Manitoba Claim Settlements Implementation Act

2000, c. 33

[Assented to October 20, 2000]

An Act respecting an agreement with the Norway House Cree Nation for the settlement of matters arising from the flooding of land, and respecting the establishment of certain reserves in the province of Manitoba

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

Short title

1. This Act may be cited as the Manitoba Claim Settlements Implementation Act.

PART 1

NORWAY HOUSE CREE NATION FLOODED LAND

Definitions

2. The definitions in this section apply in this Part.

"Agreement" « Accord »

"Agreement" means the agreement concluded between

- (a) Her Majesty in right of Canada,
- (b) Her Majesty in right of Manitoba,
- (c) the Manitoba Hydro-Electric Board, and
- (d) the Norway House Cree Nation,

pursuant to negotiations relating to the comprehensive implementation of the Flood Agreement.

"first nation"
« première nation »

"first nation" means the Norway House Cree Nation.

"Flood Agreement" « Convention »

"Flood Agreement" means the agreement concerning the flooding of land concluded between

- (a) Her Majesty in right of Canada,
- (b) Her Majesty in right of Manitoba,
- (c) the Manitoba Hydro-Electric Board, and
- (d) the Northern Flood Committee, Inc.

and signed on December 16, 1977.

Indian moneys

3. (1) Amounts paid to the first nation pursuant to the Agreement, whether before or after the coming into force of this Part, are not Indian moneys within the meaning of subsection 2(1) of the *Indian Act*.

Transfer of amounts held

*(2) As soon as practicable after the coming into force of this Part, all amounts collected, received or held by Her Majesty in right of Canada for the use or benefit of the first nation pursuant to the Agreement shall be transferred to the first nation in accordance with the Agreement.

* [Note: Part 1 in force on assent October 20, 2000.]

Subsection 35(4) of the *Indian Act*

4. Subsection 35(4) of the *Indian Act* does not apply in respect of any amount paid, whether before or after the coming into force of this Part, to the first nation pursuant to the Agreement.

Section 36 of the *Indian*

5. Where land is held or transferred pursuant to the Agreement, section 36 of the *Indian Act* does not apply in respect of that land if the holder or transferee of the land, or any subsequent holder or transferee of the land, is not Her Majesty in right of Canada.

Claims

- 6. A claim provided for by both the Flood Agreement and the Agreement may be exercised by
- (a) the council of the first nation,
- (b) the first nation,
- (c) a member of the first nation,
- (d) any group or unincorporated association that is wholly or substantially comprised of members of the first nation,
- (e) any unincorporated association established by the council of the first nation,
- (f) any share capital corporation the shares of which are wholly or substantially owned and controlled by the first nation or members of the first nation, and
- (g) any non-share capital corporation the membership of which consists wholly or substantially of the first nation or members of the first nation,

only in accordance with the Agreement.

Arbitration

7. Except as otherwise provided in the Agreement, the legislation of Manitoba relating to arbitration applies in respect of any dispute between the parties to the Agreement that, under the terms of the Agreement, is to be settled by way of arbitration.

PART 2

RESERVE ESTABLISHMENT

Definitions

nation »

8. The definitions in this section apply in this Part.

"council of the first nation" " conseil de la première

"council of the first nation" has the same meaning as the expression "council of the band" in the *Indian Act*.

"first nation"
« première nation »

"first nation" means a band within the meaning of the Indian Act.

"mines and minerals"
« mines et minéraux »

"mines and minerals" means mines and minerals, whether precious or base, and includes sand and gravel, oil and gas, and royalties derived from mines and minerals.

"Minister" « ministre »

"Minister" means the Minister of Indian Affairs and Northern Development.

"reserve" « réserve » "reserve" means a reserve within the meaning of the Indian Act.

Application

- **9.** This Part applies in respect of any agreement, including amendments made to it from time to time in accordance with its provisions, to which a first nation in Manitoba and Her Majesty in right of Canada are parties and by which lands are to be set apart as reserves, if
 - (a) in the case of an agreement by which the first nation has accepted the terms of the Framework Agreement, Treaty Land Entitlement, Manitoba, entered into on May 29, 1997, the council of the first nation has adopted a resolution assenting to the application of this Part in relation to the agreement;
 - (b) in the case of an agreement named in the schedule, the council of the first nation has adopted a resolution assenting to the application of this Part in relation to the agreement; or
 - (c) the agreement provides for the application of this Part.

