



2005 Annual Report



THE METIS SETTLEMENTS IN ALBERTA

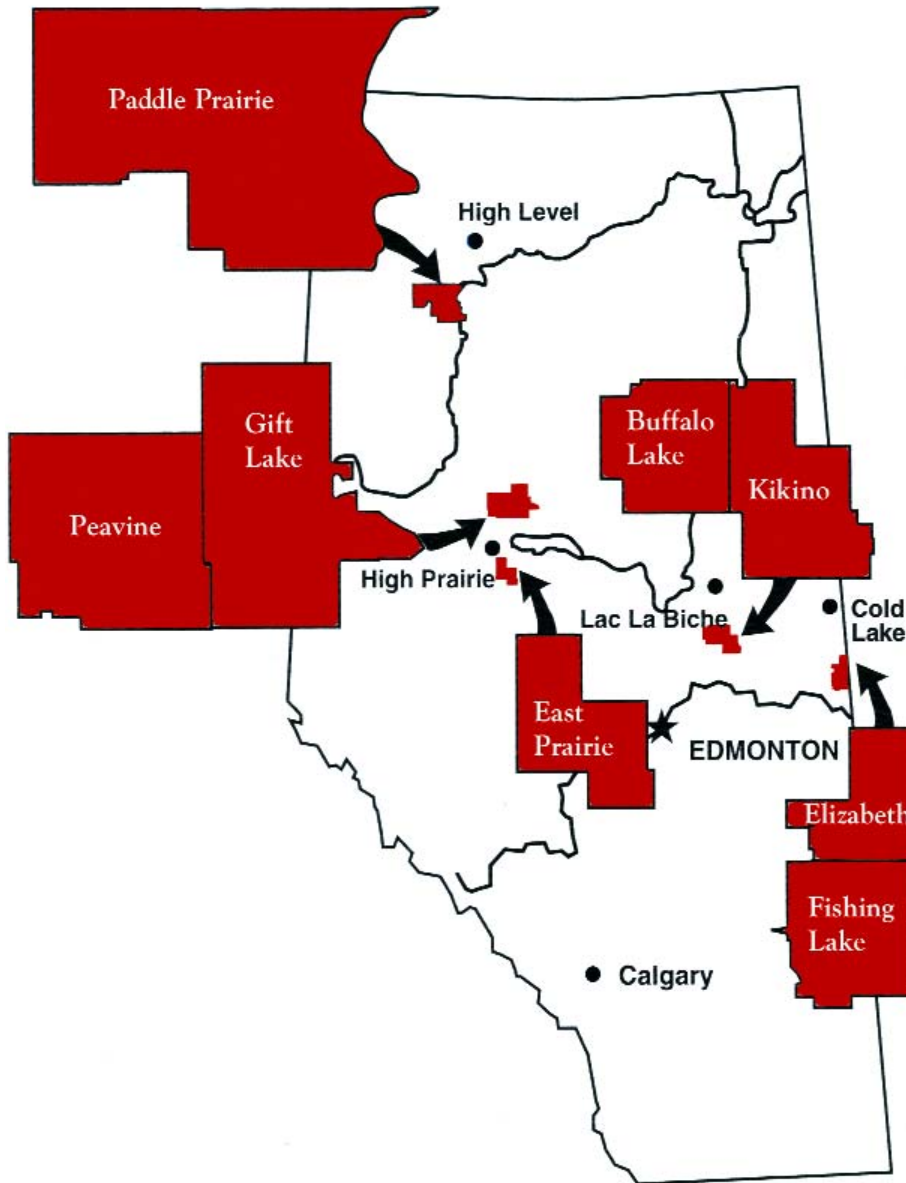


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LETTER FROM THE CHAIR

Dear Minister and General Council President

This annual report reflects the nature of the activities of the Métis Settlements Appeal Tribunal (MSAT) and the general manner in which it dealt with these matters in 2005.

Looking back for a moment, it is evident MSAT has evolved into a respected organization that provides fair and impartial resolutions to local governing disputes. MSAT decisions are made in adherence to the jurisdiction given to it and the application of the principles of administrative law and natural justice. In addition MSAT must maintain a good understanding of the distinct culture of the Métis Settlement people.

