

**Public Awareness & Building Support for Claims Settlements:
Treaty Land Entitlement in Manitoba**

**Ralph Abramson
Treaty & Aboriginal Rights Research Centre of Manitoba**

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Overview

On May 29, 1997, a Framework Agreement [FA] on Treaty Land Entitlement (TLE) was signed in Opaskwayak (The Pas), Manitoba by representatives of the three parties involved in the negotiations, ie. the Treaty Land Entitlement (TLE) Committee, Canada and Manitoba. Treaty land entitlement (TLE) refers to the fact that some First Nations did not receive the full extent of Reserve land as promised in the treaties signed in Manitoba, some of which over 125 years ago. More general information on the historical background of the TLE issue can be found in the booklet, A Debt to be Paid: Treaty Land Entitlement in Manitoba included in the TLE Information Kits.

The TLE negotiations in Manitoba, which ran from October 1993 to May 1997, were a long and often frustrating process, involving discussions with both the federal government and the provincial government of Manitoba and ongoing consultations with the First Nations affected. The TLE Committee is composed of 22 First Nations for whom TLE cases have been forward, 19 of which have been accepted by Canada.

The FA contains the proposed terms settlement of the per capita land entitlement for the 19 First Nation whose TLE cases have been validated. The FA could provide for the transfer of up to 1.1 million acres of Reserve land for the First Nations of the TLE Committee. In addition, financial resources up to \$76 million will be provided to cover the costs of the Community Approval Process (ratification); purchase of private land in areas where insufficient Crown land is available; discharging third party interest on Crown land selected; First Nation participation in the negotiation process (1993 - 1997); implementation of the TLE Agreements; and "federal payment" to each First Nation that chooses to accept the agreement. The terms and conditions of the agreement are not binding on any First Nation until the full membership vote to accept the agreement. More detail on the TLE negotiation process and the TLE FA signed on May 29, 1997 is available in Information Kits to be distributed at this workshop.

The purpose of this brief presentation is not to focus on either the TLE negotiation process or the specific product of those talks (the TLE FA), but rather it is to describe how the TLE Committee generated both interest and support for TLE in Manitoba through an ongoing process of communications, both internal to the First Nations and external to support and interest groups involved either directly or indirectly in the issue. This was felt to be an important component of the overall strategy to achieve settlement of TLE in Manitoba. It is hoped that a description of the process will be useful to First Nations and other Claims Research Units that are in, or may be in similar situations in the future.

Background

Both Canada and Manitoba have been aware since at least 1930 that certain Manitoba First Nations have not received the full extent of Reserve land as promised in the treaties. One of the most important provisions of the numbered treaties signed in western Canada starting in 1871 was that Reserve land would be set aside for the exclusive use and benefit of the First Nations that signed treaty. The amount of land was calculated according to a formula based on First Nation population [ie. 160 acres per family of 5 (Treaty Nos 1, 2 & 5) - 640 acres per family of 5 (Treaty Nos 3, 4, 6, 7, 8, 8, 10 & 11)]. For a variety of reasons, some First Nations never received the full extent of Reserve land to which they were entitled.

It was not until the early 1970's, when the First Nations in Manitoba were given access to the resources to undertake research into their own history and to fully document their claims, that any concerted effort was made to settle TLE in Manitoba. There had been some previous attempts by Canada and Manitoba to settle the issue, but these efforts generally broke down into inter-government disputes on who should bear the cost of settlement of TLE. The provincial government of Manitoba became involved in the issue in 1930 with the transfer of the land and resources from Canada under the Manitoba Natural Resources Transfer Act. Through this act, which is part of the Canadian Constitution, Manitoba became obliged to provide land to Canada to allow Canada to fulfil the terms of the treaties. This is why the provincial government plays a role in the settlement of TLE. In most instances, the First Nations of Manitoba take the position that Manitoba has no role to play in matters dealing with the treaties, but in this case Manitoba was involved through its obligation to Canada under the Constitution.

The first effort of the Manitoba First Nations was to determine which First Nations did not receive the full extent of Reserve land as promised in the treaties. This work involved detailed research into the history of each First Nation, including analysis of First Nation populations, land survey records. etc. This project was undertaken by the Treaty & Aboriginal Rights Research [T.A.R.R.] Program of the Manitoba Indian Brotherhood [MIB] and later continued by the T.A.R.R. Centre of Manitoba.

