



ANNUAL REPORT  
2015

### **Report**

211(1) On or before March 31 in each year, the Appeal Tribunal must give to the Minister and the General Council a report for the year ending on the preceding December 31, showing

- (a) the nature of its activities;
- (b) the general manner in which it dealt with matters coming before it; and
- (c) any other matter that the Minister directs.

(2) The Minister must table the Appeal Tribunal's report in the Legislative Assembly if it is then sitting or, if it is not sitting, within 15 days after the commencement of the next sitting.

*[Metis Settlements Act, R.S.A. 2000]*

## TABLE OF CONTENTS

<b>Part I – The nature of our activities in 2015 .....</b>	<b>4</b>
Disputes and Decisions.....	5
Order 264 - Membership .....	6
Order 273 – Determining Compensation .....	7
Orders 276-279 – Recovery of Compensation .....	8
Other decisions .....	8
Judicial Reviews.....	9
<b>Part II – The manner in which we did our work in 2015 .....</b>	<b>10</b>
Community Conciliation & Mediation.....	10
Outreach .....	10
Timeliness.....	11
Budgetary Oversight.....	11
<b>Appendix One – 2015 Decisions – Summaries .....</b>	<b>12</b>
<b>Appendix Two – 2015 LAP Orders.....</b>	<b>17</b>

## Part I – The nature of our activities in 2015

### Our nature

The Appeal Tribunal is a quasi-judicial body with a legislated mandate to “exercise its powers and carry out its duties with a view to preserving and enhancing Metis culture and identity and furthering the attainment of self-governance by Metis Settlements under the laws of Alberta.”<sup>1</sup>

The Appeal Tribunal has seven decision makers (Board members) and its Chairperson, Lorne Dustow, is from Fishing Lake Metis Settlement. Every board member is committed to the Tribunal’s legislated mandate and to treating all parties with respect and to ensuring that the Tribunal’s services are accessible, fair, and timely.

As a publicly funded agency, the Appeal Tribunal is committed to the twin principles of transparency and accountability. The Appeal Tribunal was delighted to be participating in Alberta’s review of Agencies, Boards and Commissions and is committed to increasing efficiencies wherever practicable.

### Appeal Tribunal Board (2015)



Lorne Dustow, Chair



Don Cunningham, Vice Chair



Phyllis Collins, Vice Chair



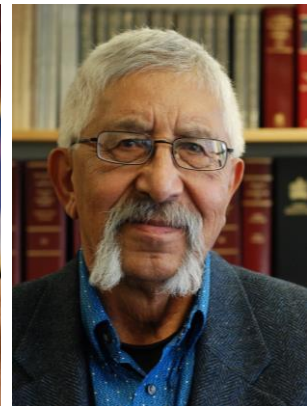
David Drummond



Cody Hodgson



Joyce Parenteau



Ross Daniels

---

<sup>1</sup> See section 187.1 of the *Metis Settlements Act*, RSA 2000

## The nature of our work in 2015

### Disputes and Decisions

As set out in Table 1.1, below, there was a 65% increase in appeals in 2015. Membership appeals nearly quadrupled, while land disputes held steady, and compensation matters increased by a multiple of six.

New Appeals Received					
	2011	2012	2013	2014	2015
<b>Membership</b>	3	7	8	3	11
<b>Land Disputes</b>	17	17	11	17	17
<b>Surface Access / Compensation</b>	3	2	10	2	12
<b>Descent of Property</b>	3	1	2	1	--
<b>Trespass</b>	--	1	--	1	1
<b>Other</b>				2	2
<b>New Appeals</b>	<b>26</b>	<b>28</b>	<b>31</b>	<b>26</b>	<b>43</b>
<i>Table 1.1</i>					

The number of Tribunal decisions doubled in 2015 and Right of Entry Orders/Compensation Orders increased by nine times. (See table 1.2, below.)