Some of the highlights of our activities in 2005 include:

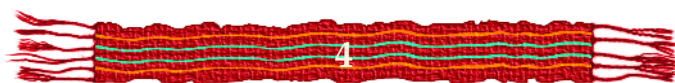
The first hearing on oil and gas compensation where cultural values was the key appeal reason was conducted in November, 2005. The main focus was on the application of the Métis Settlements Act provision relating to “the cultural value for preserving a traditional Métis way of life”. A decision is expected before mid-year of 2006.

The Court of Appeal’s application attempting to overturn MSAT’s application of the Charter of Rights and Freedoms in one of its decisions, was withdrawn by Alberta Justice. In this case MSAT found that a female Métis Settlement member, who married and subsequently divorced a status Indian, had the right to renew her Métis heritage and rights on a settlement. The affected member’s two daughters, consequently benefited as they are now allowed membership.

MSAT Chair organized two and hosted one of the twenty workshops at the 21st annual Council of Canadian Administrative Tribunals (CCAT) Conference in Ottawa: one was on Aboriginal and Treaty Rights and Tribunals and the second one was on using an interest-based negotiations approach to develop memorandums of understanding between a department and a tribunal.

This was the third year of this Board’s four year term. We have the good fortune to have a very knowledgeable Board in place to help bring about the growth of knowledge in administrative law. Strong operational and management skills in staff also make a good organization and MSAT is fortunate in this regard. I have a special appreciation for the Board and all staff for making this multi-functional tribunal what it is today – a fair and impartial Métis Settlements administrative tribunal. Those extra efforts of Board and staff pave the way for continued success in the coming years.

Andre L’Hirondelle



MISSION

The mission of the Tribunal is to contribute to the self-sufficiency of Metis life by providing resolution of issues affecting the progress of Settlements and individuals. In providing this assistance, the Tribunal believes the following is fundamental:

The Tribunal's focus is to ensure justice is dispensed using principles of law as a tool, not as an ultimate objective.

Disputes are settled in an effective and timely manner, with the least possible disruption of Metis life and relationships. To achieve this, alternative dispute resolution mechanisms are incorporated into Tribunal processes.

Decisions of the Tribunal are carried out using its own processes, supplemented by other legislation.

Settlement Councils and members are informed of the Tribunal's role, so appropriate issues can be brought forward.

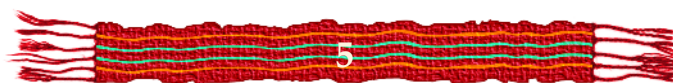
WHO WE ARE

The Metis Settlements Appeal Tribunal was established in 1990 when the *Metis Settlements Act* was passed. Designed to provide practical and unbiased solutions to some of the day-to-day disputes facing the Settlements, the Tribunal has jurisdiction to hear disputes concerning membership and land allocation decisions made by Settlement Councils. It also has jurisdiction over various areas identified in the Policies of the Metis Settlements General Council which include timber, financial interests, and descent of property.

Another significant role of the Tribunal is to administer and resolve disputes about access to and compensation for use of Settlement land. This was handled by the Surface Rights Board prior to November 1, 1990. The Land Access Panel (LAP) of the Metis Settlements Appeal Tribunal is now responsible for administering right of entry and compensation orders and resolving disputes between operators, Settlements and/or members.

The Existing Leases Land Access Panel (ELLAP) is a standing panel of the Tribunal. This panel deals with surface access issues involving existing mineral lease holders. An existing mineral lease holder is a resource company that holds a mineral lease granted by the provincial government before November 1, 1990.

The Tribunal can hear disputes referred to it by provincial legislation, General Council Policies, Settlement bylaws, or if all parties agree to have the Tribunal settle the matter.



TRIBUNAL MEMBERS

There are seven members of the Tribunal, all of whom are appointed under the *Metis Settlements Act* for four-year terms. The Tribunal Chair is appointed by the Honourable Pearl Calahasen, Minister of Aboriginal Affairs and Northern Development from a list provided by the Metis Settlements General Council. Three Tribunal members, including one vice-chair, are appointed by the Metis Settlements General Council. Three Tribunal members, including one vice-chair, are appointed by the Minister of Aboriginal Affairs and Northern Development.