In 1977, after some years of research into the issue and the development of a greater understanding of which First Nations might have additional Reserve land due, the TLE Committee was formed by the First Nations in Manitoba for whom TLE cases were put forward. At this time the T.A.R.R. Program was designated as the technical arm of the Committee. The TLE Committee had preliminary discussions with both Canada and Manitoba to initiate a negotiation process under which the parties could come together and discuss ways to fulfil the

issue. What was experienced, however, was a continuation of the inter-government disputes which characterized the previous attempts to settle the issue, with each level of government attempting to minimize its obligations to provide the resources (land and financial) towards settlement.

It was not until the early 1980's that the first concerted effort was made to negotiate a TLE settlement agreement on behalf of the First Nations of the TLE Committee. Prior to the provincial election of 1981, the TLE Committee was able to secure a commitment from the New Democratic Party [NDP] of Manitoba to begin discussions on TLE if the NDP assumed power. The NDP won the election. However, prior to the initiation of talks, the newly elected NDP provincial government took the position that the general public should be allowed to express its views on TLE. After some preliminary discussions, in 1982 the Manitoba government appointed Leon Mitchell, a well known and highly respected Manitoba lawyer, to serve as a one man commission to report on the matter of Treaty land entitlement in Manitoba. The Treaty Land Entitlement Commission, as it was called, was to review the history of the TLE issue in Manitoba (and in other provinces), to solicit the views of interested parties on the settlement of the TLE issue in Manitoba and to offer recommendations on terms of settlement.

Although initially, the TLE Committee did not support the creation of the TLE Commission (the Committee felt that Manitoba already had sufficient mandate to deal with the issue), the Committee did actively participate in the Commission process by submitting presentation itself and on behalf of its member First Nations and also by soliciting support for settlement of TLE from recognized groups and institutions such as the churches and social agencies. This was the first instance of the Committee using public relations and communications in support of its position. As part of this process, a booklet and video on the issue both entitled A Debt to be Paid: Treaty Land Entitlement in Manitoba, were produced and distributed among the First Nations and the general public. The purpose was to lay out the historical background of the issue so that TLE could be viewed in proper perspective.

The results of the TLE Commission public hearing process were gratifying for the First Nations. The vast majority of submission made by interested group and individuals supported the speedy settlement of the issue. The rationale for most of these submissions was that settlement of TLE was the fair and just course of action, ie. Canada and Manitoba should do the honourable thing and settle TLE. It was clear that the general public could be counted on to support settlement of TLE if it had the opportunity to impartially consider the facts of the issue. It was likewise clear that the booklet and video on TLE produced by the TLE Committee played a large part in

securing support for settlement of the issue. The TLE Committee's strategy to meet with the various groups involved in the Commission process also proved extremely useful to the overall success of the hearing process.

The TLE Commission issued its Report and Recommendations in early 1983. Generally, the Commission findings were consistent with the views of the TLE Committee, eg. that the quantum of land to be provided should be based on a more contemporary population date. Using the Commission Report as a base, the TLE Committee, Canada and Manitoba entered into negotiations in early 1983 in an effort to come to an agreement on how TLE should be fulfilled in Manitoba. The TLE Committee was able to access limited funds to support these negotiations but there were not sufficient funds made available to undertake an effective communications strategy which could have effectively supported the ongoing discussions. Although an effort was made to generate interest and support for settlement of TLE through an ongoing communications strategy, the process was severely inhibited by a lack of funding to do an effective job. For example, there were no funds available to hire a person who could concentrate exclusively on communications. While the TLE Committee tried to keep up an effective communications strategy, the results were limited due to financial constraints. The end result of this process was that a TLE Agreement in Principle (AIP) was signed by the parties in the late summer of 1984, just prior to the 1984 federal election. However, the AIP was subject to ratification by the parties and, for a variety of reasons, the 1984 TLE AIP was never confirmed.

In the period between the 1984 federal election and 1990 there was little progress towards resolution of the TLE issue in Manitoba. The federal strategy, developed by the Mulroney administration, was to attempt to minimize Canada's obligations under treaty to the TLE Committee First Nations to such an extent that any further discussions to initiate a new negotiations process were pointless. Until the federal position was revised to reflect a more realistic (and fairer) approach to settlement of the TLE issue in Manitoba, there were no prospects for the development of a settlement agreement. During this period of decreased activities at the political level, the TLE Committee, through the T.A.R.R. Centre, continued work on establishing accepted TLE cases for the TLE Committee First Nations that had not, as of that date, had their TLEs validated. In addition, the TLE Committee continued to provide information on the TLE issue to the general public and interested parties through the distribution of TLE resource material (booklet & video) and through the participation in speaking engagements. This helped to keep the issue alive in times when there was little government interest in dealing with TLE in Manitoba.

