité de Marie*, *Supra.*, note 76, entry, May 26, 1862. Louison Boucher was married to Josephte's sister Marie Martin. *Ibid.*, entry June 5, 1865. Josephte and Marie's brother Justin was Number 1 and the first Chief of the Fort Chipewyan Cree Band. *Ibid.*, entry, September 3, 1857. Annuity Paylist, Fort Chipewyan Cree Band, July 14, 1899. DIAND, Genealogical Research Unit.

⁸¹ Affidavits of Raphael Cree, Leo Cheecham, Mary Cree, Maggie White, Eva Cree, Alex Cheecham, Jean Powder, Joe Cree, Johnny Cree, Elmer Cree, James Donovan, February 8, 1992. DIAND, File E 5673/06721, Volume 1.

⁸² *Supra.*, note 73.

each other,⁸³ and although the precise nature of this relationship has not been ascertained, it was not so close as to preclude intermarriage between the families.⁸⁴

Residing near the current reserves at Gregoire Lake were the Blacks⁸⁵ and Hainaults.⁸⁶ Gregoire Hainault, the head of the latter family, may have been born at Red River,⁸⁷ but he was related to the Cree family by marriage.⁸⁸ Other original members of the Fort McMurray Cree-Chipewyan Band who appear to have been born elsewhere and married into families from the area were Joseph Milton (or Auger) and Joseph Makwainish, described by elders as natives of Grouard⁸⁹ and central Saskatchewan respectively.⁹⁰

⁸³ At the time of his 1903 marriage, Alexis Cree, Number 4 of the Cree-Chipewyan Band, was named in the parish register as Alexis Tchitcham, Registre des Mariages de la Paroisse de la Nativité de Marie, Fort Chipewyan 1847-1986 (copy in the archives of La Société Historique et Généalogique de Smoky River, Donnelly, Alberta), entry, August 9, 1903.

⁸⁴ Members of the Cheecham and Cree families (children of Numbers 32 and 53 respectively) married in 1933. Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, July 28, 1933. DIAND, Genealogical Research Unit.

⁸⁵ Supra., note 73.

⁸⁶ J. A. Macrae, Inspector of Indian Agencies to Secretary, Department of Indian Affairs, November 16, 1900, PAC, RG 10, Volue 7777, File 27131-1.

⁸⁷ Charles A. Denney Papers, Glenbow Alberta Archives, File 92.001.

⁸⁸ Ibid.

⁸⁹ Interview, Joseph Cheechum, TARR, 1974.

⁹⁰ Ibid.

III. SURVEY AND CONFIRMATION OF RESERVES

A. GENERAL

As early as 1912 the influx of white settlers was creating a situation in which the need to set aside reserve land was presenting itself. Between 40 and 50 settlers had moved into the district, and a Dominion Survey party was surveying six townships in the vicinity of Fort McMurray. At the time of the 1912 annuity payment, the Indian Agent and the Inspector for Treaty 8 encouraged the Cree-Chipewyan Band to select reserve land. The Band refrained from making any immediate selections, but sought assurances, which were given, that they would be able to retain the land on which their residences were situated.⁹¹ The Band was similarly unable to reach a consensus with regard to land selections in 1913.⁹²

In early 1914 the Department of the Interior advised the Department of Indian Affairs as to the extent of their survey plans for 1914. Of particular interest to Indian Affairs was the plan to extend the township survey north along the Athabasca River to within five kilometres of Fort MacKay.⁹³ The Inspector for Treaty 8 was given instructions to consult with the Cree-Chipewyan Band as to the selection of reserve land,⁹⁴ and this resulted in the selections described above.⁹⁵

⁹¹ Report on Patrol from Smith Landing to Athabasca Landing, June 26, 1912, PAC, RG 18, Volume 1676, file 130.

⁹² Report on the Affairs of Treaty No. 8 for the Year 1914, October 7, 1914. Supra., note 75.

⁹³ Surveyor General to J. D. McLean, Assistant Deputy and Secretary, Department of Indian Affairs, March 30, 1914.

⁹⁴ J. D. McLean, Deputy Superintendent General of Indian Affairs to H. A. Conroy, Inspector, Indian Affairs, April 4, 1914, Supra., note 75.

⁹⁵ Supra., note 75.

The delay in selecting reserve land caused considerable problems. In 1912, although substantial surveying had been completed, no lands had been opened for homestead entry. This was done in the spring of 1913,⁹⁶ and by the winter of 1914 - 1915 confrontations were reported between Indians and settlers over competing claims to land.⁹⁷

On April 27, 1915, Donald Robertson, DLS, was instructed to survey the three reserves for the Cree-Chipewyan Band, and he was referred to the previous correspondence regarding the lands selected.⁹⁸ It had been suggested earlier that the surveyor undertake "direct conference" with the Band prior to laying out the reserves.⁹⁹ Robertson arrived at Fort McMurray on June 5, 1915, five days prior to the scheduled date for the payment of annuities. Unfortunately, he learned on his arrival that annuities had been paid on May 31, and that all three groups seeking reserve land had left Fort McMurray.¹⁰⁰

Robertson made arrangements to meet with Band members at Gregoire Lake and the Clearwater River, but was advised by the Inspector that the Indians desiring a reserve at Namur Lake had deputed to their headman the authority to direct the survey of their reserve. Robertson expressed great disappointment at this, and expressly stated that he would not accept responsibility for any representation that the Namur Lake Reserves reflected the wishes of the members of the Band who

⁹⁶ Report on Patrol from Fort Chipewyan to Fort McMurray, January 25, 1913. PAC, RG 18, Volume 1717, File 130 pt. 1.

⁹⁷ Chief Surveyor to Mr. Scott, February 25, 1915, Supra., note 75. Report on Dominion Hay Permits issued in the Fort McMurray District November 21, 1914. PAC, RG 18, Volume 1749, file 73.

⁹⁸ J. D. McLean, Assistant Deputy Minister and Secretary to D. Robertson, DLS, Department of Indian Affairs, April 27, 1915. Supra., note 15.

⁹⁹ Supra., note 97.

¹⁰⁰ Donald Robertson DLS to Secretary, Department of Indian Affairs, January 7, 1916. Supra., note 4.

had indicated a desire to reside there.¹⁰¹ Ironically, the Namur Lake Reserves were the only ones surveyed in 1915 about which no contemporary controversy arose.

B. FORT MCKAY I.R. 174

Robertson first travelled down the Athabasca River to Fort MacKay intending to proceed overland from there to Namur Lake. When he reached MacKay Settlement, he was surprised to learn that Cree-Chipewyan Band members desired reserve land at Fort MacKay, both along the Athabasca River and around their homes in the settlement. Accordingly, Robertson surveyed 257 acres of reserve land on the right bank of the Athabasca near the settlement,¹⁰² and attempted to locate nine houses in the settlement within the proposed reserve.¹⁰³ In doing so, he brought the Department of Indian Affairs into a position of direct confrontation with the Department of the Interior.

It is often assumed that the only interests recognized by Canada at the time Treaty 8 was signed were those based on complete or partial aboriginal ancestry. While this is true with regard to those persons who shared in the benefits of treaty or the distribution of scrip, other interests, based on prior occupation rather than aboriginal ancestry were recognized and protected.

¹⁰¹ Ibid.

¹⁰² Ibid.

¹⁰³ Ibid.

The most important of these rights was that to a free grant of land in a quantity of up to 160 acres if that land was occupied by an individual at the time Treaty 8 was signed.¹⁰⁴ This right was not restricted to persons of any one ancestry (although individual Indians could not take advantage of it),¹⁰⁵ and, for persons of mixed ancestry, it was available in addition to and not in place of the scrip program.¹⁰⁶ Most of the successful claims to free grants were filed with regard to lands in or adjacent to pre-existing settlements, and were made by fur traders (both the Hudson's Bay Company and "free traders" in competition with them), Catholic and Protestant missionaries, and persons who had made improvements such as houses or gardens to individual parcels of land.¹⁰⁷

While the right to a free grant of land arose in 1899, it was not exercisable in the absence of a survey of the relevant lands, and, in the early years of the twentieth century settlements were surveyed into lots long before adjacent unsettled areas were surveyed into sections.¹⁰⁸ Such was the case at Fort MacKay, where although the township survey had not reached the area in 1915, the settlement had been surveyed into lots in the fall of 1911.¹⁰⁹ Surveyors were authorized to accept declarations from persons claiming the right to a free grant, and several of these were made at Fort

¹⁰⁴ Charles Mair, Through the Mackenzie Basin: A Narrative of the Athabasca and Peace River Treaty Expedition of 1899 (Toronto: William Briggs, 1908), p. 59.

¹⁰⁵ Mr. Bray to D. C. Scott, Deputy Superintendent General, Department of Indian Affairs, November 26, 1913. Supra., note 86.

¹⁰⁶ Supra., note 104.

¹⁰⁷ Schedule of Land Declarations Taken by the Half Breed Commissioners in the District of Athabasca, September 30, 1899. PAC, Rg 15, Volume 771, File 518 158.

¹⁰⁸ At Grouard, Wabasca and Peace River, the settlement surveys preceded the township surveys by a decade or more.

¹⁰⁹ N. O. Cote, Controller, Land Patents Branch, Department of the Interior to J. D. McLean, Assistant Deputy and Secretary, Department of Indian Affairs, November 13, 1915. Supra., note 4.

