

**THE COMPREHENSIVE FOREBAY AGREEMENT AMONG**

**CHEMAWAWIN CREE NATION,**  
as represented by the Chief and Council,

OF THE FIRST PART,

- and -

**HER MAJESTY THE QUEEN**  
**IN RIGHT OF THE PROVINCE OF MANITOBA,**  
as represented by The Minister of Conservation,

OF THE SECOND PART,

- and -

**THE MANITOBA HYDRO-ELECTRIC BOARD,**

OF THE THIRD PART.

# COMPREHENSIVE FOREBAY AGREEMENT

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THIS AGREEMENT made as of the 16th day of January, 2004.

AMONG:

**CHEMAWAWIN CREE NATION,**  
as represented by the **Chief and Council,**  
(hereinafter referred to as "**Chemawawin**"),

OF THE FIRST PART,

- and -

**HER MAJESTY THE QUEEN**  
**IN RIGHT OF THE PROVINCE OF MANITOBA,**  
as represented by The Minister of Conservation,

(hereinafter referred to as "**Manitoba**"),

OF THE SECOND PART,

- and -

**THE MANITOBA HYDRO-ELECTRIC BOARD,**

(hereinafter referred to as "**Hydro**"),

OF THE THIRD PART.

**WHEREAS:**

- A.** In 1962, arrangements were made among **Manitoba, Canada, Hydro and Chemawawin** in relation to the taking and use of certain **Reserve** lands for water storage and in relation to the anticipated effects of the development and operation of the **Project**, which arrangements are set out in certain documents that are collectively defined in this **Agreement** as the **1962 Arrangements**;
- B.** Land exchanges and certain other commitments contemplated under the **1962 Arrangements** have not been completed to the satisfaction of all **Parties**;
- C.** In November 1990, **Chemawawin, Hydro and Easterville Community** entered into the **1990 Agreement**;

**D.** The **1990 Agreement** contemplated additional negotiations between **Chemawawin** and **Manitoba** and between **Chemawawin** and **Canada** for the purpose of arriving at a comprehensive settlement of all outstanding issues related to the **Project** and the **1962 Arrangements**;

**E.** Discussions with **Canada** have not resulted in a resolution of outstanding issues between **Chemawawin** and **Canada**;

**F.** Negotiations among **Chemawawin**, **Manitoba** and **Hydro** resulted in the signing of the **Agreement in Principle**, which set out principles and understandings to guide and govern the negotiation of an agreement which would:

- (a) fully and finally resolve and conclude all issues between and among the **Parties** in relation to and arising out of the **Project** and the **1962 Arrangements**,
- (b) lay the foundation for the cooperative management of lands and waters within the **Cedar Lake Resource Management Area**,
- (c) to the extent possible, facilitate, but not be dependent upon, **Canada's** exercise of its jurisdiction in relation to the land transactions contemplated by such agreement, and
- (d) not prejudice further negotiations between **Chemawawin** and **Canada** or any claims which **Chemawawin** has against **Canada**; and

**G.** As a result of these negotiations among **Chemawawin**, **Manitoba** and **Hydro** pursuant to the **Agreement in Principle**, the **Parties** are entering into this **Agreement**;

**NOW THEREFORE** the **Parties** agree as follows:



# PART I: AGREEMENT AND INTERPRETATION

## ARTICLE 1

### Agreement and Interpretation

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**Schedule 1.1**            General Reference Map

## PART I: AGREEMENT AND INTERPRETATION

### ARTICLE 1

#### 1.0 AGREEMENT AND INTERPRETATION

#### 1.1 AGREEMENT

##### 1.1.1 Contents.

This **Agreement** consists of Parts I through XV, comprised of Articles 1 through 21, and includes the following schedules which are attached to this **Agreement**:

Schedule 1.1	General Reference Map
Schedule 2.1	Trust Indenture
Schedule 2.2	Form of <b>Council Resolution</b> (Settlement of Trust Monies)
Schedule 3.1	<b>Project Lands</b>
Schedule 3.2	<b>Exchange Lands</b>
Schedule 4.1	<b>Reversion Lands</b>
Schedule 4.2	Form of <b>Council Resolution</b> (Confirmation by <b>Chemawawin – Reversion Lands</b> )
Schedule 4.3	Form of Manitoba Order in Council (Transfer of <b>Reversion Lands</b> )
Schedule 4.4	Form of <b>Council Resolution</b> (Request for <b>Reserve Status – Reversion Lands</b> )
Schedule 5.1	Mines and Minerals to be Transferred to <b>Canada</b>
Schedule 5.2	Form of Manitoba Order in Council (Transfer of Mines and Minerals)
Schedule 5.3	Form of <b>Council Resolution</b> (Request for <b>Reserve Status – Mines and Minerals</b> )
Schedule 6.1	<b>Returned Project Lands</b>
Schedule 6.2	Form of <b>Council Resolution</b> (Confirmation by <b>Chemawawin – Returned Project Lands</b> )
Schedule 6.3	Form of Manitoba Order in Council (Transfer of <b>Returned Project Lands</b> )
Schedule 6.4	Form of <b>Council Resolution</b> (Request for <b>Reserve Status – Returned Project Lands</b> )
Schedule 7.1	<b>Additional Lands</b>
Schedule 7.2	Form of <b>Council Resolution</b> (Request for Transfer to <b>Canada – Additional Lands</b> )
Schedule 7.3	Form of <b>Council Resolution</b> (Request for Transfer to <b>Land Corporation – Additional Lands</b> )
Schedule 7.4	Form of <b>Council Resolution</b> (Confirmation by <b>Chemawawin – Additional Lands</b> )
Schedule 7.5	Form of Manitoba Order in Council (Transfer of <b>Additional Lands</b> )
Schedule 7.6	Form of <b>Council Resolution</b> (Request for <b>Reserve Status – Additional Lands</b> )