MSAT Decisions					
	2011	2012	2013	2014	2015
<b>Membership</b>	1	6	3	1	3
<b>Land Disputes</b>	5	5	3	3	5
<b>Descent of Property</b>	3	--	--	2	--
<b>Surface Access / Compensation</b>	--	2	2	3	9
<b>Conflict of Interest</b>	--	--	--	--	1
<b>Total Decisions</b>	<b>9</b>	<b>13</b>	<b>8</b>	<b>9</b>	<b>18</b>
<b>Land Access Panel - LAP Orders</b>					
Amendments to Right of Entry and Compensation Orders	22	84	100	6	55
<b>Existing Leases Land Access Panel – ELLAP Orders</b>					
Right of Entry Orders	--	7	--	--	--
<i>Table 1.2</i>					

Tribunal decisions are the culmination of investigative and adjudicative efforts. Every decision is important and certainly significant to all parties involved in the matter. However, some Tribunal decisions have impacts beyond the parties immediately affected, and we've highlighted three such decisions, below.

### **Order 264 - Membership**

#### **Lester Calaheson v. Lyle Whitehead, Brandon Lacoucane / Gift Lake Metis Settlement**

Settlement member, Lester Calaheson, used section 83(2) of the *Metis Settlements Act* to appeal the approval of the membership bylaws for Lyle Whitehead and Brandon Laboucane.

Lester's appeal was filed under section 83 of the *Metis Settlements Act*, as follows:

83(2) If a settlement council approves an application for membership in a settlement [including approval through the section 75 bylaw process], any member of the settlement may appeal in writing to the Appeal Tribunal within 45 days after the application was approved.

Given that Lester is a Settlement member and that he filed his appeal in time, the Appeal Tribunal gave its permission for the appeal to proceed.

Lester requested that the approval of the membership bylaws under section 75 of the *Metis Settlements Act* be set aside, because he believed a significant number of "ineligible voters" participated in the passage of the bylaws. According to Mr. Calaheson, the ineligible voters were those who voluntarily became registered as Indians under the *Indian Act*, and thereby automatically and immediately terminated their Metis settlement membership.

One of the questions before the Appeal Tribunal was to determine the effective date of membership termination: Is it on the day that a person registered as an Indian, or is it later?

The panel concluded that for the sake of certainty and good governance on the Metis Settlements, the date of termination should be tied to a recognized governmental process. Preferably, that process is one that the Metis Settlements General Council develops through its policy making power; however, since no such policy exists, what is left is the process used by the Metis Settlements Registrar to maintain the membership list.

In this regard, the Metis Settlement Registrar uses a "go-forward" process in which the members are removed from the membership list only after a series of checks are performed by the Registrar confirming that a member has become a registered Indian and that the individual has had 30 days to respond to the evidence before the Registrar. Furthermore, the Registrar does not backdate the removal of members from the Settlements list; which makes sense given the "go-forward" nature of the checks and balances used by the Registrar.

What this means in relation to Lester's appeal is that the Settlement Members List can be relied on to show who is a member and who is not a member on any given day, including on the day when bylaws are voted on.

Parties other than Lester and Gift Lake Metis Settlement asked the Alberta Court of Appeal for permission to appeal the Tribunal’s decision, but permission was not given because the parties that filed the request did not have “standing” in this matter.

### **Order 273 – Determining Compensation Kikino Metis Settlement v. Husky Oil Corp.**

Compensation rates/orders are generally set for five year periods. Generally speaking, if the parties to the order don’t provide notice to change the compensation rates within the five year period, the rates stay the same for another five year period.

In this case, the Appeal Tribunal found that under section 124 of the *Metis Settlements Act*, operators must notify the occupants within 30 days of the 4<sup>th</sup> anniversary of the compensation order (i.e. 30 days before the anniversary date or 30 days after the anniversary date), and that if either party indicates that they wish to have the rate of compensation reviewed, then good faith negotiations must follow.

The Appeal Tribunal also found that when notice is given by the operator to the occupants to have the rates of compensation reviewed as per section 125 of the *Metis Settlements Act* (i.e. within 30 days of the 4<sup>th</sup> anniversary of the date the surface lease or entry order was made), the parties must submit their request for rate review to the Appeal Tribunal within 13 months from the date the notice was given.

In addition, the Appeal Tribunal narrowed the amount of time under section 128 of the *Metis Settlements Act* that occupants have to apply for a hearing/review in cases where the Operator fails to provide notice under section 124 of the *Metis Settlements Act*. In past decisions, when an operator failed to provide notice, occupants were given two years from the 4<sup>th</sup> anniversary to file an appeal/request to review compensation rates under section 128 of the *Metis Settlements Act*, which is set out below:

128 If the obligated operator fails to give a notice required under section 124, the lessor or any of the occupants may, within a reasonable time after the failure, give notice to the obligated operator stating that they wish to have the rate of compensation reviewed or fixed and, in that case [sections 124(2) to 127 apply].