The events of the summer of 1990 focused the attention of the whole nation on First Nation land right issues. As a direct result of the Oka situation and other confrontations, there was considerable pressure brought to bear on the federal government to seriously re-think its policies on First Nation issues. As a result of this pressure, the federal agenda was revised to include a variety of Aboriginal issues which, to that point, had not occupied positions of priority. Canada, having been presented with graphic examples of what could happen if First Nation land right issues were not dealt with in a fair and timely manner, sought to pursue ways to achieve settlement of First Nation land related and other critical issues before these matters reached the crisis stages and erupted into more confrontations. Examples of the federal initiative in this regard included the establishment of the Royal Commission on Aboriginal People; the initiation of joint Canada/First Nation discussions on claims policy reform (the Joint Working Group on Claims); and the infusion of additional resources into the specific claims process, ie. more resources (human and financial) for both the First Nation side and within government.

In regard to the issue of Treaty land entitlement in western Canada, in June 1989, through an agreement between Canada and the Federation of Saskatchewan Indian Nations [FSIN], an independent office to deal with treaty related matters was established in Saskatchewan. One of the first items of business for the Office of the Treaty Commissioner [OTC] was an examination of the Treaty land entitlement in Saskatchewan. In June 1990, after a period of intensive review of the issue, the OTC issued its report on Treaty land entitlement. Using the OTC report as a guide, the parties began a negotiation process to develop a settlement agreement for those Saskatchewan First Nation having land due under treaty.¹

In Manitoba, the newly manifested federal interest in land right issues in this period was viewed by the TLE Committee as an opportunity to re-open the discussions on TLE in Manitoba. After some preliminary discussions with federal officials, the TLE Committee was able to secure funding in order to meet and begin developing positions to put forward in a negotiation process to be initiated at a later date. Although there had been some contact among the TLE Committee First Nations since the demise of the 1984 TLE AIP, there had been few opportunities for the First Nations to come together to discuss TLE and to formulate positions in light of the developments since 1984. By the spring of 1993 the TLE Committee was ready to begin discussions aimed towards settlement of TLE in Manitoba.

¹ In September 1992 a TLE FA was signed in Saskatchewan.

The first two items for discussion in the negotiations were; 1) negotiation costs of the TLE Committee and 2) the development of a negotiation protocol. In October 1993 a negotiation Protocol was signed by the three parties involved; the TLE Committee, Canada and Manitoba. One important feature of the Protocol was that the negotiations were established as a dual bilateral process, with the TLE Committee and Canada dealing with issues arising from the treaties and Canada and Manitoba dealing with issues arising from the Manitoba Natural Resources Transfer Act (1930). This was an important distinction for the First Nations as they considered the obligations to fulfil TLE to be primarily a federal responsibility flowing from the treaties. The First Nations felt that it was Canada's responsibility to secure the necessary resources to settle TLE in Manitoba from the provincial government of Manitoba, although the Committee considered it of importance to monitor the Canada/Manitoba discussions so as to ensure the First Nations interests were properly represented and protected.

On funding for the TLE Committee (and its member First Nations) in the negotiation process, after considerable discussion with the federal officials involved, it was agreed that the funds required would be secured by the TLE Committee as loans, the repayment of which would be dealt with in addition to the final terms of settlement reached, ie. the cost of repayment would not be applied against settlement funds. These funds were to be used for such purposes as meetings of the TLE Committee; costs of the TLE Committee Negotiating Team (a smaller negotiating body selected by the TLE Committee); legal costs; and the administrative costs to the T.A.R.R. Centre. In addition, and of note to the focus of this presentation, funds were also obtained for 1) in-community workers called TLE Community Coordinators; 2) technical reports on various related issues and 3) communications and public relations, including a full time TLE Committee staff communications person and the costs of production of communications material, videos, booklets. etc.

The negotiations that began with the negotiating Protocol in October 1993, culminated in the signing of the TLE FA in May 1997.

Communications and Public Relations: TLE Negotiations in Manitoba: 1993 -1997

As has been mentioned previously, the purpose of this presentation is not to describe the TLE negotiation process or to go into detail on the terms and conditions of the FA signed in May of this year. The focus is how communications were use by the TLE Committee to built and maintain a broad base of support for the settlement of TLE in Manitoba.

What will now follow is a brief description of some of the most significant elements of this communications/public relations process.