Schedule 8.1	<b>Permit and Fee Simple Lands</b>
Schedule 8.2	Form of <b>Land Use Permit</b>
Schedule 8.3	Form of <b>Council Resolution</b> (Request for Transfer to <b>Land Corporation – Permit and Fee Simple Lands</b> )
Schedule 8.4	Form of <b>Council Resolution</b> (Confirmation by <b>Chemawawin – Permit and Fee Simple Lands</b> )
Schedule 9.1	Form of <b>Land Use Permit</b>
Schedule 10.1	Survey Instructions
Schedule 10.2	Form of <b>Project Easement Agreement</b> (Reserve Lands)
Schedule 10.3	Form of <b>Project Easement Agreement</b> (Fee Simple Lands)
Schedule 11.1	Parcels Requiring Remediation
Schedule 11.2	Form of <b>Council Resolution</b> (Rejection of <b>Additional Lands</b> )
Schedule 12.1	<b>Articles of Incorporation of Land Corporation</b>
Schedule 12.2	By-Law No. 1 of <b>Land Corporation</b>
Schedule 13.1	Map of <b>Cedar Lake Resource Management Area</b>
Schedule 14.1	Protected Area
Schedule 15.1	<b>Fully Compensated Zone</b>
Schedule 15.2	<b>Pre-Determined Compensation Zones</b>
Schedule 15.3	Method of Calculation of Water Levels and Sample Calculation of Pre-Determined Compensation
Schedule 16.1	<b>Area A</b>
Schedule 17.1	Certificates of Independent Advice
Schedule 19.1	Form of Letter from the Minister of Aboriginal and Northern Affairs (Manitoba)
Schedule 20.1	Ballot Question

### 1.1.2 Maps.

Maps referred to in and attached to a Schedule form part of, and are included in, that Schedule.

## 1.2 INTERPRETATION

### 1.2.1 Definitions.

In this **Agreement** the following words and phrases, when capitalized and printed in bold type, whether in the plural, the singular or the possessive, have the following meanings:

- (a) **1962 Arrangements** means those arrangements among **Manitoba, Hydro, Canada** and **Chemawawin** related to the taking and use of certain **Reserve** lands for water storage and the anticipated effects of the development and operation of the **Project**, evidenced in documents which include:
  - (i) a letter dated June 7, 1962 sent to **Chemawawin** by the Grand Rapids Forebay Administration Committee, on behalf of **Manitoba** and **Hydro**,
  - (ii) certain **Council Resolutions** dated June 14, 1962 and April 12, 1965,

- (iii) Privy Council Order No. 1962-1617 dated November 15, 1962;
- (b) **1962 Letter of Intent** means the letter dated June 7, 1962 sent to **Chemawawin** by the Grand Rapids Forebay Administration Committee, on behalf of **Manitoba** and **Hydro**, which forms part of the **1962 Arrangements**;
- (c) **1990 Agreement** means the settlement agreement dated November 9, 1990 among **Chemawawin**, **Hydro** and **Easterville Community**;
- (d) **Additional Lands** means the lands that are described in Schedule 7.1 and that are the subject of Article 7;
- (e) **Adverse Effects** means the direct or indirect negative consequences of the **Project** or the operation thereof by **Hydro**, which consequences impact on or change the physical, chemical or biological characteristics of the environment and which consequences include, without limitation, risks or injuries to the health, safety, well-being, comfort or enjoyment of life by **Chemawawin** or **Members**, and which consequences impact on interests in and the exercise of rights in relation to lands, pursuits, activities, opportunities, lifestyles and assets of **Chemawawin** or **Members**;
- (f) **Agreement** means this comprehensive forebay agreement, including all schedules listed in subsection 1.1.1;
- (g) **Agreement in Principle** means the agreement in principle among **Chemawawin**, **Hydro** and **Manitoba** executed by **Chemawawin** in November 1999, by **Hydro** in November 1999 and by **Manitoba** in April 2000;
- (h) **Area A** means that area outlined in green on Map 16.1.1 attached as Schedule 16.1;
- (i) **Articles of Incorporation** means the Articles of Incorporation of the **Land Corporation** in the form attached as Schedule 12.1;
- (j) **Canada** means Her Majesty the Queen in Right of Canada;