Deposit of agreements

10. The Minister shall have a copy of each agreement to which this Part applies, and of any amendments made to it, deposited in the library of the Department of Indian Affairs and Northern Development situated in the National Capital Region and in such regional offices of that Department and other places as the Minister considers advisable.

Setting lands apart

11. (1) The Minister may, in accordance with an agreement to which this Part applies, set apart as a reserve any lands the title to which is vested in Her Majesty in right of Canada.

Third parties

- (2) Lands set apart as a reserve under this section are subject to any right or interest of a third party in the lands or in its mines and minerals if
 - (a) the agreement contemplates the continuation of rights or interests of that kind, and any requirement of the agreement with respect to the continuation of the right or interest has been satisfied;
 - (b) the right or interest has been granted to the third party under the Federal Real Property and Federal Immovables Act; or
 - (c) the right or interest is granted to the third party in accordance with section 12 or 13.

2000, c. 33, s. 11; 2001, c. 4, s. 165; 2002, c. 3, s. 8(F).

Designation of surrendered right or interest

- **12.** (1) If the council of a first nation has, by resolution, requested that the Minister set apart certain lands as a reserve under an agreement to which this Part applies, the first nation may, either
 - (a) before the lands are transferred to Her Majesty in right of Canada by the first nation, by Her Majesty in right of Manitoba or by a third party, or
 - (b) before the lands are set apart as a reserve under section 11.

designate conditionally or unconditionally, by way of a surrender to Her Majesty in right of Canada that is not absolute, any right or interest in the lands, including for the purpose of the replacement of an existing right or interest in those lands.

Application of Indian Act

(2) Sections 39, 40 and 41 of the *Indian Act* apply in respect of a designation under subsection (1), any references to the Governor in Council being read as references to the Minister.

Power of the Minister

(3) On the acceptance by the Minister of a designation under subsection (1), the Minister may grant the designated right or interest to a third party.

Effect

(4) If a designation under subsection (1) is accepted by the Minister, the designation and the granting of the right or interest by the Minister take effect at the time the lands are set apart as a reserve under section 11.

Certain acts deemed to have been done under *Indian Act*

(5) As of the time when the Minister sets apart any lands as a reserve under section 11, any right or interest in the lands that was designated by way of a surrender under subsection (1), and any resulting grant that was made under subsection (3), are deemed to have been designated or made, as the case may be, under the *Indian Act*.

2000, c. 33, s. 12; 2002, c. 3, s. 9.

Issuance of permits by Minister

- **13.** (1) If the council of a first nation has, by resolution, requested that the Minister set apart certain lands as a reserve under an agreement to which this Part applies, the Minister may, either
 - (a) before the lands are transferred to Her Majesty in right of Canada by the first nation, by Her Majesty in right of Manitoba or by a third party, or
 - (b) before the lands are set apart as a reserve under section 11,

authorize, by permit in writing, any person for a period not exceeding one year or, with the consent of the council of the first nation, for any longer period, to occupy, use or reside on any of those lands or exercise any other right on them, including for the purpose of replacing an existing right or interest of that person in those lands.

Effect

(2) Rights granted by permits issued under subsection (1) take effect at the time the lands are set apart as a reserve under section 11.

Certain acts deemed to have been done under *Indian Act*

(3) As of the time when the Minister sets apart any lands as a reserve under section 11, a permit issued under subsection (1) in relation to those lands, and any consent given under that subsection, are deemed to have been issued or given, as the case may be, under the *Indian Act*.

2000, c. 33, s. 13; 2002, c. 3, s. 10.

SCHEDULE

(Paragraph 9(b))

Agreement entered into by the Split Lake Cree Nation, dated December 24, 1992

Agreement entered into by the Garden Hill First Nation, dated March 14, 1994

Agreement entered into by the Red Sucker Lake First Nation, dated March 14, 1994

Agreement entered into by the St. Theresa Point First Nation, dated March 14, 1994

Agreement entered into by the Wasagamack First Nation, dated March 14, 1994

Agreement entered into by the Long Plain First Nation, dated August 3, 1994

Agreement entered into by the Brokenhead Ojibway Nation, dated February 8, 1995

Agreement entered into by the Swan Lake First Nation, dated March 30, 1995

Agreement entered into by the York Factory First Nation, dated January 11, 1996

Agreement entered into by the Nelson House First Nation, dated March 18, 1996

Agreement entered into by the Roseau River Anishnabe First Nation, dated March 29, 1996

Agreement entered into by the Sapotaweyak Cree Nation, dated September 11, 1997

Agreement entered into by the Norway House Cree Nation, dated December 31, 1997