MacKay regarding the same lots on which Robertson identified Indian houses (or other interests) in 1915.¹¹⁰

Robertson discovered that the survey of 1911 had included houses belonging to Cree-Chipewyan Band members in Lots 5, 7, 9 and 10 of MacKay Settlement and an Indian graveyard in Lot 4.¹¹¹ The competing claim to one of these lots was made not by an individual but by a body corporate. The Hudson's Bay Company post was located on Lot 5, and the 1911 survey included within the boundaries of the lot two houses (one with a warehouse) with gardens. The owner of one house was not identified by Robertson, but the property which included a house, warehouse and garden was owned by Adam Boucher, described by Robertson as "Chief"¹¹² and the individual who signed Treaty 8 on behalf of the Chipewyan segment of the Cree-Chipewyan Band of Fort McMurray.¹¹³ Based on Robertson's own observations regarding the age of the buildings on the lot and the evidence of Adam Boucher himself (which was corroborated by a long-time Hudson's Bay Company employee), the surveyor concluded that Boucher residence on the property pre-dated not only Treaty 8 but the construction of the H.B.C. post. Chief Boucher indicated that the survey of 1911 had not taken into consideration an agreement reached between the H.B.C. and himself to divide the property between them.¹¹⁴

¹¹⁰ Supra., note 100.

¹¹¹ Donald Robertson to Mr. Bray, December 23, 1899. Supra., note 4.

¹¹² Ibid.

¹¹³ Supra., note 1.

¹¹⁴ Supra., note 111.

No living members of the Cree-Chipewyan Band asserted an interest in Lot 4, but Robertson noted that the lot, which extended westward from the river bank, had been surveyed with a west boundary such that it encompassed an Indian graveyard.¹¹⁵

Robertson found that most of the river frontage on Lot 7 was taken up by houses and gardens belonging to brothers Joseph and Maurice Boucher and the widow of their deceased brother Louison Boucher. Robertson gave no estimate of the precise length of their occupation but indicated that it had been ongoing "for a considerable time."¹¹⁶ The competing claim to Lot 7, made by Jonas Tourangeau, was based on occupation since 1898, construction of a house and breaking and cropping one acre.¹¹⁷ Tourangeau was no stranger to the Cree-Chipewyan Band members living at Fort MacKay. His wife Isabelle was the daughter of Charlot Piché,¹¹⁸ and although Jonas, Isabelle and their children shared in the distribution of scrip which accompanied the signing of Treaty 8,¹¹⁹ one of these children (Louis) was married to Adeline Boucher, a daughter of Maurice Boucher,¹²⁰ and, although this marriage took place in 1913, Adeline retained her status until 1917.¹²¹

¹¹⁵ Ibid.

¹¹⁶ Ibid.

¹¹⁷ Statutory Declaration, October 12, 1911. Supra., note 4.

¹¹⁸ Supra., note 83, entry, June 3, 1889.

¹¹⁹ Scrip Applications, 423 and 431, August 7, 1899. PAC, RG 15, Volume 1369.

¹²⁰ Supra., note 83, entry, August 11, 1913.

¹²¹ Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, June 11-13, 1917. DIAND, Genealogical Research Unit.

One Indian house was found on lot 9, belonging to Francois Boucher, the son of Joseph Boucher.¹²² Robertson provided no further information about the length of Boucher's occupation of the property, but later documents dated this from 1899.¹²³ In 1911 a competing application had been made by an individual identified on his declaration as Joseph Robierre,¹²⁴ but who was likely Joseph Robillard, the step-son of Elzear Robillard, who had claimed Lot 4.¹²⁵ Joseph was the brother-in-law of Francois Boucher, being married to the latter's sister Rosalie,¹²⁶ and in 1915 Rosalie was still a member of the Cree-Chipewyan Band.¹²⁷ Robillard's claim was based on occupation since 1896,¹²⁸ construction of a house and the breaking and cropping of one half of an acre.¹²⁹

Robertson identified as Indian houses on Lot 10 structures built by Adam Boucher and St. Pierre McKay, the son-in-law of the late Louison Blucher. He was unable to identify Isidore Simpson, the owner of the third house, as a member of the Cree-Chipewyan Band,¹³⁰ but in fact he

¹²² Supra., note 111.

¹²³ In 1922, the Department of the Interior advised the Department of Indian Affairs that Francois Boucher had occupied Lot 9 for 22 years before abandoning it in the fall of 1921. N. O. Cote, Controller, Land Patents Branch, Department of the Interior to J. D. McLean, Assistant Deputy and Secretary, Department of Indian Affairs, November 10, 1922. Supra., note 4.

¹²⁴ Statutory Declaration, October 11, 1911. Supra., note 4.

¹²⁵ Statutory Declaration, November 27, 1911. Ibid.

¹²⁶ Supra., note 83, entry, June 6, 1909.

¹²⁷ Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, June 2, 1915. DIAND, Genealogical Research Unit.

¹²⁸ Based on the biographical data provided in the application for scrip made on Joseph's behalf by his step-father in 1900, Joseph was eleven years old in 1896. Scrip Application 2429, October 1, 1900. PAC, RG 15, Volume 1370.

¹²⁹ Supra., note 124.

¹³⁰ Supra., note 111.

was, being the grandson of the late Louison Boucher.¹³¹ A 1911 claim to the same lot had been made by Jean Benoit, alleging occupation of the property since 1899, construction of two houses, and cultivation of one acre.¹³² Benoit was an original member of the Chipewyan Band of Fort Chipewyan, but he returned his 1899 annuity and gratuity (which had been collected in his absence by his brother-in-law),¹³³ gained his discharge from treaty,¹³⁴ and applied for scrip.¹³⁵ His application was held in abeyance for a decade, but in 1911 scrip was issued to Jean Benoit, his wife and their daughter Marie Couronne Benoit.¹³⁶ It was through this daughter that Benoit was linked to the Cree-Chipewyan Band, since Marie Couronne married Isidore Simpson in 1909.¹³⁷

As soon as Robertson became aware of the conflicting claims, he telegraphed Ottawa for instructions regarding what action to take to protect the interest of Cree-Chipewyan Band members in Lots 5, 6, 7, 9 and 10 of MacKay Settlement.¹³⁸ Robertson's reason for including Lot 6 was not stated, nor was the exclusion of Lot 4 explained. Indian Affairs immediately contacted the Department of the Interior, requesting that the applications for free grants be held in abeyance until

¹³¹ Isidore did not receive his own number until 1916. He was the son of Louison's daughter Catherine, but was paid after the deaths of his mother and grandfather on the ticket of his uncle, Louis Boucher. *Supra.*, note 17.

¹³² Statutory Declaration, October 7, 1911. *Supra.*, note 4.

¹³³ Statutory Declaration, February 28, 1910. PAC, RG 15, Volume 1015, File 1,572,368.

¹³⁴ Certified list of persons who have been discharged from Indian Treaty No. 8 under Section 1, Chapter 72, 51 Victoria during the year 1900, n.d. *Ibid.*

¹³⁵ Scrip Applications of Jean Benoit and Marie Rose Benoit, August 6, 1900. *Ibid.*

¹³⁶ L. Pereira, Assistant Secretary, Department of the Interior to Jean Benoit, January 4, 1911. *Ibid.*

¹³⁷ *Supra.*, note 83, entry, January 6, 1909.

¹³⁸ Donald F. Robertson to J. D. McLean, Assistant Deputy and Secretary, Department of Indian Affairs, July 11, 1915. *Supra.*, note 4.

Indian Affairs had more information about which portions of the lots were required as reserves.¹³⁹ The Department of the Interior responded that the Hudson's Bay Company's claim and those made by individuals in 1911 would be processed in the normal manner, and as a result the lots in question were unavailable for selection by Indian Affairs.¹⁴⁰ This response prompted a reply from Indian Affairs that the declarations made in 1911 may have been taken "without any regard to the prior claims of the Indians" and a repetition of the request that the lots be held until the claims of the Indians had been investigated.¹⁴¹

The actions of Robertson and the Department of Indian Affairs were at variance with the usual instructions to surveyors and policy of Indian Affairs, which was to exclude from reserve land claims made by third parties.¹⁴² But they appear to have been motivated with regard to the Fort MacKay lots by the evidence of occupation by Cree-Chipewyan Band members which antedated that of rival claimants and the fact that this occupation was ignored in previous surveys, actions which struck Robertson as being "highhanded and unnecessary."¹⁴³

¹³⁹ J. D. McLean, Assistant Deputy and Secretary, Department of Indian Affairs to N. O. Cote, Land Patents Branch, Department of the Interior, July 14, 1915. Ibid.

¹⁴⁰ N. O. Cote, Controller, Land Patents Branch, Department of the Interior to J. D. McLean, Assistant Deputy and Secretary, Department of Indian Affairs, August 6, 1915. Ibid.

¹⁴¹ J. D. McLean, Assistant Deputy and Secretary, Department of Indian Affairs to N. O. Cote, Controller, Land Patents Branch, Department of the Interior, August 17, 1915. Ibid.

¹⁴² J. D. McLean, Assistant Deputy and Secretary, Department of Indian Affairs to W. Donald, Indian Agent, Grouard, Alberta, July 7, 1914. PAC, RG 10, Volume 7777, File 27131-5.

¹⁴³ Supra., note 111.

After receiving a detailed report from Robertson (which correctly described the lots in question as being 4, 5, 7, 9 and 10),¹⁴⁴ the Department of Indian Affairs forwarded the report to the Department of the Interior on January 8, 1916 together with a request that the five lots be set aside as a reserve for the "McKay Indians."¹⁴⁵ A lack of action by the Department of the Interior is evidenced by follow-up letters on March 6, 1916,¹⁴⁶ February 5, 1920,¹⁴⁷ January 3, 1921¹⁴⁸ and September 6, 1922¹⁴⁹ inquiring about a response to the original request.

The success of the Department of Indian Affairs in protecting the interests of Cree-Chipewyan Band members varied from lot to lot. They had their most success with regard to Lot 4, where the graveyard at the west end of the lot was surveyed out and set aside separately¹⁵⁰ before title to the remainder of the lot was issued to the heirs of the original 1911 applicant.¹⁵¹ They were less successful with regard to Lot 5, where the final result fell short of fee simple title or reserve status. However, after the local Indian Agent recommended that that portion of Lot 5 occupied by Adam Boucher be reserved for Indian residences notwithstanding Adam's death on the ground that

¹⁴⁴ Ibid.