*Standing (L-R) – John Brosseau, Joyce Parenteau, Ken Allred, Harvey Anderson
Sitting (L-R) – Randy Anderson, André L'Hirondelle, Lorne Dustow*

TRIBUNAL CHAIR

André L'Hirondelle

Born and raised on the East Prairie Metis Settlement, André grew up learning about the issues facing Aboriginal peoples. André has been continuously employed over the last 25 years in the area of Aboriginal governance, working with the Alberta Federation of Metis Settlement Associations, the East Prairie Metis Settlement Council, and 16 years with the Alberta Government on the administration of Metis Settlements legislation.

GENERAL COUNCIL APPOINTEES

Lorne Dustow – Vice-Chair

Lorne is a member of the Fishing Lake Metis Settlement, where he resides with his wife and family. Lorne has acted in many capacities while in Fishing Lake, including Settlement Administrator and Bylaw and Policy Analyst. This is Lorne's first term serving on the Tribunal.

Joyce Parenteau – Tribunal Member

Joyce is an active member of Paddle Prairie Metis Settlement, where she was born and raised. She lives with her husband of 40 years, with whom she has 3 daughters. She worked for Northland School Division for 26 years. In 2000, Joyce received an Esquao Award, an honour bestowed upon women who make outstanding contributions to the community. She is currently serving on the Region 10 Child and Family Services Board. This is Joyce's first term serving on the Tribunal.

Harvey Anderson – Tribunal Member

Harvey is from Gift Lake Metis Settlement. His past community involvement was with the Youth Justice Committee, and working as a Youth Conference Facilitator with the Junior Forest Wardens. Harvey has also worked with the R.C.M.P. and Gift Lake Police Bylaw Enforcement. He was the recipient of the 1993 Metis Youth Role Model of Alberta. This is his first term, joining MSAT November 1, 2004, while attending the Hotel Management Program.

MINISTERIAL APPOINTEES

Randy Anderson – Vice-Chair

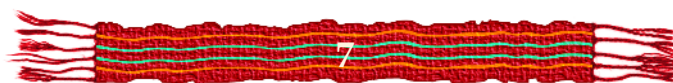
Randy is a member of the Gift Lake Metis Settlement. His past experience includes being Chairman of the Peace Arch Community Committee and Treasurer for the Metis Settlements General Council. During the past 12 years, Randy has been a successful businessman and is currently owner/operator of two businesses in Northern Alberta. This is Randy's first term serving on the Tribunal.

John Brosseau – Tribunal Member

Dr. John F. Brosseau was born in St. Paul, Alberta, and is a long time resident of Edmonton. He received his B. Ed, M. Ed and PhD in Education from the University of Alberta. John continues to be involved in a number of community activities. This is John's third consecutive term serving on the Tribunal.

Ken Allred – Tribunal Member

Ken Allred has over 25 years experience on disciplinary, planning and development tribunals as both a chair and a member. Ken has been involved in arbitration and community mediation involving boundaries, surface rights, and aboriginal issues. As a professional land surveyor, he served as a lecturer, author, trainer, expert witness, land titles consultant, municipal councillor and administrator. This is Ken's second term serving on the Tribunal.



EXISTING LEASES LAND ACCESS PANEL

The Chair is jointly appointed by agreement of the Minister responsible for resource development and the Métis Settlements General Council.

Wayne G. Carter – Chair

President and Chief Executive Officer of Lamplighter Energy Ltd. since June 2000; Consulting Landman; President of Lenyoran Enterprises Ltd., a private company; a director of Hampton Court Resources Inc., a public oil, gas, and mining company listed on the TSXV; past President of the Canadian Association of Petroleum Landmen.

Wayne has been the Chair of ELLAP since 1990.

One ELLAP member is appointed by agreement of the Canadian Petroleum Association, the Independent Petroleum Association of Canada, the Small Explorers and Producers Association of Canada and the Canadian Association of Landmen.

Merv Henkleman – Member

President and General Manager of Canadian Landmasters Resource Services Ltd. since 1988. A member and former director of the Canadian Association of Petroleum Landmen.

Merv has been a member of ELLAP since 1990.

One ELLAP member is appointed by the Minister of Energy.