In the early 1990s it seemed reasonable to give the Settlements/occupants up to two years to provide notice under section 128 of the *Metis Settlements Act*. This was so because the whole review/notice process was relatively new to the Settlements in the 1990s and that the capacity to track and provide notice was still emerging. However, the same cannot be said about the Settlements in 2015. Twenty-five years into the application of the Accord self-governance framework, it is now fair to expect that Metis Settlements have the experience and capacity to provide notice to the operator within 60 days from the last day when the operator should have filed notice (i.e. 30 days after the 4<sup>th</sup> anniversary of the lease/order), and this is the new standard.

In real terms, this gives the parties 90 days (i.e. 30 days for the operator under section 124, *plus* another 60 days given to the occupants under section 128) to launch negotiations. If negotiations

are attempted and fail, the parties effectively have up to 90 days into the fifth year of the lease/order to apply to the Appeal Tribunal for a hearing to determine compensation.

Using these baselines, a total of 14 leases involving Kikino Metis Settlement were reviewed and another 98 leases were deemed ineligible.

In determining the compensation rates, the Appeal Tribunal considered the factors set out in section 118 of the *Metis Settlements Act*. These include, but are not limited to, the cultural value for preserving a traditional Metis way of life, damages to specific sites, impacts on the physical, social and cultural environment and cumulative effect of related projects. Additional considerations were given as to the evidence itself, including the credibility and weight attributed to elder and expert testimony.

Kikino Metis Settlement has requested permission from the Alberta Court of Appeal for leave to appeal. Kikino's request for leave to appeal will be heard by the Court of Appeal in early 2016.

**Orders 276-279 – Recovery of Compensation  
Houle/Ghostkeeper/Bergen/Villeneuve v. Paddle Prairie Metis Settlement, Sunstar Resources Inc., Calver Resources Inc. and Metis Settlements General Council**

The Appeal Tribunal issued four decisions under section 121 of the *Metis Settlements Act* for the recovery of compensation. Section 121 allows that on receipt of satisfactory evidence of failure of the existing mineral lease holder or operator to pay, the Land Access Panel may direct the President of Treasury Board and Minister of Finance to pay out of the General Revenue Fund the amount of money to which the person is entitled.

The amount paid by the President of Treasury Board and Minister of Finance totaled \$23,924.05 and, according to the *Metis Settlements Act*, it now constitutes a debt owing by the operators—Paddle Prairie, Sunstar Resources Inc. and Calvar Resources Inc.—to the Crown in right of Alberta.

Also of note is that section 121 does not appear to include an appeal deadline. Meaning, evidence of failure to pay may go back for years.

This use of section 121 to recover compensation, which then constitutes a debt owing by the lease holder or operator, is something that all community-owned operators should be aware of and take steps to cover or otherwise mitigate.

**Other decisions**

Appeal Tribunal decisions are summarized at the back of this annual report and the summaries and full decisions are available on the Appeal Tribunal's website, or by hard copy upon request.

Finally, it is worth noting that land disputes continue to form a significant part of the Appeal Tribunal's work. Many of these involve land interests known as Provisional Metis Titles, or PMTs.



As set out in the *Metis Settlements General Council Land Policy* (GC-P9201), PMT interests give members the right to use the land and make improvements to the extent needed to obtain Metis Title. Under the terms of the Memorandum of PMT Interest—which applies to all PMT interests—members have five years to make the improvements. If more time is needed to make improvements, up to, but not more than, the PMT interest can be extended by another five years if the settlement council is satisfied that the member is productively using the land and has made some improvements, but needs more time to make improvements needed to obtain Metis Title. Of course, all these decisions need to be properly recorded and registered with the Metis Settlements Land Registry; which is something that is also often overlooked.

The Appeal Tribunal’s Land Access Panel also amended fifty-five Right of Entry Orders in 2015. This reflects a sharp increase from the six amendments issued in 2014.

### **Judicial Reviews**

If leave to appeal is granted by the Alberta Court of Appeal, questions about how the Appeal Tribunal interpreted the law and exercised its jurisdiction can be reviewed.

The Court of Appeal was asked to review two Appeal Tribunal decisions in 2015.