- (k) **Cedar Lake Gauge** means Water Survey of Canada Gauging Station No. 05KL005 Cedar Lake near Oleson Point, or such replacement gauge as may be established in accordance with the terms of this **Agreement**;
- (l) **Cedar Lake Resource Management Area** means the area established under subsection 13.2.1 which is depicted on Map 13.1.1, subject to amendments made in accordance with subsection 13.2.2;
- (m) **Cedar Lake Resource Management Board** means the Cedar Lake Resource Management Board established under subsection 13.3.1;
- (n) **Chemawawin** means Chemawawin Cree Nation, a "band" within the meaning of the *Indian Act* (Canada), which for all purposes of this **Agreement** is represented by **Chief and Council**;
- (o) **Chemawawin Lands** means the interests in lands held by the **Land Corporation**, on behalf of **Chemawawin**, under **Land Use Permits** or Certificates of Fee Simple Title in accordance with this **Agreement**;
- (p) **Chief** means the Chief of **Chemawawin** in office at the relevant time;
- (q) **Chief and Council** means the Council of **Chemawawin** in office at the relevant time;
- (r) **Collective Rights** means those rights and interests shared universally and in common by **Members**, which accrue to them as a result of their status as First Nations' people and as **Members**;
- (s) **Corporate Trustee** means the trust corporation which may from time to time be appointed under the **Trust Indenture** and any successor in that office and includes, where transitional obligations are being fulfilled and the context requires, both an outgoing and an incoming **Corporate Trustee**;
- (t) **Council Resolution** means a resolution of **Chief and Council**;
- (u) **Daily Average Water Levels** means the arithmetic average of readings of water levels recorded in a day at the **Cedar Lake Gauge** and, where relevant, adjusted

to eliminate the effect of wind, or a valid representative substitute for such readings if such readings are unavailable or demonstrably in error;

- (v) **Date of this Agreement** means the date this **Agreement** has been executed by the last **Party**;
- (w) **Debris** means Crown Timber, as defined in *The Forest Act* (Manitoba), floating on, stranded on the shore or bed of, or standing within, Cedar Lake, including Cross Bay;
- (x) **Debris Program** means the existing initiative described in subsection 16.3.1;
- (y) **Development Plan** means a development plan as defined in *The Planning Act* (Manitoba) or any similar plan or instrument adopted under successor legislation;
- (z) **Directors** means the directors from time to time of the **Land Corporation**;
- (aa) **Easement Line** means a line established in accordance with Article 10 demarcating the upper boundary of the land that is to be subject to a **Project Easement**;
- (bb) **Elder** means a **Member** who, at the relevant time, is fifty-five (55) years of age or older;
- (cc) **Easterville Community** means the unincorporated community established under *The Northern Affairs Act* (Manitoba), which is represented by the **Easterville Community Council**;
- (dd) **Easterville Community Council** means the Community Council established under *The Northern Affairs Act* (Manitoba) in office at the relevant time;
- (ee) **Elector** means a person entitled to vote in a referendum held pursuant to the *Indian Act* (Canada) and the *Indian Referendum Regulations*;
- (ff) **Exchange Lands** means the lands that are described in Schedule 3.2 and that are the subject of Article 3;
- (gg) **Fish** means fish as defined in the *Fisheries Act* (Canada);

- (hh) **Fully Compensated Zone** means the zone which is shown graphically and described in Article 15 and Schedule 15.1;
- (ii) **Hydro** means The Manitoba Hydro-Electric Board;
- (jj) **Land Corporation** means the corporation incorporated pursuant to Article 12 to hold interests in lands for the benefit of **Chemawawin**;
- (kk) **Land Use Permit** means a permit issued under subsection 8.3.1 or subsection 9.2.2 substantially in the form set out in Schedule 8.2 or Schedule 9.1 respectively;
- (ll) **Land Use Plan** means a plan developed by the **Cedar Lake Resource Management Board** in accordance with subsection 13.6.5;
- (mm) **Manitoba** means Her Majesty the Queen in Right of Manitoba;
- (nn) **Member** means a person who, at the relevant time, is a member of **Chemawawin** pursuant to the *Indian Act* (Canada);
- (oo) **Municipality** means a city, town, village, rural municipality, local government district or other like municipal organization and includes a community under *The Northern Affairs Act* (Manitoba);
- (pp) **Ordinary High Water Mark (or OHWM)** means a line defined by the normal high water mark of a water body, whether regulated or unregulated, determined by plant growth and soil conditions observed in the field. The **Ordinary High Water Mark** will be the limit or edge of a non-tidal body of water, where the bed is the land so long covered by water as to wrest it from vegetation, or as to mark a distinct character on the vegetation where it extends into the water, or upon the soil itself;
- (qq) **Parties** means **Manitoba, Hydro and Chemawawin**;
- (rr) **Party** means, as the context requires, any one of **Manitoba, Hydro or Chemawawin**;