¹⁴⁵ J. D. McLean, Assistant Deputy and Secretary, Department of Indian Affairs to Secretary, Department of the Interior, January 8, 1916. Supra., note 4.

¹⁴⁶ J. D. McLean, Assistant Deputy and Secretary, Department of Indian Affairs to Secretary, Department of the Interior, March 6, 1916. Ibid.

¹⁴⁷ J. D. McLean, Assistant Deputy and Secretary, Department of Indian Affairs to Secretary, Department of the Interior, February 5, 1920. Ibid.

¹⁴⁸ J. D. McLean, Assistant Deputy and Secretary, Department of Indian Affairs to Secretary, Department of the Interior, January 3, 1921. Ibid.

¹⁴⁹ A. F. MacKenzie, [for] Assistant Deputy and Secretary, Department of Indian Affairs to Secretary, Department of the Interior, September 6, 1922. Ibid.

¹⁵⁰ N. O. Cote, Controller, Land Patents Branch, Department of the Interior, to Assistant Deputy and Secretary, Department of Indian Affairs, October 28, 1922. Ibid.

¹⁵¹ N. O. Cote, Controller, Land Patents Branch, Department of the Interior, to Joseph Robillard, November 3, 1922. PAA 7432, File 2,618,122.

virtually all of the surviving members of the "Fort McKay Band" were members of the Boucher family and therefore heirs of Adam,¹⁵² the Department of the Interior did make the requested notation in its records.¹⁵³

The Department of Indian Affairs also had partial and temporary success with regard to Lot 9, as the Department of the Interior refrained for a number of years from dealing with the portion of the lot on which Francois Boucher house was located. It was clear from the standpoint of the Department of the Interior that the rights protected were those of Francois Boucher personally, and that these would not survive his occupation of the property, as the Controller of the Land Patents Branch wrote Indian Affairs in November relaying information that Boucher had abandoned the lot and requesting advice as to whether Indian Affairs still required the property.¹⁵⁴ The Indian Agent was asked to look into the question,¹⁵⁵ and the next year relayed confirmation from the Royal Canadian Mounted Police that Francois Boucher had abandoned Lot 9 and had taken up residence elsewhere in Fort MacKay¹⁵⁶ (subsequently identified as Lot 7).¹⁵⁷ Accordingly, the Assistant Deputy and Secretary of Indian Affairs advised the Department of the Interior on October 24, 1923 that the Department of Indian Affairs no longer required any portion of Lot 9.¹⁵⁸

¹⁵² G. Card, Indian Agent to Assistant Deputy and Secretary, Department of Indian Affairs, December 28, 1922. Supra., note 4.

¹⁵³ N. O. Cote, Controller, Land Patents Branch, Department of the Interior, to J. D. McLean, Assistant Deputy and Secretary, Department of Indian Affairs, December 10, 1923. Supra., note 4.

¹⁵⁴ Supra., note 123.

¹⁵⁵ A. F. MacKenzie, [for] Assistant Deputy and Secretary, Department of Indian Affairs to Rev. G. Card, Indian Agent, July 30, 1923. Supra., note 4.

¹⁵⁶ Sergeant Clifford, R.C.M.P., Fort McMurray to G. Card, Indian Agent, September 5, 1923. Ibid.

¹⁵⁷ Sergeant Clifford, R.C.M.P., Fort McMurray to G. Card, Indian Agent, December 8, 1923. Ibid.

¹⁵⁸ J. D. McLean, Assistant Deputy and Secretary, Department of Indian Affairs to N. O. Cote, Controller, Land

The interests of Cree-Chipewyan Band members in Lots 7 and 10 were protected in a manner which was more long-term, if still partial. On November 25, 1922 the Department of the Interior advised Indian Affairs that a portion of Lot 7 would be reserved for unnamed individual Indians "during their occupancy thereof."¹⁵⁹ Four days later, the same action was taken regarding part of Lot 10,¹⁶⁰ after the local Indian Agent confirmed that Isidore Simpson was a member of the Cree-Chipewyan Band of Fort McMurray.¹⁶¹

The final result with regard to Lots 5, 7, 9 and 10 fell well short of the full reserve status promised to the Cree-Chipewyan Band in 1912,¹⁶² recommended by Robertson in 1915¹⁶³ and requested by Indian Affairs in 1916.¹⁶⁴ The only land at Fort MacKay that did achieve reserve status was the 257 acre parcel on the right bank of the Athabasca River. This land, later described by the Department of Indian Affairs as unsuitable for settlement,¹⁶⁵ was confirmed as a Indian Reserve 174 for "the Indians" on January 10, 1917.¹⁶⁶

Patents Branch, Department of the Interior, October 24, 1923. PAA, 74.32, File 2,618,008.

¹⁵⁹ N. O. Cote, Controller, Land Patents Branch, Department of the Interior, to J. D. McLean, Assistant Deputy and Secretary, Department of Indian Affairs, November 25, 1922. Supra., note 4.

¹⁶⁰ N. O. Cote, Controller, Land Patents Branch, Department of the Interior, to J. D. McLean, Assistant Deputy and Secretary, Department of Indian Affairs, November 29, 1922. Ibid.

¹⁶¹ G. Card, Indian Agent to Assistant Deputy and Secretary, Department of Indian Affairs, August 22, 1922. Ibid.

¹⁶² Supra., note 91.

¹⁶³ Supra., note 111.

¹⁶⁴ Supra., note 145.

¹⁶⁵ H. T. Vergette, Head, Land Surveys and Titles Section to R. D. Ragan, Regional Director, Department of Indian Affairs, January 13, 1967. DIAND, File 779/30-10/174, Volume 2.

¹⁶⁶ Canada, Order in Council PC 166, January 20, 1917.

C. NAMUR RIVER I.R. 174A AND NAMUR LAKE I.R. 174B

The absence of contemporary controversy surrounding the reserves at and near Namur Lake was noted above. It is possible that one explanation for this lay in the (at least apparent) generosity shown by Robertson in surveying the reserves. In 1914 the Department of Indian Affairs estimated that approximately 7,680 acres (12 square miles) of reserve land would be required to satisfy the land entitlement of the 60 Cree-Chipewyan Band members who had chosen to reside at Namur Lake.¹⁶⁷ Robertson calculated that the two reserves he surveyed had an aggregate acre of 13,205 acres,¹⁶⁸ apparently based on the belief that the Namur Lake and Namur River Reserves were to be the home of 106 persons.¹⁶⁹

In praising the reserves surveyed by him at Namur Lake, Robertson expressed the opinion that since the reserves were isolated, it would be a considerable time before white settlement would have an adverse effect on the traditional hunting lands around the reserves.¹⁷⁰ However, the location of the reserves also delayed their confirmation by Privy Council Order. As the reserves were located in unsurveyed territory, the Department of the Interior was reluctant to respond to the 1916 request for confirmation¹⁷¹ until the completion of the subdivision of the townships in which they lay.¹⁷² As

¹⁶⁷ Supra., note 75.

¹⁶⁸ General Report on Surveys by Donald F. Robertson - 1915, January 5, 1916. Supra., note 15.

¹⁶⁹ Ibid.

¹⁷⁰ Ibid.

¹⁷¹ Memorandum to N. O. Cote, Controller, Land Patents Branch, Department of the Interior, May 14, 1925. PAA 74-32, File 3,743,038.

¹⁷² E. Deville, Surveyor General, to H. B. Sheppard, Land Patents Branch, Department of the Interior, December

of the end of 1924 this had not taken place, and the Department of Indian Affairs again requested their confirmation on January 20, 1925.¹⁷³ On March 7, 1925 the Surveyor General recommended the confirmation of I.R. 174B but not I.R. 174A, as only the former had been connected to a township baseline.¹⁷⁴ Accordingly, Namur Lake 174B was confirmed for the "Fort McKay Band of Chipewyan Indians" on August 29, 1925.¹⁷⁵ In February 1930, shortly before the scheduled transfer of administration and control of unoccupied Crown land to Alberta pursuant to the Natural Resources Transfer Agreement, the Department of Indian Affairs again contacted the Department of the Interior regarding I.R. 174A,¹⁷⁶ and the reserve was confirmed for "the Indians" by Order in Council on March 26, 1930. It contained 5,493 acres, three more acres than that estimated by Robertson.¹⁷⁷

D. CLEARWATER I.R. 175

At first glance, the survey of the Clearwater Reserve appears to be the most straightforward and least troublesome of all those undertaken by Robertson in 1915. He had the opportunity to consult with the relevant Indians, ascertained to his own satisfaction a population (17) and surveyed

19, 1916. Ibid.

¹⁷³ J. D. McLean, Assistant Deputy and Secretary, Department of Indian Affairs, to Controller, Land Patents Branch, January 20, 1925. Ibid.

¹⁷⁴ F. H. Peters, Acting Surveyor General to H. B. Sheppard, Land Patents Branch, Department of the Interior, March 7, 1925. Ibid.

¹⁷⁵ Canada, Order in Council PC 1422, August 29, 1925.

¹⁷⁶ A. F. MacKenzie, Acting Assistant Deputy and Secretary, Department of Indian Affairs to J. W. Martin, Commissioner of Public Lands, Department of the Interior, February 19, 1930. Supra., note 171.

¹⁷⁷ Canada, Order in Council PC 650, March 26, 1930.

a reserve of 2,275 acres¹⁷⁸ which, when compared to the formula in the reserve clause of Treaty 8, would lead to a surplus of 99 acres. But this apparently simple result is complicated by the relationship between the survey conducted by Robertson and the personal desires and ambitions of Paul Cree, the leader of the Indians residing at the confluence of the Clearwater and Christina Rivers.