In the first case, *Isbister v. Aulotte* (Order 254), the Court of Appeal overturned the Appeal Tribunal’s order. The Court of Appeal said the Appeal Tribunal erred when it extended the 45 day appeal deadline by over three years to assume jurisdiction over the matter. An application by Peavine, Elizabeth and East Prairie Metis Settlements is now before the Supreme Court of Canada to review the Court of Appeal’s decision.

Leave to appeal was also sought in the *Lester Calaheson v. Lyle Whitehead, Brandon Lacoucane / Gift Lake Metis Settlement* (Order 264). However, the Court of Appeal did not grant leave for the matter to be heard because the parties appealing the matter were not involved in the hearing before the Appeal Tribunal.

As a general matter of policy and good practice, the Appeal Tribunal does not take a position concerning applications to the Alberta Court of Appeal or Supreme Court of Canada. We simply advise the Courts on standards of review and the fact that the Appeal Tribunal operates within a legislated self-governance framework unique to the Metis Settlements. This way, the Appeal Tribunal maintains its impartiality should the Court of Appeal direct that the matter be returned to it for further adjudication.

Whatever direction comes from the Courts, the Appeal Tribunal incorporates that direction as a new and useful tool by which to interpret the legislation at hand and thereby strengthen the Metis Settlements’ self-governance framework.

## Part II – The manner in which we did our work in 2015

### Community Conciliation & Mediation

The Appeal Tribunal continued to empower Settlement members and Councils to resolve disputes on their own. We did this by meeting with the members and Councils in their homes and offices and by clarifying the issues and law at hand. Our investigators encouraged and facilitated dialogue between the parties, resulting in twenty-one matters being conciliated in 2015 without the need for a hearing, which is up from twelve conciliations the year before.

Matters Resolved Before Hearing Stage					
	2011	2012	2013	2014	2015
Membership	1	1	4	3	3
Land Disputes	8	16	8	7	12
Access/Comp.	4	2	2	1	4
Descent of Property	1	--	--	1	1
Other					1
<b>Totals</b>	<b>14</b>	<b>19</b>	<b>14</b>	<b>12</b>	<b>21</b>
<i>Table 1.3</i>					

The Appeal Tribunal prioritizes community conciliation and mediations because this work strengthens community bonds and is entirely consistent with the Metis way of resolving matters at home. It is in the nature of Settlement members to take ownership of solutions and the Appeal Tribunal is pleased to breathe life into this aspect of Metis culture and identity. That these resolutions also tend to take less time, save money and reduce the likelihood of appeals to the Alberta Court of Appeal, are also all good things.

### Outreach

The Appeal Tribunal continued its valued partnership with the Metis Settlements Land Registry and held community workshops in Elizabeth and Fishing Lake Metis Settlements. This provided Settlement members with the ability to confirm their land interests and to talk to Tribunal staff in the event that the interests didn't line up with their expectations. The response was more than positive, with many Settlement members expressing their thanks for helping them clarify their interests in Settlement lands and for clarifying any appeal processes that might apply.

The Appeal Tribunal was also delighted to partner with the University of Alberta Community Service Learning Program in which Native Studies students researched topics of interest and presented their findings to the Appeal Tribunal Board and staff members. This partnership between the Appeal Tribunal and the University of Alberta has been in place for many years, and it affords university students the opportunity to learn about the Appeal Tribunal and the Metis Settlements self-governance framework. What the Appeal Tribunal gets out of the partnership is an opportunity to consider presentations on a range of different research topics of interest to the

Appeal Tribunal. In short, it allows us to see the Settlements through a different lens, with the only cost being the time it takes to recommend a research topic and to meet with the students doing the research.

**Timeliness**

The appeal Tribunal is committed to resolving disputes in a timely manner. For example, it committed to making and distributing at least 60% of its written decisions in 2015 within 60 days of each hearing date. We achieved this target. In 2015 the Appeal Tribunal issued 14 of 18 decisions within 60 days (or 77.8%); which is an improvement from 50% the year before.

The Appeal Tribunal also committed to resolving 50% of all appeals going to a hearing within 9 months of their receipt. In 2015, the Appeal Tribunal resolved 11/18 matters within 9 months of their receipt, or 61%. This is an improvement from the 53% completion rate in 2014.