- (ss) **Permit and Fee Simple Lands** means the lands that are described in Schedule 8.1 and that are the subject of Article 8;
- (tt) **Pre-Determined Compensation Zones** means the zones which are shown graphically and described in Article 15 and Schedule 15.2;
- (uu) **Project** means the undertaking commonly known as the Grand Rapids Hydro-Electric Generating Station and all related and ancillary works existing as of the **Date of this Agreement**, including, without limiting the generality of the foregoing, the works and operations described in the **Water Power Licence**;
- (vv) **Project Easement** means the rights and privileges granted to **Manitoba** and **Hydro** under the **Project Easement Agreement**;
- (ww) **Project Easement Agreement** means an agreement which grants to **Manitoba** and **Hydro** the limited rights and privileges to regulate the flow of and to inundate and store water on or over certain lands sufficient to accommodate a maximum wind eliminated water level of 842 feet A.S.L. immediately upstream of the Grand Rapids Hydro-Electric Generating Station, and to affect from time to time certain lands to a level at or about 848 feet A.S.L., which:
- (i) in the case of **Reserve** lands, will be substantially in the form of Schedule 10.2, and
  - (ii) in the case of fee simple lands, will be substantially in the form of Schedule 10.3;
- (xx) **Project Lands** means the lands that are described in Schedule 3.1 and that are the subject of Article 3;
- (yy) **Referendum** means the referendum held to approve this **Agreement** in accordance with Article 20;
- (zz) **Reserve** has the same meaning as in the *Indian Act* (Canada), but is restricted to those reserves set apart for the use and benefit of **Chemawawin**;
- (aaa) **Resource Management Plan** means a plan developed by the **Cedar Lake Resource Management Board** in accordance with subsection 13.6.2;



- (bbb) **Resources** includes **Fish, Wildlife**, forests, plants, lands and waters in the **Cedar Lake Resource Management Area**;
- (ccc) **Returned Project Lands** means the lands that are described in Schedule 6.1 and that are the subject of Article 6;
- (ddd) **Reversion Lands** means the lands that are described in Schedule 4.1 and that are the subject of Article 4;
- (eee) **Trustees** means the trustees, including the **Corporate Trustee**, if any, of the trust created pursuant to the **Trust Indenture**;
- (fff) **Trust Indenture** means the trust indenture in the form attached as Schedule 2.1;
- (ggg) **Water Power Licence** means the Final Licence for the Development of Water Power, Grand Rapids Site, Saskatchewan River, issued May 30, 1975;
- (hhh) **Wildlife** means wildlife as defined in *The Wildlife Act* (Manitoba); and
- (iii) **Wind Eliminated Water Levels** means water levels which have had the effects of wind removed by using a seven day moving mean of the **Daily Average Water Levels** in accordance with the method of calculation set forth in Schedule 15.3.

#### 1.2.2 Use of Definitions.

Except for use in this **Agreement**, these definitions are without prejudice to and are not binding upon any of the **Parties**.

#### 1.2.3 Statutory References.

The following legislation is referred to in this **Agreement** and, unless otherwise specifically provided, when described by the title set out in this subsection, the legislation will be interpreted to mean the legislation as cited in this subsection:

- (a) Acts of the Parliament of Canada:
  - Canada Lands Surveys Act*, R.S.C. 1985, c. L-6,
  - Federal Real Property Act*, S.C. 1991, c. 50,
  - Fisheries Act*, R.S.C. 1985, c. F-14,
  - Income Tax Act*, R.S.C. 1985, c. 1 (5<sup>th</sup> Supp.),
  - Indian Act*, R.S.C. 1985, c. I-5;

## (b) Acts of the Legislature of Manitoba:

*The Arbitration Act*, C.C.S.M. c. A120,  
*The Buildings and Mobile Homes Act*, C.C.S.M. c. B93,  
*The Corporations Act*, C.C.S.M. c. C225,  
*The Crown Lands Act*, C.C.S.M. c. C340,  
*The Forest Act*, C.C.S.M. c. F150,  
*The Expropriation Act*, C.C.S.M. c. E190,  
*The Freedom of Information and Protection of Privacy Act*, C.C.S.M. c. F175,  
*The Highways and Transportation Act*, C.C.S.M. c. H40,  
*The Highways Protection Act*, C.C.S.M. c. H50,  
*The Mines and Minerals Act*, C.C.S.M. c. M162,  
*The Northern Affairs Act*, C.C.S.M. c. N100,  
*The Trustee Act*, C.C.S.M. c. T160,  
*The Planning Act*, C.C.S.M. c. P80,  
*The Real Property Act*, C.C.S.M. c. R30,  
*The Water Power Act*, C.C.S.M., c. W60,  
*The Wildlife Act*, C.C.S.M. c. W130; and

## (c) Acts constituting part of the Constitution of Canada:

*Constitution Act, 1982*, being Schedule B to the *Canada Act, 1982* (U.K.) 1982, c. 11.