Michael Day – Member

Michael Day, O.P. Geol. B.Sc. (London, 1954); exploration geologist in Western Canada 1954-64; taught geology at NAIT 1964-71; joining the (now) Alberta Department of Energy, as assistant deputy minister responsible for oil, gas and other mineral resources 1974-93. He formed M J DAY Resource Consulting Ltd. following retirement from public service.

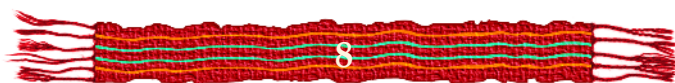
This is Michael's third year as a member of ELLAP.

Two ELLAP members are appointed by the Métis Settlements General Council.

Lorne Dustow – Member

This is Lorne's first term serving on ELLAP. He is also a member of the Métis Settlements Appeal Tribunal.

Vacant ELLAP – Member



APPEAL ACTIVITIES

The Tribunal received 31 appeals in 2005, including only one membership appeal. Land appeals consistently average almost one half of all appeals. The “Others” category is made up of oil and gas compensation appeals, descent of property, infringement on property, or housing allocations.

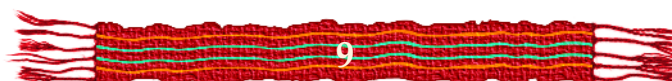
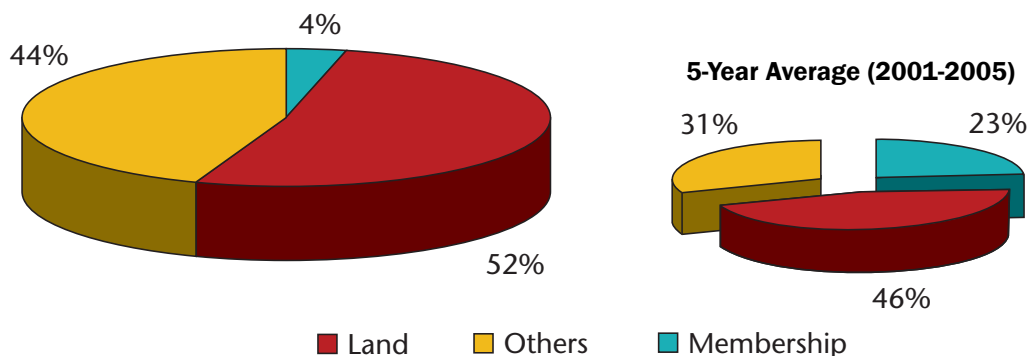
Note: The decrease in orders issued, as a percentage of appeals received in 2004 and 2005, is a result of using mediation and alternative dispute resolution options.

SUMMARY OF APPEALS RECEIVED (2001-2005)

Appeals	2001	2002	2003	2004	2005	5-Yr Ave (2001-2005)
<i>I. by Type</i>						
Membership	13	12	8	2	1	7
Land	11	13	17	16	14	14
Others	2	7	12	14	12	9
Total	26*	32*	37	32	27	30
<i>II. by Settlement</i>						
Buffalo Lake	4	2	0	5	3	3
East Prairie	2	8	10	2	1	5
Elizabeth	1	3	2	4	4	3
Fishing Lake	0	2	7	13	6	6
Gift Lake	1	4	2	2	0	2
Kikino	2	0	5	4	4	3
Paddle Prairie	2	4	5	1	6	4
Peavine	13	8	6	1	3	6
Total	25	31	37	32	27	30
<i>III. No. of Orders Issued</i>						
Total	22	14	11	6	5	11

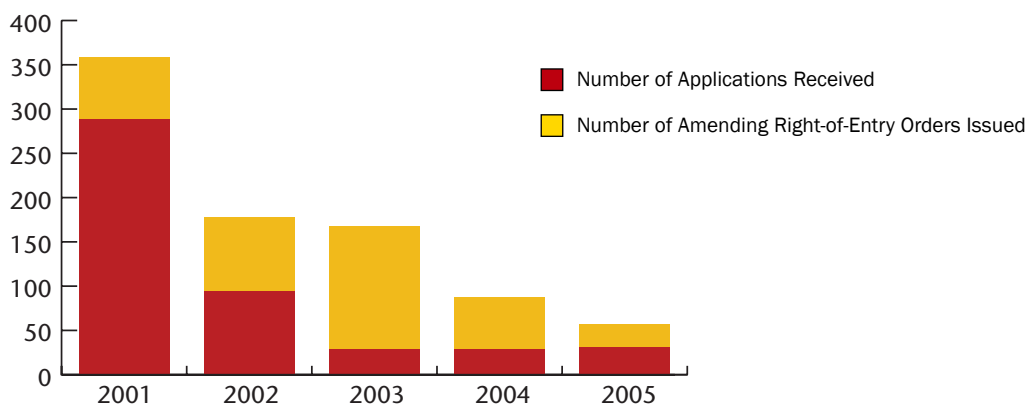
* Includes appeals received from Metis Settlements Land Registry.