**Budgetary Oversight**

The Appeal Tribunal continued to carefully monitor its expenditures and manage its operations in compliance with provincial statutes and departmental practice directives. This includes the issuance of quarterly forecasts and expenditure reports, and oversight and support of its employees in line with the *Public Service Act* and other legislation.

The Appeal Tribunal reports its activities on a calendar year basis, from January 1 to December 31. However, its financial reporting period follows the provincial government fiscal year from April of the preceding year (2014) to March of the current reporting year (2015).

The Appeal Tribunal continues to operate within the funding envelope provided by the Government of Alberta. However, there were budgetary pressures that required action. Due to the complexity of certain files, we had to substantially increase the funding allocation for external counsel, which meant reducing funds for training.

	2013/2014		2014/2015	
	Authorized Budget	Actual Expenditure	Authorized Budget	Actual Expenditure
Manpower <sup>2</sup>	\$ 715,000	\$ 727,486.14	\$ 723,635	\$ 730,236.64
Supplies & Services <sup>3</sup>	<u>\$ 482,000</u>	<u>\$ 456,295.80</u>	<u>\$ 480,365</u>	<u>\$ 437,486.14</u>
Miscellaneous		\$ 1,933.60		
<b>Total</b>	<b><u>\$ 1,197,000</u></b>	<b><u>\$1,185,715.54</u></b>	<b><u>\$1,204,000</u></b>	<b><u>\$1,167,722.78</u></b>
Unexpended		\$ 11,284.46		

*Table 1.4*

<sup>2</sup> Manpower includes salaried, wage employees, staff development and employee benefits.

<sup>3</sup> Supplies and Services includes all contracts/per diems and business related expenses.

## Appendix One – 2015 Decisions – Summaries<sup>4</sup>

### Order 262 MSGC Financial Interest Policy

**Between:** Raymond Supernault, Appellant and East Prairie Metis Settlement and Wade L’Hirondelle, Respondents and Metis Settlements General Council and Karen L’Hirondelle, Other Parties

**Background:** Raymond Supernault’s appeal alleged that EPMS councillor, Wade L’Hirondelle, breached the *MSGC Financial Interest Policy* when he participated in a meeting to appoint his sister, Karen L’Hirondelle, as the Interim Administrator.

**Decision:** The appeal was dismissed because the 60-day deadline for filing an appeal under the *MSGC Financial Interest Policy* was not met.

### Order 263 Land/House Dispute

**Between:** Taylor Louise Laboucan, Appellant and East Prairie Metis Settlement, Metis Settlements General Council, Metis Settlements Land Registry, and Laurel Natasha Patenaude, Respondents

**Background:** Taylor Laboucan requested that MSAT set aside EPMS Council’s decision to award a PMT interest in NW-09-071-14-5 along with the house that is attached to the land to Laurel Patenaude.

**Decision:** The Appeal Tribunal upheld EPMS Council’s decision, finding that council met its obligations set out in the *MSGC Land Policy* and in the *EPMS Housing Program Policy*.

### Order 264 Membership Dispute

**Between:** Lester Calaheson, Appellant and Lyle Whitehead and Brandon Laboucane, Respondents and Gift Lake Metis Settlement, Metis Settlements General Council, and Metis Settlements Land Registry, Other Parties

**Background:** Lester Calaheson appealed the approval of the membership bylaws for Lyle Whitehead and Brandon Laboucane. Lester Calaheson requested that the approval of the membership bylaws be set aside, because he believed a significant number of ineligible voters participated in the passage of the bylaws. According to Mr. Calaheson, the ineligible voters were those who voluntarily became registered as Indians under the *Indian Act*, and thereby terminated their Metis settlement membership.

One of the questions before the panel was to determine the effective date of membership termination – was it on the day that a person registered as an Indian, or was it later? The panel concluded that the effective termination date was on the day the Registrar removed the person’s name from the Settlement membership list. This is because the Registrar does not backdate the removal of members from the list. Thus, the panel concluded that the Settlement Members List can be relied on to show who is a member and who is not a member on any given day, meaning that it was reasonable for GLMS to use the list provided by the Registrar’s Office to confirm who was a member on the day of the vote.

**Decision:** The Appeal Tribunal confirmed the approval of Lyle and Brandon’s bylaw membership applications.

---

<sup>4</sup> Note: These summaries are for convenience only. If there is a discrepancy between the summary and the actual order, the actual order should be relied on to resolve the discrepancy.