1.2.4 Legislation speaks from Present.

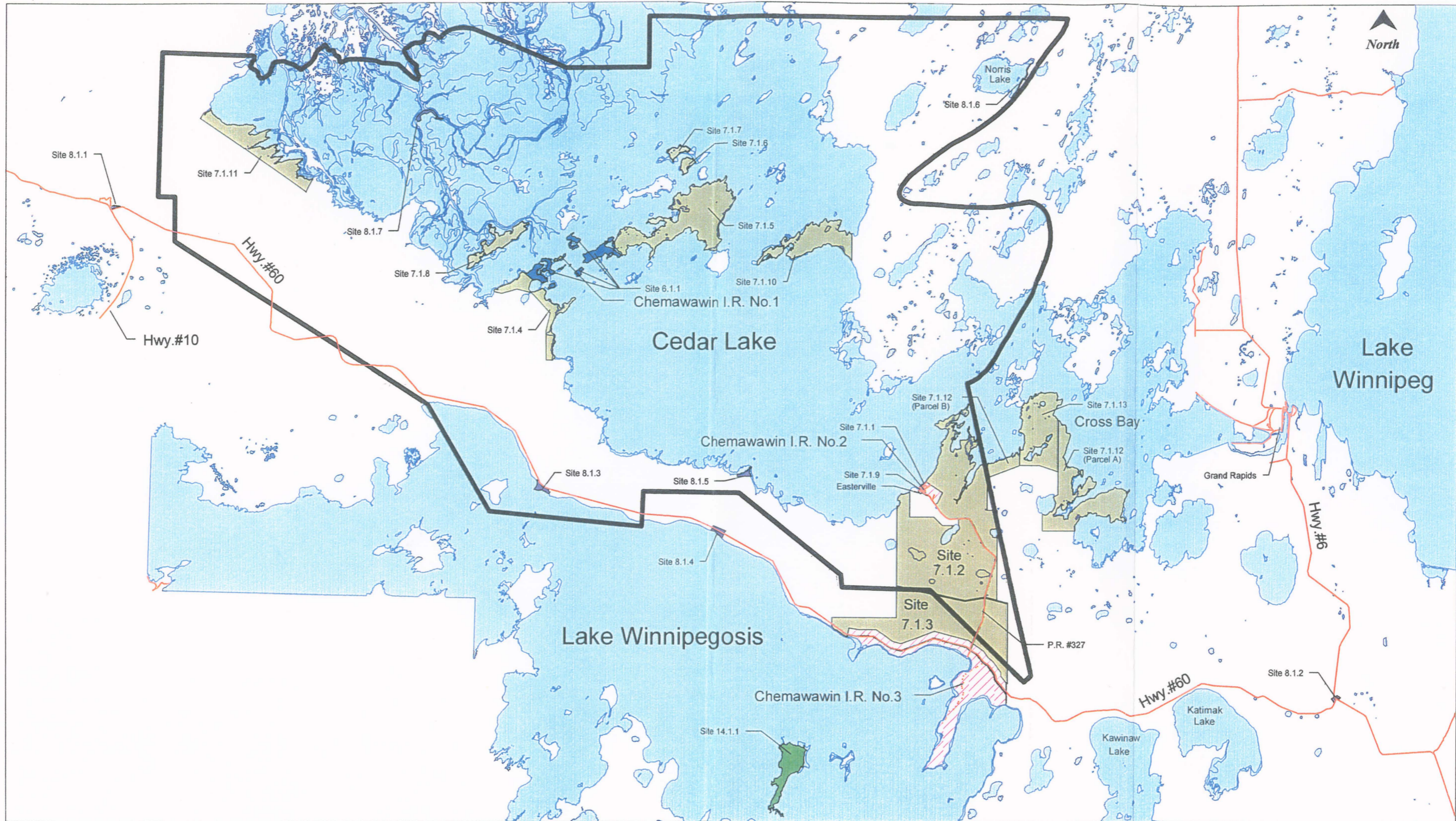
All references to legislation referred to in subsection 1.2.3 will include all regulations made in accordance with that legislation and any amendment, re-enactment or replacement from time to time of that legislation.

## 1.3 GENERAL REFERENCE MAP

1.3.1 General Reference Map.

Map 1.1.1 is attached to Schedule 1.1 as a general reference map showing each parcel of **Exchange Lands, Reversion Lands, Returned Project Lands, Additional Lands and Permit and Fee Simple Lands** and showing the **Protected Area and the Cedar Lake Resource Management Area**. The **Parties** acknowledge that Map 1.1.1 is included as an aid for general reference purposes only and that, in the event of a conflict between Map 1.1.1 and any other Article or Schedule of this **Agreement**, such other Article or Schedule will prevail to the extent of such inconsistency.

**SCHEDULE 1.1 - GENERAL REFERENCE MAP**  
**(See attached Map 1.1.1)**



Scale 1:400 000

**Legend**

- Exchange Lands
- Returned Project Lands
- Additional Lands
- Permit/Fee Simple Lands
- Grand Island - Protected Area
- Roads
- Cedar Lake Resource Management Area Boundary

Chemawawin Cree Nation  
**GENERAL REFERENCE MAP.**  
 Notes:  
 Mapping is based on information taken from the National Topographic System map sheet numbers NTS 63B, 63C, 63F, and 63G. Used by permission of Manitoba Hydro through Her Majesty the Queen in Right of Canada with permission of Energy, Mines, and Resources Canada.  
 North American Datum (NAD) 83, Zone 14 Universal Transverse Mercator (UTM) Coordinates.  
 Prepared by:  
 Hobbs & Associates Ltd.  
 for Chemawawin Cree Nation  
 September, 2002

**NOTE:**  
 Lands shown on this map are those confirmed in the Comprehensive Forebay Agreement among Chemawawin Cree Nation, Manitoba and Manitoba Hydro.

# PART II: PAYMENTS AND COSTS

## ARTICLE 2

### Payments and Costs

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Schedule 2.1  
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Trust Indenture  
Form of **Council Resolution** (Settlement of Trust Monies)

## PART II: PAYMENTS AND COSTS

### ARTICLE 2

#### 2.0 PAYMENTS AND COSTS

#### 2.1 INTRODUCTION

##### 2.1.1 Introduction.

Article 2 provides for certain payments to be made to **Chemawawin**.