That Paul Cree had long been in possession of a specific parcel of land is unquestioned. In addition to Paul Cree's own declaration that he had occupied the same property since 1891,¹⁷⁹ the Fort McMurray Hudson's Bay Company Journal for the same year made references to a specific location known as "Paul Cree's camp."¹⁸⁰ That Paul Cree was the recognized leader of the Cree-Chipewyan Band members residing at the confluence of the Clearwater and Christine Rivers is equally certain.¹⁸¹ What is less clear is whether he was the leader of a band or the head of a family.

In January 1914, almost a year before the Department of Indian Affairs determined the land selections for the Cree-Chipewyan Band, Paul Cree advised the Dominion Lands Agent that he wished to make Homestead entry on lands at the confluence of the Clearwater and Christina Rivers. The Agent forwarded the request to Ottawa, together with the confirmation that he had advised Paul Cree that before his application could be considered it would be necessary for him to withdraw from

¹⁷⁸ Supra., note 168.

¹⁷⁹ Homestead Inspector's Report, March 16, 1915, PAA 74.32, File 3,110,555.

¹⁸⁰ Hudson's Bay Company, Post Journal, Fort McMurray, 1890-1892. Hudson's Bay Archives B307a., entry, March 19, 1891.

¹⁸¹ Report on Patrol from Fort McMurray to Pembina River, January 22, 1917. PAC, RG 18, Volume 1901, File 130123.

Treaty.¹⁸² Apparently, this prospect held no terror for Paul Cree, as he had once before sought a discharge from Treaty under the name Paul Lafleur.¹⁸³

There was no surveyor working in the immediate area claimed by Paul Cree during the 1914 survey season, but the Department of the Interior made a note in its files to look into the matter when it was possible to do so.¹⁸⁴ In January 1915, the local Homestead Inspector was asked to proceed to the land claimed by Paul Cree for himself and his two sons in order to investigate their claims as squatters.¹⁸⁵ He visited the area in March of the same year, and his report confirmed Paul Cree's residence since 1891 and his construction of a permanent residence.¹⁸⁶

Within several weeks of the visit by the Homestead Inspector to Paul Cree's land, the Department of the Interior determined that the followers of Paul Cree were one of the three groups who had sought reserve land as part of the Cree-Chipewyan Band.¹⁸⁷ Accordingly, the land at the confluence of the Clearwater and Christina Rivers was included in the instructions given to Robertson in 1915, which also contained the authorization to survey land in severalty where appropriate.¹⁸⁸

¹⁸² Agent of Dominion Lands to Secretary, Department of the Interior, February 17, 1914. Supra., note 179.

¹⁸³ Paul Lafleur to Secretary, Department of the Interior, December 27, 1913. PAC, RG 10, Volume 3999, File 206,070-31.

¹⁸⁴ N. O. Cote, Controller, Land Patents Branch, Department of the Interior, to Agent of Dominion Lands, Edmonton, Alberta, June 6, 1915. Supra., note 179.

¹⁸⁵ Agent of Dominion Lands to Homestead Inspector Grey, January 18, 1915. Ibid.

¹⁸⁶ Supra., note 179.

¹⁸⁷ Memorandum to B. R. York, April 7, 1915. Supra., note 179.

¹⁸⁸ Supra., note 98.

When he met the Homestead Inspector, Paul Cree indicated that he was undecided as to whether he wished his land as reserve or homestead,¹⁸⁹ and Robertson's diary indicated consultation with a group identified as the "Paul Cree Band."¹⁹⁰ Thus by the summer of 1915, it could be argued that Paul Cree was advancing three alternative claims (homestead, reserve or severalty) in three separate capacities (squatter, Chief, Indian living apart from Band) to the same land.

There was no doubt in the minds of Robertson and the Department of Indian Affairs regarding the effect of the former's actions. Immediately after the completion of the Clearwater survey, Robertson telegraphed Ottawa that he had completed the survey of what he described as the "Paul Cree Indian reserve."¹⁹¹ The Department of Indian Affairs promptly wrote the Department of the Interior, requesting the reservation from sale or settlement of lands which had been selected as reserve for "Paul Cree's Band."¹⁹² As with the reserves at Namur Lake, the isolation of the land selected prevented the immediate confirmation of the reserve, but a notation was made in the records of the Department of the Interior regarding the request made by Indian Affairs.¹⁹³

At the same time the Department of the Interior was corresponding with Indian Affairs about land for "Paul Cree's Band," they were processing Paul Cree's homestead application, made directly to their department. In January 1916 they concluded that Paul Cree was entitled to the land claimed

¹⁸⁹ Supra., note 179.

¹⁹⁰ Supra., note 15.

¹⁹¹ Donald F. Robertson to J. D. McLean, Assistant Deputy, Department of Indian Affairs, July 1, 1915. DIAND, File 779/30-11/175 Volume 1.

¹⁹² S. Stuart, Assistant Deputy and Secretary, Department of Indian Affairs to Secretary, Department of the Interior, July 6, 1915. Ibid.

¹⁹³ N. O. Cote, Controller, Land Patents Branch, Department of the Interior, to S. Stewart, Assistant Secretary, Department of Indian Affairs, July 13, 1915. Ibid.

by him, but the claims by his sons to adjacent parcels were rejected as they had not established residence prior to Treaty 8 (or even survey).¹⁹⁴ The Department did note that Paul Cree's status as an Indian might complicate matters, and in March of the same year sought information from Indian Affairs about his status.¹⁹⁵ Indian Affairs responded by requesting that the land surveyed by Robertson be confirmed as a reserve,¹⁹⁶ which the Department of the Interior interpreted as meaning that any claim by Paul Cree would be dealt with by the Department of Indian Affairs.¹⁹⁷ Some technical problems with the survey delayed confirmation of the reserve, but in May 1921 it was confirmed for the "Paul Cree Band" as I.R. 175.¹⁹⁸ It contained 2,261.8 acres, 13.2 acres less than that originally surveyed by Robertson.¹⁹⁹

E. GREGOIRE LAKE I.R. 176, 176A, 176B

At Gregoire Lake, Robertson surveyed one large block on the south side of the lake, a second reserve of about a quarter section about half a mile to the west of the main block, and a tiny parcel of just over 40 acres on the east side of the lake. He estimated the cumulative size of the parcels to be

¹⁹⁴ Memorandum to N. O. Cote, January 11, 1916. Supra., note 179.

¹⁹⁵ N. O. Cote, Controller, Land Patents Branch, Department of the Interior to J. D. McLean, Assistant Deputy and Secretary, Department of Indian Affairs, March 16, 1916. PAA 74.32, File 3,458,916.

¹⁹⁶ J. D. McLean, Assistant Deputy and Secretary, Department of Indian Affairs, to Controller, Land Patents Branch, Department of the Interior, June 15, 1916. Supra., note 191.

¹⁹⁷ N. O. Cote, Controller, Land Patents Branch to W. W. Cory, Deputy Minister, Department of the Interior, October 10, 1916. PAA 74.32, File 3,420,401.

¹⁹⁸ Canada Order in Council PC 1570, May 12, 1921.

¹⁹⁹ Supra., note 168.

5,710 acres,²⁰⁰ and based his calculations on the belief that the reserves were required to satisfy the land entitlement of 45 persons.²⁰¹ Thus even using Robertson's figures, his report on its face revealed a shortfall of 50 acres and the population figure used by him was ten less than the 1914 estimate made by Indian Affairs.²⁰²

The small reserve on the east side of the lake was surveyed at the insistence of Gregoire Hainault, Number 22 of the Cree-Chipewyan Band, who occupied the land and demanded that it be included in the reserve.²⁰³ Hainault's attachment to the land was longstanding: 15 years earlier he had requested land in the same location under the severalty provisions of Treaty 8.²⁰⁴

It is more difficult to view the separation of the other two parcels of reserve land as corresponding to the wishes of any members of the Cree-Chipewyan Band. Indeed, within three weeks of Robertson's completion of the survey of the Gregoire Lake reserves, Headman Joseph Milton wrote Indian Affairs complaining about the exclusion of the land separating the two reserves at the south end of the lake, which he described as the best land in the area.²⁰⁵

²⁰⁰ Ibid.

²⁰¹ Ibid.

²⁰² Supra., note 75.

²⁰³ Supra., note 100.

²⁰⁴ Supra., note 86.

²⁰⁵ Joseph Milton, Chief, Gregoire Lake Band to Department of Indian Affairs, August 23, 1915. Supra., note 15.

When Joseph Milton's letter arrived in Ottawa, Robertson was undertaking survey work in the Onion Lake Agency,²⁰⁶ but he dealt with his reasons for establishing the boundaries he had in his report, which was written in January 1916. He advised that he had been satisfied that Alexan Boucher, a non-Indian settler occupying the land between the two reserve parcels, had made sufficient improvements (several building and considerable fencing) to establish a better claim to the land (or at least the cost of compensating Boucher for improvements was a disincentive to including his land in the reserve).²⁰⁷ It does not appear that Boucher was related to the Cree-Chipewyan Band members with the same surname, as his father was of European ancestry,²⁰⁸ but he was married to the daughter of Cree-Chipewyan member and Gregoire Lake resident Francois Black,²⁰⁹ and his wife was still a Band member.²¹⁰ Although Boucher's occupation of the land sought by Joseph Milton was the operative cause of its exclusion from the reserve, there is no record that he ever made a homestead application regarding the land.²¹¹

Robertson's views on the quality of the land in question also differed from those of Joseph Milton, and the former made a conscious effort not to survey more land than was required to satisfy the land entitlement of 45 persons. Thus had the desired by Joseph Milton been included in the land

²⁰⁶ Supra., note 168.

²⁰⁷ Supra., note 100.

²⁰⁸ Scrip , Alexandre Boucher, September 20, 1900. PAC, RG 15, Volume 1337.