FIGURE 1. TYPE OF APPEALS RECEIVED (2005)



SURFACE RIGHTS ACTIVITIES

Year	Number of Applications Received	Number of Amending Right-of-Entry Orders Issued
2001	288	71
2002	94	84
2003	29	138
2004	29	58
2005	31	26



In 2005, 26 applications were processed which resulted in the Land Access Panel issuing 26 orders. The applications involved change of existing mineral lease holder (20), partial termination/termination of right of entry order (3), correction to typographical error (1), and amendments to compensation provisions (2).

MSAT received over 400 telephone inquiries relating to LAP and ELLAP jurisdiction. A majority of the inquiries results in a complete reviews of the right of entry order files. In most cases, this involved an educational component on MSAT processes and procedures to the inquiring party, an oil or gas operator or settlement council or staff member.

METIS SETTLEMENT RELATIONS

The Tribunal continues its efforts to raise its profile with the Settlements and interested parties. We continue to carry this out through the following initiatives.

PUBLICATIONS

In addition to various brochures explaining MSAT, we produced custom documents and presentations when meeting with and forwarding to Settlements, their members, and Oil and Gas companies.

WEBSITE

MSAT's web site has been online for seven years. This web site is hosted on a Government of Alberta server, with the Tribunal having full editorial and creative control. The website is an excellent source of information on the Tribunal for our clients and interested parties, who can print off appeal forms and other information.

MSAT's website received 29,034 hits in 2005, compared to 7,463 in 2004.

This site links with the Métis Settlements General Council. With the continued expansion of the Supernet in Alberta to Métis Settlements, this site will allow more access to the members.

We continue to upgrade the site and will conduct a complete upgrade early next year.

CONFERENCES

Tribunal members and staff have participated in conferences on and off Settlements to raise awareness of both the Metis Settlements and the Tribunal. Examples include making a presentation at both the annual Metis Settlements Elders and Youth Conferences held in August.

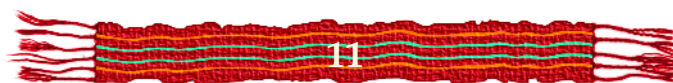
The Paddle Prairie-hosted northern conference gave MSAT staff access to host Settlement members, community action groups and resource companies doing business on the Settlements.

MSAT staff participated in the General Council Oil and Gas Resource workshop for Settlement Counsellors and staff. We presented the attendees a detailed understanding of MSAT's jurisdiction and the processes of surface rights and compensation respecting Settlements, their members, Oil and Gas companies.

In addition to the many presentations explaining the appeal process, staff were available to discuss issues on a one-on-one basis and to hand out resource materials.

SETTLEMENT INFORMATION SEMINARS

MSAT staff provided education opportunities to settlement staff, Councils and oil and gas industry representatives. These were both formal and informal meetings and visits, educational forums, and while conducting investigations into appeals by members.



FINANCIAL ACCOUNTABILITY

The Tribunal reports its financial activities consistent with the provincial government fiscal year reporting period from April to March of the following year.

The table below compares Tribunal expenditures for 2004/05 with those of 2003/04.

	2004/2005		2003/2004	
	Authorized Budget	Actual Expenditure	Authorized Budget	Actual Expenditure
Manpower	\$441,883	\$416,121	\$391,100	\$386,704
Supplies & Services	\$500,117	\$545,721	\$538,900	\$580,296
Total	\$942,000	\$961,842	\$930,000	\$967,000
Surplus (Deficit)		\$(19,842)		\$(37,000)

The Tribunal experienced a small deficit in this fiscal year due to the following factors:

- While there was an injection of additional \$12,000 to the overall approved budget from the Ministry in 2004/05, we required at least \$25,021 additional fund to meet the total manpower requirement.
- Traveling costs for staff were higher than the previous year due to MSAT's continued strategic plan to meet with members and Councils toward dispute resolution through investigation activities. More educational presentations by MSAT staff on Settlement and at General Council functions out of Edmonton also resulted in more travel resources.
- Legal costs remained almost the same at \$54,571 as compared to \$56,983 in 2003/04.