#### 2.2 PAYMENTS

##### 2.2.1 Past Payments.

**Chemawawin** acknowledges having received payment from **Manitoba** and **Hydro** of \$200,000.00 in December 1998 as contemplated in the **Agreement in Principle**.

##### 2.2.2 Trust Indenture.

A **Trust Indenture** in the form attached as Schedule 2.1 has been executed by the parties thereto. On or before the **Date of this Agreement**, **Chemawawin** will provide **Manitoba** and **Hydro** with a copy of the **Trust Indenture**, certified by the **Chief** to be a true copy.

##### 2.2.3 Payments.

**Manitoba** and **Hydro** covenant and agree to make the following additional payments by cheque or bank draft payable to **Chemawawin**:

- (a) \$310,000.00 on or before the **Date of this Agreement**, to be used by **Chemawawin** for the following purposes:
  - (i) resource rehabilitation and development measures to support increased viability for traditional and commercial resource pursuits and other resource harvesting,
  - (ii) cultural and social support and development initiatives,
  - (iii) business and employment development undertakings,
  - (iv) local community infrastructure and housing development, and

- (v) technical and legal costs related to effective control and utilization of the said payment, management of local development challenges and pursuit of rights and responsibilities; and
- (b) \$400,000.00 on or before the **Date of this Agreement** to be used for the purposes set out in subsection 13.4.5.

#### **2.2.4 Payments Settled with Trustees.**

The payment made under paragraph 2.2.3(b) will be settled by **Chemawawin** on the **Trustees** in accordance with the **Trust Indenture by Council Resolution** in the form attached as Schedule 2.2, a copy of which will be provided to **Manitoba** and **Hydro**.

#### **2.2.5 Interest on Late Payments.**

Any payment not made by **Manitoba** and **Hydro** when due in accordance with subsection 2.2.3 will bear interest at the rate equal to the prime rate established by The Bank of Nova Scotia from time to time plus 5% per annum, compounded monthly.

#### **2.2.6 Payments Not for Taking of Reserve Land.**

Payments made under section 2.2 are in compensation for effects of the **Project**, but are not in relation to the taking or using or granting of **Reserve** land. Without implying acceptance by **Chemawawin** that the **1962 Arrangements** were satisfactory, and without prejudice to the right of **Chemawawin** to pursue claims against **Canada**, the **Parties** agree that any obligations or liabilities of **Manitoba** and **Hydro** to **Chemawawin** for the taking or using or granting of **Reserve** lands for the **Project**, but excluding other effects of the **Project** which are otherwise addressed, are fully addressed by **Manitoba** and **Hydro** through the provision of land in accordance with this **Agreement**.

### **2.3 COSTS**

#### **2.3.1 Past Costs, Fees and Contingency Fees.**

No past costs or fees, and no contingency fees, bonuses or other similar disbursements arising from negotiation of this **Agreement** or the **Agreement in Principle** are to be paid from the payments made under section 2.2.

#### **2.3.2 Current Costs.**

**Chemawawin** has been or will be reimbursed by **Manitoba** and **Hydro** for all reasonable costs incurred in negotiating, ratifying and concluding this **Agreement** and the

**Agreement in Principle**, including the costs of legal and consulting services required for the informed participation of **Chemawawin**.

2.3.3 Implementation Costs.

**Manitoba** and **Hydro** acknowledge the right of **Chemawawin** to participate in the implementation of the terms of this **Agreement**. **Chemawawin** will be reimbursed for all reasonable costs specifically agreed to in writing by **Manitoba** and **Hydro**, including reasonable costs of legal and consulting services incurred by **Chemawawin** in connection with its participation in the implementation of the terms of this **Agreement**, where **Chemawawin's** cooperation, participation, consultation or decision is required under the terms of this **Agreement** or where such participation is required by **Manitoba** or **Hydro**.

2.3.4 Limitations.

Neither **Manitoba** nor **Hydro** will bear any responsibility for costs incurred by **Chemawawin** in negotiating, ratifying and concluding this **Agreement** or the **Agreement in Principle**, other than as provided in this **Agreement**. The responsibilities of **Manitoba** and **Hydro** to reimburse **Chemawawin** for its reasonable costs under subsections 2.3.2 and 2.3.3 will not include any costs incurred by **Chemawawin** in the resolution of any claims it has or may have against **Canada** related to the **Project** or the **1962 Arrangements**.



**SCHEDULE 2.1 - TRUST INDENTURE**

**The Chemawawin Resource Trust**

**(See attached agreement)**

---

**THE CHEMAWAWIN RESOURCE TRUST**

---

AMONG:

**CHEMAWAWIN CREE NATION**  
as represented by the Chief and Council

(hereinafter called the "Settlor")

OF THE FIRST PART,

- and -

**CHIEF CLARENCE EASTER**  
of Chemawawin Cree Nation

- and -

\_\_\_\_\_

of Chemawawin Cree Nation

- and -

\_\_\_\_\_

of Chemawawin Cree Nation

- and -

\_\_\_\_\_

of Chemawawin Cree Nation

- and -

\_\_\_\_\_

of Chemawawin Cree Nation

(hereinafter called the "Trustees"),

OF THE SECOND PART.