²⁰⁹ Supra., note 83, entry, August 15, 1905.

²¹⁰ Supra., note 127.

²¹¹ PAA, 74.32, Volume 200, File 5, p. 65.

surveyed, it would have been necessary to exclude land (which Robertson felt was superior) in the southern part of the reserve so as not to exceed the land entitlement under Treaty 8.²¹²

Apparently the Department of Indian Affairs was satisfied with Robertson's explanations, for on June 15, 1916 they requested that the Department of the Interior confirm the three parcels as reserves.²¹³ On December 29 of the same year the reserves were confirmed for the "Indians of the Cree Band" by Order in Council. They contained 5,709 acres,²¹⁴ one less than that estimated by Robertson.

²¹² Supra., note 100.

²¹³ Supra., note 196.

²¹⁴ Canada Order in Council PC 3121, December 29, 1916.

IV. CONCLUSIONS

A. OBJECTIVE SEPARATENESS OF THE "BANDS"

There is no doubt that up to five disparate groups received their annuity payments at Fort McMurray at one time or another since the signing of Treaty 8 and that the majority of these entities were grouped together on the payroll of the Cree-Chipewyan Band of Fort McMurray for a greater or lesser period of time.²¹⁵ These groups can be disaggregated in more than one way, but there is equally little doubt that whatever criteria is used for purposes of division, a fundamental distinction existed between the (largely Chipewyan) body of people living at and northwest of Fort MacKay and the (largely Cree) population which lived south and east of Fort McMurray. These two groups were distinct in terms of language, ancestry, residence, traditional hunting lands and contacts with other centres (Fort Chipewyan for Fort MacKay, Portage La Loche for Fort McMurray).²¹⁶ Thus despite their amalgamation on a single payroll for administrative purposes, it is clear that the separateness of the entities which were later recognized as the Fort McMurray and Fort McKay Bands before, at the time of and after the signing of Treaty 8 must be accepted as an historical fact.

Notwithstanding the maintenance of the fiction of a single annuity payroll, it appears that with regard to land entitlement matters at least, the Department of Indian Affairs recognized the

²¹⁵ In addition to the Gregoire Lake and Fort MacKay groups, there were the followers of Paul Cree and the groups which were eventually recognized as the Janvier and La Loche Bands.

²¹⁶ This can be illustrated by a comparison of marriages involving persons affiliated jointly with the Fort MacKay and Fort McMurray groups in the years 1915-1965. Over these 50 years, eight women from Portage La Loche or Garson Lake joined the Fort McMurray group by marriage, as compared to three women from Fort Chipewyan who entered the group by the same process. For the Fort MacKay group the corresponding figures are ten women from Fort Chipewyan or Chipewyan Lake and one woman from Garson Lake. G. Neil Reddekopp, "The Treaty Land Entitlement Claim of the Fort McMurray Band," Alberta Aboriginal Affairs,

objective existence of more than one distinct entity within the Cree-Chipewyan Band of Fort McMurray. The November 1914 memorandum outlining land selections made reference to three bands, and handwritten notes made on the memorandum detailed land entitlement for each location (twelve square miles at Namur Lake, eleven at Gregoire Lake and six on the Christina River).²¹⁷ The instructions given to Robertson in April 1915 directed him to survey "reserves in the vicinity of Fort McMurray for Indians of that district."²¹⁸ Robertson met with groups he described as "the Fort McKay Band,"²¹⁹ "the Paul Cree Band"²²⁰ and the "Milton Band at Gregoire Lake"²²¹ and he made a population estimate for each group, and surveyed a corresponding amount of land at each location.²²² The various Orders in Council confirmed reserves for "the Fort McKay Band of Chipewyan Indians,"²²³ "Paul Cree's Band"²²⁴ and "the Cree Band."²²⁵

In 1918 the Indian Agent received applications for agricultural equipment from each of Milton's and Paul Cree Bands,²²⁶ and from 1924 onward the Fort McKay, Willow Lake and Alexis

April 1994.

²¹⁷ Supra., note 75.

²¹⁸ Supra., note 98.

²¹⁹ Supra., note 100.

²²⁰ Supra., note 15.

²²¹ Ibid.

²²² Supra., note 168.

²²³ Supra., note 175.

²²⁴ Supra., note 198.

²²⁵ Supra., note 214.

²²⁶ Agent's Diary during annuity payments, July 20, 1918. PAC, RG 10, Volume 6921, File 779/28-3 pt. 2.

Cree Bands²²⁷ were designated as separate entities for the payment of annuities.²²⁸ Both the surveyor²²⁹ and the Indian Agent²³⁰ referred to Adam Boucher as the Chief of the Fort McKay Band, and after Adam's death, the Indian Agent referred to the population of Fort MacKay as Maurice Boucher's "band."²³¹

B. BAND AFFILIATION OF INDIVIDUAL FAMILIES

The methodology outlined in the Introduction, when applied to the 1915 membership of the Cree-Chipewyan Band of Fort McMurray allows the vast majority of Band members to be affiliated quite definitively with one of the groups later recognized as the Fort McMurray and Fort McKay Bands. The following represents an attempt to summarize this analysis, which is also reproduced in tabular form in Schedules I and II. Despite the wealth of evidence that in 1915 the Cree-Chipewyan Band was in fact composed of three rather than two distinct entities, no attempt has been made to subdivide the Fort McMurray Band into the Gregoire Lake and Clearwater entities, although this issue is worthy of further study.

1. FORT MCMURRAY BAND

²²⁷ Alexis Cree was the son of Paul Cree and succeeded his father as leader of the Clearwater River population after the latter's death. Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, June 1921, 1918. DIAND, Genealogical Research Unit.

²²⁸ G. Card, Indian Agent to J. D. McLean, Assistant Deputy and Secretary, Department of Indian Affairs, October 23, 1924, Duncan C. Scott, Notice to Indians, Fort McMurray Agency, November 26, 1924. Supra., note 226.

²²⁹ Supra., note 111.

²³⁰ Supra., note 152.

²³¹ Agent's Diary Annuity Paylists, 1921. Supra., note 226.

The leading individual in the Cree family was Paul Cree, Number 3, although it is possible that his widowed mother was still alive and a member of the Cree-Chipewyan Band as Number 20 in 1915.²³² Paul's family consisted of himself, his son Raphael Cree,²³³ Louise Grandchapeau, Paul's second wife and Mary Grandchapeau, Louise's sister, who transferred to the Cree-Chipewyan Band upon Louise's marriage to Paul Cree in 1911.²³⁴ Paul's homestead application has already been discussed,²³⁵ and there are several references to him as "Chief" of the Clearwater River "Band."²³⁶ His son, Raphael Cree, who inherited the ticket, became a member of the Fort McMurray Band upon the split of the Cree-Chipewyan Band.²³⁷ In 1948 he was one of the "principal men" of the Clearwater River Band who executed the surrender for lease of the minerals under the Clearwater

²³² It is possible from the names and their relationship on the payroll that Numbers 20 and 21 were father and son. Supra., note 58. It also appears likely that Number 21 was Baptiste Cree. Annuity Paylists Cree-Chipewyan Band of Fort McMurray, June 23, 1919 and June 20-21, 1923. DIAND, Genealogical Research Unit. If Number 21 was the brother of Paul Cree, then the widow of Number 20 may have been Paul's mother. It is also possible that the Band contained one other member of the Cree family. In 1899, Seapotikanum Cree, Number 1 of the Cree-Chipewyan Band of Fort McMurray entered Treaty with an "Other Relative" on his ticket, described as a grandson. Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, August 4, 1899. DIAND, Genealogical Research Unit. By 1915, the entire ticket has disappeared. But in 1916, a John Cowie appeared before the Indian Agent asking to be discharged from Treaty. He indicated that he had been born in 1883, the child of a fur trade employee named Cowie and Susanne Cree, a woman of the Cree Band. After being deserted by his father in 1887, he was adopted by Seapotakinum Cree, and lived with him until the latter's death in 1910. Statutory Declaration, June 5, 1916. PAC, RG 10, Volume 7972, File 62-131, Part 1. This raises the likelihood that Johnny was the "Other Relative" included on the payroll from 1889 until 1904 and proves that he was alive in 1915.

²³³ Supra., note 68, pp. 16-17.

²³⁴ Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, June 21, 1921. DIAND, Genealogical Research Unit.

²³⁵ Supra., notes 179-197 passim.

²³⁶ Supra., notes 15, 181.

²³⁷ Supra., note 20.

Reserve.²³⁸ In 1992 Raphael Cree swore an affidavit supporting the assertion that the "Paul Cree Band" was a separate entity from both the Cree-Chipewyan Band and the Fort McMurray Band.²³⁹

Paul Cree's brother, Alexis Cree, was deceased by 1915,²⁴⁰ but his family was still represented on ticket Number 4 by his three sons and one daughter, Julien,²⁴¹ Joseph,²⁴² William²⁴³ and Jean Marie Cree.²⁴⁴ Like his brother, Alexis Cree was listed with the Fort McMurray population in the 1899 R.N.W.M.P. census.²⁴⁵ Only one child survived until the split of the Cree-Chipewyan Band in 1949, but Julien Cree became a member of the Fort McMurray Band.²⁴⁶ Although not included on the payroll, at least one other member of the family should possibly be included on the 1915 population of the Cree-Chipewyan Band. The clearest case was that of Alexis Cree's daughter Marie²⁴⁷, who married a non-Indian in 1911. While Marie would have likely had to give up her status at some time,²⁴⁸ there is no evidence that she did so, or even, despite her right to do so, was

²³⁸ Surrender of Mines and Minerals, n.d. 1948. Supra., note 191.

²³⁹ Affidavit of Raphael Cree, February 8, 1992. Supra., 81.

²⁴⁰ Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, June 21, 1910. DIAND, Genealogical Research Unit.