### Order 265 Compensation Dispute

**Between:** Travis Daniels, Appellant and Fishing Lake Metis Settlement, Metis Settlements General Council, Metis Settlements Land Registry, and Watch Resources Limited, Respondents

**Background:** Travis Daniels requested that MSAT reinstate the annual compensation payments for an ongoing oil and gas project on SW-18-58-01-4.

**Decision:** Travis Daniels's request to reinstate compensation was denied. MSAT determined that Travis Daniels was no longer an occupant, and therefore not entitled to compensation. Even though Travis held a PMT interest in the land when the oil and gas activity started in 2005, the PMT interest in the land was posted by the FLMS Council as available in 2007. Travis applied for and received the PMT, but having done so he broke the chain of ownership over the PMT interest. Even if Travis Daniels and the FLMS Council hadn't broken Travis Daniels's hold over the PMT interest in 2007, the *MSGC Land Policy* would have brought his hold over the original PMT interest to an end on April 13, 2008, when the second renewal ran out.

### Order 266 Land Dispute

**Between:** Fishing Lake Metis Settlement, Appellant and Randy Parenteau, Respondent

**Background:** FLMS and Randy Parenteau requested MSAT to determine who owned the housing unit situated on SW-17-057-02-4. Randy Parenteau wanted the estate instructions of his late half-sister, Shirley Parenteau, to be honoured by awarding the housing unit and interest in land.

**Decision:** The Appeal Tribunal decided that control of the housing unit and the Metis Title interest rested with FLMS. The decision rested on the fact that Shirley Parenteau did not pay rent, the Metis Title interest in the land was not transferred to her, and her estate instructions were not registered.

### Order 267 Membership Dispute

**Between:** Rene Cunningham, Appellant and Peavine Metis Settlement, Respondent

**Background:** Rene Cunningham requested that the seniors' benefits he was entitled to as a member of PMS be paid to him even though he refused to submit a status check to the settlement (as per the PMS policy).

**Decision:** The Appeal Tribunal determined it did not have jurisdiction to hear the matter as there was nothing in the *Metis Settlements Act* to support a finding of jurisdiction.

### Order 268 Membership Dispute

**Between:** Eric Vicklund and Hazel Vicklund, Appellants and Peavine Metis Settlement Respondent

**Background:** Hazel and Eric Vicklund requested to be compensated for the programs and services denied to them by PMS from April 1, 2014.

**Decision:** The Appeal Tribunal determined it did not have jurisdiction to hear the matter as there was nothing in the *Metis Settlements Act* to support a finding of jurisdiction.

### Order 269 Land/House Dispute

**Between:** Kerry-Ann Haggerty, Appellant and East Prairie Metis Settlement, Settlements General Council and Metis Settlements Land Registry, Respondents

**Background:** Kerry-Ann Haggerty requested that MSAT set aside EPMS Council's decision to award a PMT interest in NW-09-071-14-4 along with the house that is attached to the land to Laurel Patenaude.

**Decision:** The Appeal Tribunal dismissed the appeal because it was not filed within the 30-day appeal period.

### Order 270 Land Dispute

**Between:** Evelyn Carifelle, Appellant and Peavine Metis Settlement Respondent

**Background:** Evelyn Carifelle appealed a decision by PMS to cease making annual oil and gas payments to Ms. Carifelle because of her Indian status.

**Decision:** The Appeal Tribunal determined it did not have jurisdiction to hear the matter as there was nothing in the *Metis Settlements Act* to support a finding of jurisdiction.

### Order 271 Surface Rights Compensation Dispute

**Between:** Matthew Quinton-Lee Turcotte McLean, Appellant and Fishing Lake Metis Settlement, Canadian Natural Resources Limited, Metis Settlements General Council, and Metis Settlements Land Registry, Respondents

**Background:** Matthew McLean requested that MSAT confirm he was a resident member of FLMS and to order FLMS to release surface rights compensation held in trust from his late grandfather's estate.

**Decision:** The Appeal Tribunal decided that Matthew McLean was a new Occupant under section 119 of the *Metis Settlements Act* and compensation should be properly paid to him.