**WHEREAS** in accordance with an agreement (hereinafter called the "Comprehensive Forebay Agreement") dated \_\_\_\_\_, 200\_\_, among Chemawawin Cree Nation, Her Majesty the Queen in Right of the Province of Manitoba and The Manitoba Hydro-Electric Board, the Settlor has received CDN FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00) of the Settlement Amount as a trust in favour of the Beneficiary herein for the purpose of funding the future costs of supporting Chemawawin's representatives on the Cedar Lake Resource Management Board established under the Comprehensive Forebay Agreement;

**AND WHEREAS** for this purpose the Settlor desires to establish a trust and has requested the parties hereto of the second part as Trustees to receive the Settlement monies, to be held by them in trust with and subject to the powers and provisions declared and contained in this Trust Indenture;

**AND WHEREAS** the Settlor has on the \_\_\_ day of \_\_\_\_\_, 200\_\_ paid to the Trustees the sum of CDN FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00) for the purpose of creating the trust and the Trustees have agreed to act as trustees under this settlement and to accept and hold the said sum of money and any other monies, securities, property and assets, forming part of the Trust Funds on and subject to the trusts declared in this Trust Indenture;

**NOW, THEREFORE THIS TRUST INDENTURE WITNESSETH** that in consideration of the promises and the mutual covenants and agreements contained in this Trust Indenture **IT IS HEREBY MUTUALLY COVENANTED, AGREED AND ACKNOWLEDGED** by and between the parties hereto as follows:

#### ARTICLE 1

#### ESTABLISHMENT OF TRUST

##### 1.01 Name of Trust

The Trust created by this Trust Indenture shall be known as "The Chemawawin Resource Trust" provided that, in the carrying out of the powers granted hereby to the Trustees, the Trustees shall be entitled to use and carry on the activities of the Trust under such names as may be convenient to them.

##### 1.02 Settlement

The Settlor has made a gift and settlement unto the Trustees of the Settlement Amount upon the trusts and subject to the powers and provisions contained in this Trust Indenture. The Settlor further covenants and agrees that the said gifts and settlements have been and will be made in favour of the Trustees under this Trust Indenture.

**ARTICLE 2**  
**INTERPRETATION**

2.01 **Definitions**

In this Trust Indenture the following words and expressions, when capitalized, shall have the following meanings:

- (1) **"Beneficiary"** – means Chemawawin.
- (2) **"Cedar Lake Resource Management Board"** – means the Cedar Lake Resource Management Board established under Article 13 of the Comprehensive Forebay Agreement.
- (3) **"Chemawawin"** – means Chemawawin Cree Nation, a "band" within the meaning of the *Indian Act* (Canada), which for all purposes of this Trust Indenture is represented by its Chief and Council.
- (4) **"Chief and Council"** – means the Council of Chemawawin in office at the relevant time.
- (5) **"Comprehensive Forebay Agreement"** – means the agreement described in the first preamble to this Trust Indenture.
- (6) **"Corporate Trustee"** – means the trustee from time to time appointed in accordance with subsection 4.02(14).
- (7) **"Distribution Date"** – means the date that the whole of the income and capital of the Trust Fund provided for in this Trust Indenture is distributed by the Trustees after such distribution has been approved in accordance with Article 10.
- (8) **"Elder"** – means a Member of Chemawawin who, at the relevant time, is fifty-five (55) years of age or older.
- (9) **"Hydro"** – means The Manitoba Hydro-Electric Board.

- (10) **"Income"** – means all of the income derived from the Trust Fund, including any income from reinvested capital and income arising from the reinvestment of income which has fallen into and become part of the capital of such Trust Fund, less the aggregate of:
- (a) any and all expenses incurred or payable in respect of or to protect such Trust Fund or incurred or payable in connection with the management and administration of the Trust contained in this Trust Indenture, as determined by the Trustees to be chargeable to income;
  - (b) such further or other sums in each year or other period as the Trustees consider to be proper allowances, reserves, deductions, disbursements and/or outgoings in accordance with generally accepted accounting principles; and
  - (c) without limiting the generality of the foregoing, such sum in each year or other period as the Trustees shall consider necessary and advisable from time to time as being on account of depletion, deterioration or obsolescence of any of the assets of such Trust Fund.
- (11) **"Member"** – means a person who, at the relevant time, is a member of Chemawawin pursuant to the *Indian Act* (Canada).
- (12) **"Net Value"** – means, in respect of the Trust Fund, the realizable value of the Trust Fund less the aggregate of its liabilities, including, without limiting the generality of the foregoing, any declared but unpaid Income distributions and encroachments with respect to such Trust Fund.
- (13) **"Permitted Uses"** – means the use of the Trust Fund as a fund to finance the future costs associated with the participation of Chemawawin's representatives on the Cedar Lake Resource Management Board.
- (14) **"Settlement Amount"** – means the settlement of CDN FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00) made pursuant to the Comprehensive Forebay Agreement.
- (15) **"Settlor"** – means Chemawawin.