²⁴¹ Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, June 22, 1928. DIAND, Genealogical Research Unit.

²⁴² Supra., note 234.

²⁴³ Registre des Baptêmes de la Paroisse de la Nativité de Marie, Fort Chipewyan 1882-1929 (copy in the Archives of La Société Historique et Généalogique de Smoky River, Donnelly, Alberta), entry August 8, 1910.

²⁴⁴ Supra., note 234.

²⁴⁵ Supra., note 25.

²⁴⁶ Supra., note 20.

²⁴⁷ Supra., note 83, entry, July 4, 1911.

²⁴⁸ Marie married non-Indian Joseph Powder and would thus have fallen within the operation of s. 14 of the Indian Act. R.S.C. 1906, c. 81.

ever registered as a member of the Cree-Chipewyan Band.²⁴⁹ A more problematic case involves Caroline Thompson, the second wife of Alexis Cree. Caroline was the illegitimate daughter of James Thompson, a Hudson's Bay Company employee who returned to his native Scotland without acknowledging paternity and Louise Encore, a Chipewyan woman who died when Caroline was an infant.²⁵⁰ After being raised in the Catholic mission at Fort Chipewyan, Caroline applied for and was judged entitled to scrip in 1900.²⁵¹ In 1903 Caroline married Alexis Cree,²⁵² but there is no indication that she was ever added to his ticket. In 1912, Caroline married non-Indian Harry Malcolm.²⁵³

It is possible that Jean Baptiste Cree, the deceased holder of Number 21, was the brother of Paul and Alexis Cree, and in 1915 his widow and son Jean Baptiste Cree were members of the Cree-Chipewyan Band.²⁵⁴ The younger Jean Baptiste Cree became a member of the Fort McMurray Band when the Cree-Chipewyan Band split in 1949.²⁵⁵

Aside from those children who were paid with their parents in 1915, a second generation of the Cree family were represented by Paul Cree's children, Amy Cree, the wife of Number 51, Louis

²⁴⁹ There was never more than one girl paid on Alexis Cree's ticket.

²⁵⁰ Scrip Application 426, August 7, 1899. PAC, RG 15, Volume 1369.

²⁵¹ Ibid.

²⁵² Supra., note 83, entry, August 9, 1903.

²⁵³ Ibid., entry, January 1, 1912.

²⁵⁴ Supra., notes 127, 232.

²⁵⁵ Supra., note 20.

Hainault,²⁵⁶ and Alexis Cree, Number 53,²⁵⁷ as well as Alexis Cree's daughter, Marie Anne Cree, the widow of Number 52, Joseph Hainault.²⁵⁸ The younger Alexis Cree was, with his father, an applicant for homestead entry at the confluence of the Clearwater and Christina Rivers in 1914,²⁵⁹ and later succeeded his father as the leader of the Cree-Chipewyan Band members living at the Clearwater Reserve.²⁶⁰ Alexis became a member of the Fort McMurray Band when the Cree-Chipewyan Band split.²⁶¹ Alexis Cree's wife, Mary Martin, whom he married in 1908, had previously been a member of the Fort Chipewyan Cree Band.²⁶²

Rodrigue Cheechum (also known as Cheechum Cree), Number 5 of the Band, and his wife Marie Ogakie were listed with the Fort McMurray population in the R.N.W.M.P. census in 1899.²⁶³ Cheechum was identified as a resident of George's Lake (south of Gregoire Lake) in 1910, as were his sons Paul and John Cheechum.²⁶⁴ In 1915 the family was represented by Cheechum and his wife

²⁵⁶ Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, July 1, 1908. DIAND, Genealogical Research Unit. Amy's name is given at the baptism of her daughter Marguerite. Supra., note 243, entry, June 20, 1909.

²⁵⁷ Supra., note 83; Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, July 1, 1908. DIAND, Genealogical Research Unit.

²⁵⁸ Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, July 1, 1908. DIAND, Genealogical Research Unit. It is possible that Marie Anne was the daughter of Number 5, Cheechum Cree, rather than Alexis Cree. Supra., note 83, entry, December 25, 1907.

²⁵⁹ Supra., note 183.

²⁶⁰ Supra., note 227; G. Card, Indian Agent to Assistant Deputy and Secretary, Department of Indian Affairs, August 22, 1918. PAC, RG 10, Volume 7972, File 62-131 pt. 1.

²⁶¹ Supra., note 20.

²⁶² Supra., note 257.

²⁶³ Supra., note 25.

²⁶⁴ Supra., note 73.

and sons Paul, John and Pierre Cheechum.²⁶⁵ Paul and his wife Marguerite Janvier had six children, Pierre and his wife Julienne Janvier had two children, while John Cheechum and his wife Sophie Black were childless.²⁶⁶ None of Cheechum's sons survived as members of the Cree-Chipewyan Band until 1949, but Paul's widow and sons Leon and Joseph became members of the Fort McMurray Band, as did Pierre's son Leon.²⁶⁷

The attachment of Number 22, Gregoire Hainault, to land occupied by him on the shores of Gregoire Lake was shown by his severalty application²⁶⁸ and his insistence on the inclusion of the land on which he resided in the lands surveyed by Robertson in 1915.²⁶⁹ In 1915, his family consisted of himself, his wife Catherine Cree²⁷⁰ and four children.²⁷¹ His adult son Louis Hainault was Number 51 of the Band,²⁷² and although another son, Joseph Hainault was deceased,²⁷³ his widow and four children were Number 52.²⁷⁴ Jeremy Hainault, the son of Gregoire, and Jonas and Thomas Hainault, the sons of Joseph Hainault, became members of the Fort McMurray Band in 1949.²⁷⁵

²⁶⁵ Supra., notes 60, 127; Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, August 11, 1903. DIAND, Genealogical Research Unit.

²⁶⁶ Supra., note 127.

²⁶⁷ Supra., note 20.

²⁶⁸ Supra., note 86.

²⁶⁹ Supra., note 100.

²⁷⁰ Supra., note 87.

²⁷¹ Supra., note 127.

²⁷² Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, July 1, 1908. DIAND, Genealogical Research Unit.

²⁷³ Supra., note 127.

²⁷⁴ Ibid.

²⁷⁵ Supra., note 20.

Francois Black Sr., Number 24 of the Band and the head of the Black family, was identified as a resident of Gregoire Lake in 1910.²⁷⁶ In 1915 Francois and his wife Adele were paid alone,²⁷⁷ but they had several adult children who were Band members. Their son Francois held ticket Number 25, and he and his wife Marie Janvier had five children.²⁷⁸ Another son, Augustin Black was Number 54, and he and his wife Sara Boucher had two children.²⁷⁹ Four daughters were also Cree-Chipewyan Band members. A widowed daughter Madeleine held ticket Number 26 with two children.²⁸⁰ A second, Sophie, was married to Number 47, John Cheechum.²⁸¹ A third, Marie, was the wife of Alexan Boucher,²⁸² whose claim to land adjacent to the Gregoire Lake Reserve was deemed by Robertson to be superior to that of the Cree-Chipewyan Band.²⁸³ The last, Angele, was married to Francois Piché,²⁸⁴ a relationship which apparently caused Francois to move from Fort MacKay to Gregoire Lake.²⁸⁵

²⁷⁶ Supra., note 73.

²⁷⁷ Supra., note 127.

²⁷⁸ Ibid.

²⁷⁹ Ibid., Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, July 12, 1909. DIAND, Genealogical Research Unit.

²⁸⁰ Supra., note 127.

²⁸¹ Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, August 11, 1903. DIAND, Genealogical Research Unit; Supra., note 83, entry, August 11, 1902.

²⁸² Supra., notes 127 and 209.

²⁸³ Supra., note 100.

²⁸⁴ Supra., note 83, entry May 27, 1889.

²⁸⁵ Annuity Paylist, Cree-Chipewyan Band, June 27, 1924.

In 1915, Number 23, Joseph Milton advised the Department of Indian Affairs that he had lived at Gregoire Lake for 20 years,²⁸⁶ and he was included in the Fort McMurray population by the R.N.W.M.P. census in 1899.²⁸⁷ He described himself in 1915 as the Chief at Gregoire Lake,²⁸⁸ a designation with which the Department of Indian Affairs later agreed.²⁸⁹ At the time the Gregoire Lake Reserves were surveyed, the Milton family consisted of Joseph, his wife Angelique and their son John.²⁹⁰ John became a member of the Fort McMurray Band in 1949.²⁹¹ Joseph and Angelique's daughter Adelaide was Number 58 of the Band.²⁹²

Joseph Makwainish was listed with the population of Fort McMurray in the R.N.W.M.P. census in 1899,²⁹³ and in 1915 he, his wife Isabelle Janvier,²⁹⁴ their two children²⁹⁵ and one child from each of Joseph's and Isabelle's respective first marriages²⁹⁶ were paid as members of the Cree-Chipewyan Band.

²⁸⁶ Supra., note 205.

²⁸⁷ Supra., note 25.

²⁸⁸ Supra., note 205.

²⁸⁹ Sgt. A. N. Joy to Superintendent T. A. Wroughton, R.N.W.M.P., July 9, 1919. Supra., note 226.

²⁹⁰ Supra., note 127.

²⁹¹ Supra., note 20.

²⁹² Supra., note 240; Supra., note 83, entry, August 11, 1904.

²⁹³ Supra., note 25.

²⁹⁴ Supra., note 83, entry, August 16, 1908.

²⁹⁵ Supra., note 127.

²⁹⁶ Supra., note 243, entries, June 9, 1901 and June 18, 1905; Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, July 12, 1909. DIAND, Genealogical Research Unit.