### Order 272 Land Dispute

**Between:** Mandy Laboucane, Appellant and Ryan Laboucane, Lee Anne Desjarlais, and Fishing Lake Metis Settlement, Respondents

**Background:** Mandy Laboucane requested that she be granted an interest in the NW-32-56-2-4. Even though the appeal was not filed in time, MSAT applied section 202 of the *Metis Settlements Act* to extend timelines. This was done because all parties would have benefited from having MSAT clarify the appropriate processes for transferring and registering interest in land. Mandy Laboucane entered into a housing agreement for the housing unit on NW-32-56-2-4. Despite the agreement the Metis Title interest in land was never transferred to Mandy when she completed payments on the unit. Despite both FLMS and Mandy indicating that the interest should have been transferred to Mandy, in accordance with local settlement practice, MSAT did not find evidence that such practices existed or that FLMS intended to transfer the interest to her. Also, the housing agreement did not mention that the interest would be transferred to her.

**Decision:** The Appeal Tribunal dismissed Mandy Laboucane's request to grant her Metis Title interest, but directed FLMS Council to post a Provisional Metis Title interest in the land as available and invite Mandy to apply for that interest.

### **Order 273 Surface Rights Compensation**

**Between:** Between: Kikino Metis Settlement, Appellant and Husky Oil Operations Limited, Respondent and Certain Identified Occupants, and Metis Settlements General Council

**Background:** KMS submitted two appeals for a compensation review for Husky developments on 112 lease locations. The appeals, which were merged by MSAT, invoked sections 118 and 125-128 of the *Metis Settlements Act*. The panel reviewed all lease locations to identify which of them came under the section 125 or section 128 compensation pathways, according to when the notices to the other party and to the Tribunal were given and in light of the point in time in the lease cycle when the first notice was tendered. A series of principles, consistent with the law, were established to apply to this review. As a result of this scoping exercise, a total of 14 leases were determined to be reviewable upon these notices (The other 98 review-ineligible leases presumably continue under their existing rental rates).

**Decision:** The Land Access Panel ordered compensation to be paid by Husky Oil Operations Limited to KMS in the amount of \$46,781.14 in respect of the 14 reviewable leases.

### **Order 274 Surface Rights Compensation**

**Between:** Allan Gladue, Appellant and Fishing Lake Metis Settlement, Respondent

**Background:** Allan Gladue appealed to MSAT requesting that surface rights compensation for SE-23-058-01-4 be restored to him. Allan Gladue had a Provisional Metis Title from February 2005 to February 2010. Oil and Gas operations started on the land in July 2005. Allan was granted a new Provisional Metis Title effective February 2011 to February 2016. MSAT referred to the *FLMS Surface Rights Compensation Distribution to Members Bylaw* to determine Allan's eligibility for compensation. This bylaw stipulates that compensation is paid only to holders of pre-existing interests in affected land. Considering that Allan's initial Provisional Metis Title interest expired in 2010 and his current interest does not pre-exist the oil and gas project on the land, it means that Allan is not entitled to any compensation.

**Decision:** Allan Gladue's appeal was dismissed.

### **Order 275 Compensation for Renovations and Repairs**

**Between:** George Piche, Appellant and Sherry Greene, Respondent and Elizabeth Metis Settlement, Metis Settlements Land Registry, and Metis Settlements General Council, Other Parties

**Background:** George Piche filed an appeal requesting to be financially compensated for renovations and repairs he did on the house he was renting from Sherry Greene (located on SE-32-059-4, within the Elizabeth Metis Settlement).

**Decision:** George Piche's appeal was dismissed for lack of jurisdiction. There was no legislative basis upon which MSAT could take any further action since Settlement council was not involved in the rental arrangement, George was not asserting any ownership over the interest in land, and Sherry Greene did not agree in writing that MSAT should decide the matter.

### **Orders 276-279 Surface Rights Compensation**

**Between:** James Ghostkeeper, Julia Bergen, Richard Villeneuve, and Theresa Houle, Appellants and Paddle Prairie Metis Settlement, Sunstar Resources Inc., Calver Resources Inc. and Metis Settlements General Council, Respondents

**Background:** the appellants filed their appeals under section 121 of the *Metis Settlements Act* for recovery of annual rentals with respect to a Surface Lease Agreement. The Surface Lease Agreement operates under a Joint Venture Agreement entered into by SunStar Resources and Calver Resources. PPMS's Settlement Council confirmed that SunStar was a settlement-owned company.