■ **TLE Committee Communications Person**

Early in the negotiations, the TLE Committee identified communications as a key factor in the process to achieve fulfilment of TLE in Manitoba. It was felt that in order to properly and adequately fulfil the communications requirements for the TLE Committee, a person whose sole function would be public relations and communications should be hired. In the TLE Committee budget, a sum was identified for a full time TLE Committee Communications position.

The functions of the Communications person included the production and distribution of booklets and videos on TLE (see below); production and distribution of TLE information for the TLE Committee First Nations; press and media relations; participate on behalf of the TLE Committee in the three party Communications Technical Working Group within the TLE negotiations. Perhaps one of the key functions of the TLE Communications person was coordinating the TLE signing ceremony held at Opaskwayak on May 29, 1997.

■ **Treaty Land Entitlement Coordinators**

The TLE Committee is composed of 22 First Nations, 19 of which have received federal recognition of their outstanding TLE. During the negotiations, it was of some importance that these 19 First Nation communities be kept informed of the ongoing developments in the negotiations throughout the process. The communities could then, in turn, provide direction to the Chief and Council on how to proceed in the discussions. At the outset of the negotiations, the TLE Committee identified community involvement as a critical part of the process.

A major portion of the loan funding received by the TLE Committee was used to support a position at the community level for each of the 19 TLE First Nations². Initially, the position, called a "TLE Community Coordinator" [TLECC], was funded on a part time basis. Later in the negotiations, funding for a full time position was made available. Generally, the position was on a part time basis, ie. 25% - 50%. The primary responsibility of a TLECC was to keep the community members informed on the progress of the TLE negotiations through the distribution of resource material on the issue (produced by the TLE Communications person in conjunction with the

² The TLE Committee attempted to secure funding to place a TLECC in the communities of all of the 22 First Nations in the Committee. Canada, however, refused to supply funding for TLECC in the 3 communities of non-validated First Nations.

T.A.R.R. Centre). The TLECCs received some training (eg. in communications, land management and administration) prior to assuming their duties. They also attended TLE Committee meetings, at which time they could receive updates directly from the TLE Committee Negotiating Team, along with the Chiefs. It is also intended that the TLECCs actively participate in the TLE Community Approval Process through which the TLE Committee First Nation communities will consider whether to accept the terms of the FA.

■ **Updates: A Debt to be Paid - Booklet and Video**

During the first attempt to settle TLE in Manitoba in the early 1980s, the booklet A Debt to be Paid: Treaty Land Entitlement in Manitoba was produced and widely distributed among the First Nations and the general public. This booklet was available in three formats: English, English/Cree and Cree syllabic³. In addition, a video of the same name was produced based on the booklet.

Since the collapse of the 1984 TLE AIP, the TLE Committee has managed to provide some updates to the booklet through the insertion of additional information in the copies being distributed, but it was clear that both the booklet and video would have to be updated for the new negotiation process. The video especially, which had been done on a "shoe string budget" in 1984, was in need of not only updating, but also of polishing from a technical standpoint.

The T.A.R.R. Centre staff working on the TLE issue undertook the re-draft of the booklet. Using the original booklet as a base⁴, the updated booklet was produced in the original three formats. The video required more work because of the increase in professional and technical quality the TLE Committee was aiming to achieve. A copy of the booklet is contained in the TLE Information Kits.

Both the booklet and the video received a wide distribution, not only through the T.A.R.R. Centre offices, but also through the federal and provincial office both of which used this material by the TLE Committee as the base background information on TLE in their respective communications programs.

³ The majority of First Nations in the TLE Committee are Cree speaking.

⁴ The proofs of the first booklets were still available from the printing firm used in 1984. This cut down on the amount of time it took to complete the update. The translation of the text into English/Cree and Cree syllabic, however, proved a long and involved process because of differences in the nature and structure of the languages and the difficulty in producing precise translations of the English text.

■ **Reports on the Impact of Fulfilment of TLE on the Manitoba Economy**

In the effort to settle TLE in the 1980s, the TLE Committee sought support from the traditional groups and associations which generally involved themselves in support of Aboriginal issues, such as political parties, church groups, etc.. The emphasis in the discussions with these groups, as well as with the general public, was the fulfilment of TLE was "the right and proper thing to do". To a certain extent, the issue was approached as a matter reflective of the honour of the Crown. To a lesser extent, settlement of TLE was characterized as a constitutional and legal issue. This approach yielded a fairly significant amount of support for the TLE Committee.