The remaining members of the Cree-Chipewyan Band, the family of Number 11, Paul Lafontaine, had less contact with Gregoire Lake than the families discussed above. Paul was described by the Hudson's Bay Company in 1892²⁹⁷ as a resident of Portage La Loche, and in 1900 he sought severalty land at the west end of Methye Lake.²⁹⁸ Nonetheless, Paul, his wife Julie Sylvestre and their four children were members of the Cree-Chipewyan Band in 1915, although apparently only two of their three daughters were paid annuity in that and the earlier years.²⁹⁹ Paul and Julie's son Fred Lafontaine was Number 64 of the Band.³⁰⁰ Fred's marriage to Marie Montgrand, who may have received scrip at Portage La Loche in 1906,³⁰¹ was not recorded until 1916, but Marie joined the Band with three children,³⁰² two of whom appear to have been born before 1915.³⁰³ Paul and Julie died in 1937³⁰⁴ and 1940³⁰⁵ respectively, but Fred, Marie and Fred's younger siblings Jules and Louise May became members of the Fort McMurray Band in 1949.³⁰⁶

2. FORT MCKAY BAND

²⁹⁷ An entry refers to Paul returning home to Portage La Loche. Supra., note 180, entry, February 7, 1892.

²⁹⁸ J. A. Macrae, Inspector of Indian Agencies to Secretary, Department of Indian Affairs, November 16, 1900. Supra., note 86.

²⁹⁹ Two daughters received their own tickets in 1922, apparently upon marriage. Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, June 19-20, 1922. DIAND, Genealogical Research Unit. A third daughter married Raphael Cree in the early 1920s. Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, June 1927. DIAND, Genealogical Research Unit. Thus all three must have been alive in 1915.

³⁰⁰ Supra., note 127.

³⁰¹ Scrip Applications 53 and 37, September 10, 1906. PAC, RG 15, Volume 1360.

³⁰² Supra., note 121.

³⁰³ Ibid.

³⁰⁴ Registre des Sepulcres de la Paroisse de St. Jean Baptiste, Fort McMurray, 1934-1979 (copy in the Archives of the Société Historique et Généalogique de Smoky River, Donnelly, Alberta), entry, February 24, 1937.

³⁰⁵ Ibid., entry June 21, 1940.

The five Boucher brothers (Adam, Joseph, Louison, Louis and Maurice) were all resident at Fort MacKay when the R.N.W.M.P. census was conducted in 1899,³⁰⁷ and later the same year they entered Treaty as Numbers 2, 6, 7, 8 and 14 respectively of the Cree-Chipewyan Band of Fort McMurray.³⁰⁸ Adam signed the adhesion as the Chipewyan Headman,³⁰⁹ and was later described by the surveyor and the Indian Agent as the Chief at Fort MacKay.³¹⁰ Surveyor Robertson's investigations established that Adam was a long-time resident of Fort MacKay,³¹¹ and the group later recognized as the Fort McKay Band delegated to Adam the selection of reserve land at Namur Lake.³¹² It is likely that Adam and his wife perished in the influenza epidemic of 1918.³¹³

Joseph Boucher was an occupant of Lot 7 in MacKay Settlement in 1915,³¹⁴ when his family consisted of himself, his wife and one child.³¹⁵ Four of Joseph's adult children were also residents of the same community. As discussed in a previous paper, Joseph's son Michel was a life-long resident of Fort MacKay, notwithstanding his three decade long tenure as a member of the Cree Band of Fort

³⁰⁶ Supra., note 20.

³⁰⁷ Supra., note 25.

³⁰⁸ Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, August 4, 1899. DIAND, Genealogical Research Unit.

³⁰⁹ Supra., note 1.

³¹⁰ Supra., notes 111 and 152.

³¹¹ Supra., note 111.

³¹² Supra., note 100.

³¹³ Supra., note 289.

³¹⁴ Supra., note 111.

³¹⁵ Supra., note 127.

Chipewyan.³¹⁶ Francois Boucher, his wife and four children were paid as Number 46 of the Cree-Chipewyan Band³¹⁷ and lived on Lot 9.³¹⁸ Number 43, Isidore Boucher, his wife and one child³¹⁹ were also residents of the area, as a 1922 document indicated that Francis Boucher was living in a house which had been abandoned after the death of his brother Isidore in 1919.³²⁰ Finally, Joseph's daughter Rosalie, Number 56, was the wife of Pierre Robillard, who had filed an (ultimately successful) claim to Lot 9.³²¹

Louison Boucher died in 1900,³²² but in 1915 his widow occupied a house on Lot 7,³²³ at which time her family consisted of herself and two children.³²⁴ Louison's adult child Louis Boucher Jr., his wife and four daughters were paid as Number 9 of the Cree-Chipewyan Band,³²⁵ as were Louison's daughter Isabelle, her husband St. Pierre McKay and their three children, who were paid as Number 10³²⁶ and occupied a house on the same numbered lot.³²⁷ Three of Louison's

³¹⁶ Supra., note 12, pp. 9-11.

³¹⁷ Supra., note 127.

³¹⁸ Supra., note 111.

³¹⁹ Supra., note 127.

³²⁰ Supra., note 157.

³²¹ Supra., note 126.

³²² Supra., note 60.

³²³ Supra., note 111.

³²⁴ Supra. note 127.

³²⁵ Ibid.

³²⁶ Ibid.; Supra. note 83, entry, August 12, 1899.

³²⁷ Supra., note 111.

grandchildren (all children of his deceased daughter Catherine Boucher)³²⁸ were also Cree-Chipewyan Band members. Veronique was Number 41³²⁹ and Joseph was Number 61.³³⁰ The third grandchild, Isidore Simpson, was paid as a child on the ticket of his uncle, Louis Boucher (Number 8) in 1915,³³¹ but in fact he had been married in 1909³³² and lived with his wife and three children³³³ on Lot 10 in 1915.³³⁴ It was not until 1916 that Isidore became Number 66 of the Cree-Chipewyan Band and his children were registered as band members with arrears.³³⁵ Isidore's wife, Marie Couronne Benoit, was the daughter of Jean Benoit, a non-Indian occupant of Lot 10.³³⁶

Louis Boucher and his wife Claire Oga were paid regularly at Fort MacKay from the first recorded payments there³³⁷ until their respective deaths in 1928³³⁸ and 1936.³³⁹ Their son Moise

³²⁸ Supra., note 60.

³²⁹ Ibid.

³³⁰ Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, June 10, 1912. DIAND, Genealogical Research Unit.

³³¹ Supra., note 127.

³³² Supra., note 137.

³³³ Supra., note 243; Supra., note 243, entries December 25, 1910 and December 22, 1912; Registre des Baptêmes de la Paroisse de St. Jean Baptiste, 1914-1979 (copy in the Archives of La Société Historique et Généalogique de Smoky River, Donnelly, Alberta), entry May 18, 1915.

³³⁴ Supra., note 111.

³³⁵ Supra., note 17.

³³⁶ Supra., notes 132-137.

³³⁷ Supra., note 17.

³³⁸ Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, June 20, 1928. DIAND, Genealogical Research Unit.

³³⁹ Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, June 28, 1936. DIAND, Genealogical Research Unit.

Boucher, paid with them in 1915,³⁴⁰ later became a member of the Fort McKay Band as Number 69.³⁴¹ Louis Boucher's adult sons Adam and Jonas were paid in 1915 as Numbers 48³⁴² and 59³⁴³ respectively. Adam, his wife and two children³⁴⁴ were residents of Lot 10³⁴⁵ and Adam later became a member³⁴⁶ (and Headman)³⁴⁷ of the Fort McKay Band. Jonas Boucher's family consisted of his wife and one child.³⁴⁸

Maurice Boucher, the youngest of the Boucher brothers, was paid in 1915 with his wife and three daughters.³⁴⁹ Maurice was an occupant of Lot 7,³⁵⁰ as was one daughter, who although paid with her father in 1915 was married to Louis Tourangeau,³⁵¹ the son of a non-status family which also lived on Lot 7.³⁵² Maurice later succeeded his brother Adam as Headman at Fort McKay,³⁵³ and

³⁴⁰ Supra., note 127.

³⁴¹ Supra., notes 20, 121.

³⁴² Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, August 14, 1905. DIAND, Genealogical Research Unit.

³⁴³ Supra., note 330.

³⁴⁴ Supra., note 127.

³⁴⁵ Supra., note 111.

³⁴⁶ Supra., note 20.

³⁴⁷ Supra., note 50, p. 79.

³⁴⁸ Supra., note 127.

³⁴⁹ Ibid.

³⁵⁰ Supra., note 111.

³⁵¹ Supra., note 127.

³⁵² Supra., note 120.

³⁵³ Supra., note 289.

his wife became a member of the Fort McKay Band in 1949.³⁵⁴ In 1915 Maurice had one adult son, Pierre Boucher, who was paid with his wife as Number 49.³⁵⁵ Like her mother-in-law, Pierre's widow became a member of the Fort McKay Band in 1949.³⁵⁶

Although the Piché family had declined in relative importance between 1899 and 1915,³⁵⁷ they were still represented in the latter year. Charlot Piché, his third wife and his stepson were paid as Number 13,³⁵⁸ although the family would soon transfer to the Portage La Loche Band.³⁵⁹ Chrysostome Piché was Number 19 of the Band.³⁶⁰ In 1898, the residents of Fort MacKay had requested that Chrysostome be named Chief,³⁶¹ and in addition to being paid for himself, his wife and three children in 1915,³⁶² Chrysostome had two married daughters who were members of the Band. Josette was married to Number 49, Pierre Boucher³⁶³ and Marguerite was married to Number

³⁵⁴ Supra., note 20.

³⁵⁵ Supra., note 127; Supra., 83, entry, May 22, 1906.

³⁵⁶ Supra., note 20.

³⁵⁷ The 1899 census included 22 members of the Piché family and 37 members of the Boucher family. Supra., note 20. In 1915 there were eight members of the Piché family and 52 members of the Boucher family affiliated with Fort MacKay. Ante, Schedule III.