SUMMARY OF MSAT ORDERS ISSUED IN 2005

These Orders are summaries only. They are meant to provide ease of understanding of MSAT's decisions on particular subject matters. These summaries are not meant to provide legal authority, as all circumstances are different. Please refer to the full Order, available at MSAT's office to ensure complete understanding of the Order.

MSAT Order No. 163

Date Issued: June 10, 2005

Parties: Tina Lanceleve (Appellant) vs. Settlement Council for Elizabeth Metis Settlement (Respondent)

Issue: Membership

MSAT Order No. 159 issued on May 20, 2004, ordered Elizabeth Metis Settlement to reconsider Tina Lanceleve's application for membership in view of the decision of the Tribunal to accept Ms. Lanceleve's evidence. The Tribunal considered her adoptive parents as her parents within the meaning of section 75(2) (c) of the *Metis Settlements Act*.

Since MSAT Order No. 159 was issued, the Elizabeth Metis Settlement completed the First and Second readings of the membership bylaw for Ms. Lanceleve; held a public vote on the application in which the result was for accepting Ms. Lanceleve as member of the Settlement; and Settlement Council reviewed Ms. Lanceleve application but decided to put it into a moratorium due to circumstances respecting membership policy discussions at the Métis Settlements General Council's level.

Ms. Lanceleve appealed the decision of the Settlement Council to put her application into moratorium.

Pursuant to section 190(1)(e) and (j) of the Act, the Panel, in place of the Settlement Council, approves the Third reading of Ms. Lanceleve's membership bylaw effective June 10, 2005. The Panel declared Ms. Lanceleve a probationary member of the Elizabeth Metis Settlement.

MSAT Order No. 164

Date Issued: August 25, 2005

Parties: Tom Parenteau (Appellant), Paddle Prairie Metis Settlement (Respondent) and Edward Parenteau (Affected Party)

Issue: Land Dispute

The Tribunal ordered the Registrar of the Metis Settlements Land Registry to not make any amendments to the registry where the SW-29-103-21-5 and SE-29-103-21-5 are concerned until this order is lifted.

ORDERS ISSUED

MSAT Order No. 165

Date Issued: October 3, 2005

Parties: Tom Parenteau (Appellant), Paddle Prairie Metis Settlement (Respondent) and Edward Parenteau (Affected Party)

Issue: Land Dispute

(This Order deals with the appeal submitted against Council's decision to take on trusteeship of a deceased member's land interests when the immediate family of the deceased had already designated a trustee from among themselves.)

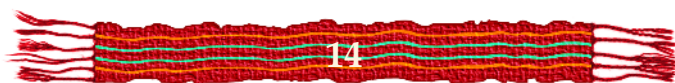
Robert Parenteau, a member of the Paddle Prairie Metis Settlement, died without leaving a will or estate instructions. A majority of Robert's siblings agreed to name Tom Parenteau as trustee to Robert's estate. Despite the family's wish, the Settlement Council enacted two resolutions taking on trusteeship for Robert's estate and granting one of the quarter section of lands with the house on it to Edward Parenteau. Tom Parenteau appealed this decision of the Council.

The Tribunal found jurisdiction to deal with this matter under Section 189(1) of the *Metis Settlements Act*, which states the Appeal Tribunal must hear appeals and references given to it under the Act or regulations, by-laws or General Council policies. It further found jurisdiction under Section 8.1 of the General Council Land Policy, which states any person affected by the decision of the settlement council relating to the granting or transferring of land interests in settlement area can appeal to the Appeal Tribunal.