Although the TLE had been gratified by the amount of support for settlement it was able to generate using the "moral / legal" approach in the 1980s, it was decided that in the latest TLE negotiations, a new strategy would be employed. Instead of limiting the discussion with potential supporting groups and organizations on TLE in legal and/or moral terms, the issue would be framed in such a way as to emphasize the benefits to all Manitobans through the fulfilment of TLE in Manitoba. Also, in addition to targeting the usual groups for support, ie. churches, it was decided to approach leaders in the Manitoba business community with the issue. It was felt that if one of the approaches used was that settlement of TLE in Manitoba was the smart thing to do, ie. it would benefit all of Manitoba, the TLE Committee could expand its support base to include business leaders. These leaders of the business community could, if they were swayed by the arguments and supporting documentation of the TLE Committee, use their influence with government to apply pressure for settlement.

The first step in the process was the production of technical studies which hopefully could provide the TLE Committee with hard data on the potential benefits of a TLE Agreement in Manitoba. The TLE Committee contracted with a local consulting firm, Symbion Consultants, with whom the Committee had worked in the past, to produce a technical report on this important issue. The report was broken up into two sections: 1) a report on the current contributions of First Nations to the Manitoba economy and a general description of the potential benefits to the economy of a TLE Agreement and 2) a report on the potential specific benefits to the Manitoba economy of a TLE Agreement (copies of a synopsis of both reports are contained in the TLE Information Kits). In the initial discussions with Symbion it was emphasized that every fact and figure contained in the reports would have to be supportable and if anything, Symbion should take a more conservative approach in its analysis so as to minimize the chance that the reports could be viewed as partisan and/or biased in any way. The bottom line was that the TLE Committee wanted to ensure that these reports would be, as much as possible, free from challenge on the reports' information sources, methodology or analysis.

The results of the two reports were probably even more encouraging and useful than the TLE Committee expected. The calculations , analysis and projections in the reports showed quite clearly that not only were First Nations in Manitoba a major consumer group in Manitoba (the report calculated in excess of \$1 billion a year), the potential impact of a TLE Agreement on the economy was of such an extent that it could not be ignored. The reports graphically illustrated that the general theme of the TLE Committee in its discussions with the business community, ie. "what is good for First Nations is good for the Manitoba economy", was supportable by cold hard facts and figures.

The Symbion reports were used to good effect by the TLE Committee in its discussions with the business community in the process to gain support for settlement of TLE in Manitoba. It is significant to note that although the report received a wide distribution and was therefore subject to both public and private scrutiny and analysis, there were no instances of attacks on the report findings. In addition, the usefulness of the reports went beyond application to the TLE issue. Other First Nation organizations in Manitoba utilized the reports in discussions on related issues and one in northern Manitoba is apparently contemplating a smaller scale more specific study on the impact of First Nation spending on a northern Manitoba non-First Nation community.

In addition to the above major components of the communications strategy, the TLE Committee maintained its normal policy of supplying speakers on TLE (usually T.A.R.R. Centre staff) when requested.

Conclusion

The signing of the TLE FA on May 29, 1997 represented the culmination of over twenty years of effort by the TLE Committee (and the T.A.R.R. Centre). While both Canada and Manitoba throughout this entire period (and for a considerable time before) were aware that there were outstanding unfulfilled obligations to the First Nations of the TLE Committee, in the writers' opinion, it was not until the issue was brought into sharper focus through the production of information on TLE and this information was widely distributed among the general public, support groups and organizations and the First Nations themselves, that a strong impetus for achieving settlement of this important issue was created.

An effective communications (internal and external) and public relations strategy was a key part of the TLE negotiation process. Once TLE was brought from beyond the closed door negotiations that had characterized in previous attempts to achieve settlement and the issue was

placed in the clear light of public scrutiny, the chances of achieving success in the process were greatly increased. The production of the Symbion reports and the extensive dialogue and consultation with business leaders in Manitoba also helped in the process along with the discussions with the more traditional support groups. ie. the churches. etc.

It is the writer's opinion that an essential, if not critical part of the land claim/land right settlement process in Canada is effective communications. The general public must be made aware of these issues in order to generate both interest and support. The experience of the TLE Committee was that once the issue was explained in a calm and rationale way, and the public and specific interest groups were made to see that settlement of TLE was not only the fair and honourable thing to do, but also of benefit to all Manitobans, the chances of achieving success in the negotiations were greatly increased. The writer believes that the longer land claim/land right issues negotiations are conducted behind closed doors, the less likely it is that fair and equitable settlements will be reached. Effective communications and public relations are one, if not the best way of opening these doors.