³⁵⁸ Supra., note 127; Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, June 8, 1911. DIAND, Genealogical Research Unit; Supra., note 83, entries May 26, 1862, May 27, 1889 and July 20, 1910.

³⁵⁹ Annuity Paylist, Fort McMurray Band paid at Portage La Loche June 18, 1918. DIAND, Genealogical Research Unit. Charlot Piché's contacts with Portage La Loche date back well before his own transfer. While Charlot was a resident of Fort MacKay in 1899 (Supra., note 25), the Hudson's Bay Company reported as early as 1891 that he had married daughters living at Portage La Loche. Supra., note 180, entry, January 4, 1891.

³⁶⁰ Supra., note 127. It is likely that Chrysostome was a resident of Fort MacKay in 1899, as there is a nameless entry relating to a family of six persons listed between Charlot Piché and Theresa Piché on the R.N.W.M.P. census (Supra., note 25). When Chrysostome Piché entered Treaty later the same year, his family numbered six persons. Supra., note 308.

³⁶¹ Supra., note 64.

³⁶² Supra., note 127.

³⁶³ Supra., note 355.

59, Jonas Boucher.³⁶⁴ In 1949 Chrysostome's widow and Josette became members of the Fort McKay Band.³⁶⁵

Number 29, Baptiste Cougan (Kokan) was paid at Fort Chipewyan on a regular basis between 1900³⁶⁶ and 1913,³⁶⁷ and his wife in 1915 was a former member of the Chipewyan Band of Fort Chipewyan.³⁶⁸ In 1915 Baptiste's family consisted of himself, his wife and two sons.³⁶⁹ Baptiste and his wife were paid at Fort MacKay regularly from 1916³⁷⁰ until their respective deaths.³⁷¹ One son later became a member of the Janvier Band,³⁷² while one became a member of the Fort McKay Band.³⁷³

The most problematic question of band affiliation for the 1915 membership of the Cree-Chipewyan Band of Fort McMurray involves the descendants of Mary Cree, the original Number 16 of the Band. The very name of the family suggests affiliation with the Fort McMurray Band, and

³⁶⁴ Supra., note 330; Supra., note 83, entry, June 10, 1912.

³⁶⁵ Supra., note 20.

³⁶⁶ Supra., note 60.

³⁶⁷ Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, June 7, 1913. DIAND, Genealogical Research Unit.

³⁶⁸ Supra., note 240.

³⁶⁹ Supra., note 127.

³⁷⁰ Supra., note 17.

³⁷¹ Supra., note 234.

³⁷² Annuity Paylist, Cree-Chipewyan Band of Fort McMurray and Fort McKay, June 23, 1937. DIAND, Genealogical Research Unit.

³⁷³ Supra., note 20.

Mary Cree was listed as a resident of Fort McMurray in 1899.³⁷⁴ Mary Cree died in 1907³⁷⁵ and was succeeded on the ticket by her daughter Susan Kokan. In 1915 the ticket consisted of Susan, her sons William and Philip and her daughter Rosine.³⁷⁶ Susan was paid at Fort MacKay from the time of the first payments there in 1916,³⁷⁷ and her granddaughter has described both Susan's home at Fort MacKay and her death there.³⁷⁸ All three of Susan's children became members of the Fort McKay Band³⁷⁹ and her son Philip McDonald³⁸⁰ and granddaughter Dorothy McDonald³⁸¹ have served as Chief of the same Band.

C. RESOLVED AND UNRESOLVED ISSUES

Notwithstanding minor difficulties,³⁸² it is relatively easy, once the objective separateness of the Fort McMurray and Fort McKay Bands has been accepted, to divide the 1915 population between these entities and determine that their respective populations in 1915 were 85 - 87 for the Fort McMurray Band³⁸³ and 68 for the Fort McKay Band.³⁸⁴ However, this leaves unresolved a

³⁷⁴ Supra., note 25.

³⁷⁵ Annuity Paylist, Cree-Chipewyan Band of Fort McMurray, August 14, 1907. DIAND, Genealogical Research Unit.

³⁷⁶ Supra., note 127.

³⁷⁷ Supra. note 17.

³⁷⁸ Supra., note 50, p. 92.

³⁷⁹ Supra., note 20; Supra., note 12, p. 16.

³⁸⁰ Interview, Chief Philip McDonald, TARR [1974?].

³⁸¹ Diane Meili, Those Who Know: Profiles of Alberta Native Elders (Edmonton: NeWest, 1991), p. 180.

³⁸² Supra., notes 366, 374. It is also impossible to attribute Number 60, LaLouise, to either Band.

³⁸³ Ante, Schedule II.

number of issues relating both to the constitution of the Cree-Chipewyan Band of Fort McMurray in 1915 and the manner in which reserve land was provided at several sites.

The major issue involving band membership relates to the possible existence of a third group, the Paul Cree Band. Evidence from a number of sources, most particularly the circumstances surrounding the survey and setting aside of the various reserves³⁸⁵ and the surrender of mines and minerals thereunder³⁸⁶ tend strongly toward the impression that in fact the Cree-Chipewyan Band was made up of three discrete entities. This of course necessitates an exploration into the size of the Paul Cree Band in 1915, since contemporary estimates of the number of families residing at the confluence of the Clearwater and Christina Rivers vary from three³⁸⁷ to six³⁸⁸ and estimates of population vary from 17³⁸⁹ to 30.³⁹⁰

In terms of land matters, issues remain unresolved with regard to both Fort MacKay and Gregoire Lake. The partial and temporary arrangements made with regard to several lots at Fort MacKay fell short of the original intentions of both the surveyor and the Department of Indian Affairs.³⁹¹ The temporary notations for Indian housing made reference to a 1913 agreement between the Departments of the Interior and Indian Affairs regarding the handling of lands on which Indians

³⁸⁴ Ante, Schedule III.

³⁸⁵ Supra., notes 100, 111, 168.

³⁸⁶ Supra., note 238.

³⁸⁷ Supra., note 181.

³⁸⁸ Patrol Report, June 23, 1916. PAC, RG 18, Volume 1879, File 130.

³⁸⁹ Supra., note 168.

³⁹⁰ Supra., note 75.

³⁹¹ Supra., notes 111, 145.

resided and had made improvements.³⁹² Yet the only written confirmation of this agreement made it clear that the notation of land occupied by Treaty Indians was a preliminary step in the process of setting aside severalty land,³⁹³ a process which never took place at Fort MacKay. At Gregoire Lake, the decision not to include as reserve land the area between the reserves subsequently designated as I.R. 176 and I.R. 176A was contentious in 1915,³⁹⁴ and it is particularly questionable in light of the fact that no steps were ever taken to provide title to Alexan Boucher,³⁹⁵ the individual deemed by the surveyor to have a better claim to the land than the Fort McMurray Band.³⁹⁶

Accordingly, an equitable settlement of the Treaty land entitlement claims of the Fort MacKay and Fort McMurray First Nations will be steps towards but not in themselves a resolution of all issues arising out of the fulfilment (or lack thereof) of the land entitlement of these entities.

³⁹² Supra., notes 159, 160.

³⁹³ W. W. Cory, Deputy Minister of the Interior, to D. C. Scott, Deputy Superintendent of Indian Affairs, November 26, 1913. Supra., note 75.

³⁹⁴ Supra., note 205.

³⁹⁵ Supra., note 211.

³⁹⁶ Supra., note 100.

Schedule I

Fort McMurray Band
1915

BAND NUMBER	NAME	M	W	B	G	OR	TOTAL
1	Seapotikanum Cree					1	1*
3	Paul Cree	1	1	1		1	4
4	Alexis Cree		**	3	2*		5*
5	Cheechum	1	1				2
11	Paul Lafontaine	1	1	1	3		6*
15	Francois Piche	1	1	2			4
17	John Nokoho	1	1	2	1	1	6
20	Baptiste		1				1
21	Baptiste Jr.		1	1			2
22	Gregoire Hainault	1	1	3	1		6
23	Joseph Milton	1	1	1			3
24	Francois Black	1	1				2
25	Francois Black Jr.	1	1	3	2		7
26	Madeleine		1	2			3
32	Paul Cheechum	1	1	3	3		8
47	Johnny Cheechum	1	1				2
51	Louis Hainault	1	1				2
52	Joseph Hainault		1	2	2		5
53	Alex Cree Jr.	1	1				2
54	Augustin Black	1	1	1	1		4
55	Marie Black		1				1
58	Adelaide Milton		1				1
60	Lalouise		1				1
63	Pierre Cheechum	1	1	2			4
64	Fred Lafontaine	1	**		2		3 *
	TOTAL	16	21	27	18	2	85**

* Total differs from payroll entry for reasons outlined in text.

** Excludes scrip recipient not entered on payroll but married to ticket holder.

Schedule II

Fort McKay Band
1915

BAND NUMBER	NAME	M	W	B	G	OR	TOTAL
2	Adam Boucher	1	1				2
6	Joseph Boucher	1	1	1			3
7	Louison Boucher		1	1	1		3
8	Louis Boucher	1	1				2 *
9	Louis Boucher Jr.	1	1		4		6
10	St. Pierre McKay	1	1	2	1		5
13	Charlot Piche	1	1			1	3
14	Maurice Boucher	1	1		3		5
16	Mary Cree		1	2	1		4
19	Chrysostome Piche	1	1	1	2		5
29	Baptiste Cougan	1	1	2			4
41	Veronique Boucher		1				1
43	Isidore Boucher	1	1		1		3
46	Francois Boucher	1	1	3	1		6
48	Adam Boucher	1	1	2			4
49	Pierre Boucher	1	1				2
56	Rosalie Robillard		1				1
59	Jonas Boucher	1	1	1			3
61	Joseph Boucher	1					1
66	Isidore Simpson	1	1	2	1		5*
	TOTAL	16	19	17	15	1	68

* Total differs from payroll entry for reasons outlined in text.