The Panel decided in favour of the appellant. It appointed Tom Parenteau as land trustee for land interests previously held by Robert Parenteau. This decision found:

1. The Council's resolutions were contrary to the wishes of the majority of Robert Parenteau's family members;
2. The Council failed to inform affected family members of its decision to take on trusteeship of Robert Parenteau's land interests in the settlement;
3. The Council failed to register its trusteeship at the Metis Settlements Land Registry;
4. As trustee, the Council failed to do its duties under Section 7 of the Land Policy;
and
5. The Council acted in contravention of Section 3.4 of the Land Policy.

The Métis Settlements Land Registry was ordered to register Tom Parenteau as land trustee effective the date of MSAT Order No. 165



MSAT Order No. 166

Date Issued: September 30, 2005

Parties: Donald Aulotte (Appellant), William (Sam) Aulotte (Respondent),
and Hellen Johnston and Settlement Council for Fishing Lake Metis
Settlement (Affected Parties)

Issue: Land Dispute

(This Order deals with a land dispute between two settlement members who had a land sale agreement that the seller's wife did not approve of.)

Don Aulotte and Sam Aulotte, both members of the Fishing Lake Metis Settlement, entered into a sales agreement whereby Sam was to sell his land to Don for a certain amount. After paying in full the agreed amount, the land title remains under Sam's name. Don appealed to have the land title transferred to his name.

The Tribunal finds jurisdiction to hear this appeal under Section 189(1) (b) of the Metis Settlements Act, which states that the Appeal Tribunal must hear appeals and references given to it under the regulations, by-laws or General Council policies. Section 8.2 of the General Council Land Policy provides that any question or dispute as to the ownership or extent of an interest in land in a settlement area may be referred to the Appeal Tribunal for an advance ruling or decision.

The Tribunal decided the land will remain registered under Sam's name, but ordered Sam to repay Don the amount he had paid for the land. The Tribunal found that the sale transaction was invalid as it contravened Section 4 of the *Dower Act*. Hellen did not consent to the sale of the land, which is also their homestead.

The Tribunal ordered Sam to pay back the full amount by January 31, 2006. If said amount is not paid by then, the Tribunal will file with the Court of Queen's Bench to have Order No. 166 be enforced in accordance with Section 209 of the MSA.

ORDERS ISSUED

MSAT Order No. 167

Date Issued: October 14, 2005

Parties: Vernon Calliou (Appellant), Settlement Council for Fishing Lake Metis Settlement, Thomas Cardinal, Kelly Bowen and Eva (Tina) Marie Shaw (Respondent), and Tulliby Lake Stockmans Association (Affected Party)

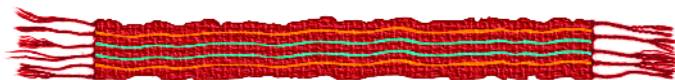
Issue: Land Dispute

(The Order deals with land disputes that came about due to the failure of the Settlement to complete and submit on time the required transfer application for registration at the Land Registry. As a result, land interests were awarded to settlement members other than the intended recipient.)

Thomas Cardinal had a Provisional Métis Title which he intended to transfer to Vernon Calliou. Thomas and Vernon completed the required transfer form, but the form was not forwarded to the Métis Settlements Land Registry by the Settlement office for recording. Thomas also sold to Vernon improvements he made on another quarter section of land. Again, they completed the required forms but the transfers were lost by the Settlement. The concerned quarter sections were then posted by the Settlement office and awarded to other settlement members. Vernon appealed the non-registration of the lands under his name and the granting of said lands to other members by the Settlement.

The Tribunal has jurisdiction to deal with this matter under Section 189(1) of the *Métis Settlements Act*, which states that it must hear appeals and references given to it under the Act or regulations, by-laws or General Council policies. Section 8.1 of the General Council Land Policy provides that any person affected by the decision of the settlement council relating to the granting or transferring of land interests in settlement area can appeal to the Appeal Tribunal.

After considering all evidence, the Tribunal decided in favour of Vernon Calliou. It reasoned that if the Settlement completed the required transfer form on time and submitted to the Land Registry, the interests would have been registered under Vernon's name. The Tribunal ordered the Registrar of the Land Registry to revise the Registry to show Vernon as holder of Provisional Métis Titles on both lands effective the date of the Order. The Panel also recommended to the Settlement Council they ensure all land transactions are processed correctly and timely; and the Council comply with all related legislation, regulations, and policies and bylaws to avoid future dispute of this nature.



For more information, contact us at:

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