**Decision:** MSAT directed the President of the Treasury Board and Minister of Finance to pay the amount compensation out of the General Revenue Fund to the Applicant pursuant to section 121(2) of the *Metis Settlements Act*.



## Appendix Two – 2015 LAP Orders

\* "REO" – Right of Entry Order

LAP Order Number	Right of Entry Order	Compensation Order	Description	Settlement	Applicant
0001/15	2159/87	0026/88	Change of Existing Mineral Lease Holder	Elizabeth	Husky Oil Operations
0002/15	2556/88	0248/89	Change of Existing Mineral Lease Holder	Elizabeth	Husky Oil Operations
0003/15	0353/89	0853/89	Change of Existing Mineral Lease Holder	Elizabeth	Husky Oil Operations
0004/15	1950/89	2781/89	Change of Existing Mineral Lease Holder	Elizabeth	Husky Oil Operations
0005/15	2729/89	0391/90	Change of Existing Mineral Lease Holder	Elizabeth	Husky Oil Operations
0006/15	0558/90	1129/90	Change of Existing Mineral Lease Holder	Elizabeth	Husky Oil Operations
0007/15	E2825/84	E3271/84	Amending Compensation Order	Fishing Lake	Fishing Lake
0008/15	E467/81	E572/84	Amending Compensation Order	Fishing Lake	Fishing Lake
0009/15	1892/89	2783/89	Amending Compensation Order	Fishing Lake	Fishing Lake
0010/15	E1437/85	E1592/85	Amending Compensation Order	Fishing Lake	Fishing Lake
0011/15	E2641/85	0166/86	Amending Compensation Order	Fishing Lake	Fishing Lake
0012/15	1572/66	668/67	Amending Compensation Order	Fishing Lake	Fishing Lake
0013/15	E414/85	E1133/85	Amending Compensation Order	Fishing Lake	Fishing Lake
0014/15	E2827/84	E3273/84	Amending Compensation Order	Fishing Lake	Fishing Lake
0015/15	E2644/85	0167/86	Amending Compensation Order	Fishing Lake	Fishing Lake
0016/15	0608/88	1413/88	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0017/15	E38/80	E182/81	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0018/15	E1160/80	E186/81	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0019/15	E514/83	E378/84	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0020/15	E548/83	E379/83	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0021/15	E941/83	E380/84	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0022/15	E1732/83	E381/84	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0023/15	E1733/83	E382/84	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0024/15	E2015/83	E2604/83	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0025/15	E2588/83	E457/84	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0026/15	E2589/83	E458/84	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada

0027/15	E2738/83	E383/84	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0028/15	E2711/83	E463/84	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0029/15	E2712/83	E463/84	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0030/15	E2713/83	E463/84	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0031/15	E124/84	E573/84	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0032/15	E1422/80	E566/84	Amending Compensation Order	Fishing Lake	Fishing Lake
0033/15	E743/84	E820/84	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0034/15	E744/84	E819/84	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0035/15	E1405/84	E1738/84	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0036/15	E1451/84	E1739/84	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0037/15	E1447/84	E1740/84	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0038/15	E1448/84	E1741/84	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0039/15	E1449/84	E1742/84	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0040/15	E1450/84	E1743/84	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0041/15	E2248/84	E2501/84	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0042/15	E2249/84	E2502/84	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0043/15	E2403/84	E2503/84	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0044/15	E2797/84	E3256/84	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0045/15	E3206/84	E3624/84	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0046/15	E3207/84	E3625/84	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0047/15	E3648/84	E47/85	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0048/15	E354/85	E1142/85	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0049/15	E1184/85	E1578/85	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0050/15	0508/88	1412/88	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0051/15	E33/83	E385/84	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0052/15	2160/86	0101/87	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0053/15	E2590/83	E459/84	Change of Existing Mineral Lease Holder	Gift Lake	Devon Canada
0054/15	201/67	670/67	Amending Compensation Order	Fishing Lake	Fishing Lake
0055/15	E2978/84	E3460/84	Amending Compensation Order	Fishing Lake	Fishing Lake



For more information, contact us at:

Suite 200, 10335 – 172 Street, Edmonton, AB, T5S 1K9  
780-422-1541 or *Toll Free 1-800-661-8864* or Fax: 780-422-0019

Or visit our website at [www.msat.gov.ab.ca](http://www.msat.gov.ab.ca)