- (16) "Trust" means the trust created by this Trust Indenture.
- (17) "Trust Fund" – means all property and assets of any nature or kind whatsoever, whether real or personal or mixed, which the Trustees in their capacities as Trustees may at any time become possessed of, including any further or additional property which the Settlor or any other person may transfer, vest, assign or convey to the Trustees in any manner or by any means whatsoever, including, without limitation, by deed, will or testimony and all capital accretions to and all income from such property all of which is to be held upon the trusts and with and subject to the powers and provisions hereof and any property situated therefor.
- (18) "Trust Indenture" means this trust indenture.
- (19) "Trustees" – means the trustee or trustees from time to time acting under this Trust Indenture for the time being, whether originally or subsequently appointed.

## 2.02 Interpretation

In this Trust Indenture:

- (1) any reference to a statute shall include and shall be deemed to include a reference to such statute and to the regulations made pursuant thereto, together with all amendments made thereto and in force from time to time, and any statute or regulation, as amended from time to time, which may be passed and which has the effect of supplementing, replacing or superseding a statute so referred to or the regulations made pursuant thereto, as the same may be amended from time to time;
- (2) any reference to a person shall include and shall be deemed to be a reference to any person that is the successor to such person;
- (3) words importing the singular number only shall include the plural and vice versa;
- (4) words importing one gender only shall include both genders; and

- (5) the headings and the division of this Trust Indenture into articles, sections and subsections are for convenience of reference only and shall not affect the construction or interpretation of this Trust Indenture.

**ARTICLE 3**  
**PURPOSES OF TRUST**

**3.01 Term of Trust**

This Trust shall endure, prevail and continue until the Distribution Date, if any.

**3.02 Income Distributions**

- (1) The Trustees shall pay, in each year, all or part of the Income from the Trust Fund, to or for the use or benefit of the Beneficiary, for the purpose of financing the costs associated with the participation of Chemawawin's representatives on the Cedar Lake Resource Management Board; provided, however, that:
- (a) the Trustees shall not in any way impair, or encroach on, the capital of the Trust;
  - (b) the Trustees may not assign any of the Income or capital of the Trust as security and shall have no power to borrow as against that Income or capital or, in any other way, to pledge the Income or capital in any manner whatsoever; and
  - (c) prior to the distribution of any of the Income of the Trust to the Beneficiary, the Chief and Council first must have provided the Trustees with an annual budget of estimated expenditures of monies to be requested from the Trust Fund in respect of that fiscal year of the Trust.
- (2) For greater certainty, the Trustees shall not be bound in any year to pay the Income of any Trust Fund or any part thereof, to the Beneficiary except in accordance herewith, and any Income from such Trust Fund that may accrue from time to time which is not so appropriated or paid by the Trustees shall be deemed to be capital and shall fall into the capital of such Trust Fund and be accumulated by the Trustees and used by them as capital of such Trust Fund for



the benefit of the Beneficiary. In order to determine when any such unallocated, unpaid or unappropriated Income shall fall into the capital of any Trust Fund, it is hereby stated and declared that any Income of the Trust Fund which has not been so appropriated, allocated or paid by the Trustees within six (6) months next following the conclusion of the fiscal year of the Trust Fund shall be deemed conclusively to have been allocated, appropriated or paid to such Trust Fund and, upon such happening, the Trustees shall have no further power to appoint, allocate or pay such Income to the Beneficiary and such Income as has thus become capital shall be distributable to the Beneficiary at the times or in the manner provided for in this Trust Indenture.

- (3) For the purposes of determining the Income eligible to be distributed in accordance with section 3.02, in each year during the continuance of a Trust Fund, from time to time during the currency hereof, the Trustees shall determine the Income for such year or other period of the Trust Fund, which determination or determinations shall be final and binding. In making such determination or determinations, the Trustees shall proceed upon and be guided by principles of sound trust accounting practice, which may include, but not be limited to, generally accepted accounting principles.
- (4) All distributions under this Trust Indenture shall be made from a reserve as defined in the *Indian Act (Canada)*.

### 3.03 **Encroachments on Capital**

The Trustees may not encroach on the capital of the Trust Fund for any purpose at any time.

### 3.04 **Distribution to Beneficiary on Distribution Date**

The Trustees shall pay or transfer the whole of the Trust Fund remaining on the Distribution Date to or for the benefit of the Beneficiary, and for greater certainty, in distributing the Trust Fund as aforesaid, the Trustees shall not be required to observe the restrictions set out in any other part of Article 3.

### 3.05 Payment Absolute Discharge

The receipt of any monies paid by the Trustees hereunder to the Beneficiary shall be a sufficient discharge to the Trustees, who shall not be bound to see to the application of any monies so paid.

## ARTICLE 4 POWERS AND AUTHORITIES OF TRUSTEES

### 4.01 Guiding Principles

In carrying out the powers, authorities and discretions howsoever available to the Trustees, whether under statute or at common law or otherwise, the Trustees shall be guided by the following principles:

- (1) the purpose of the Resource Trust is to fund the future costs of supporting Chemawawin's representatives on the Cedar Lake Resource Management Board;
- (2) the Trust Fund is intended to be preserved in perpetuity to enable future generations to benefit from this Trust and, without limiting the generality of the foregoing, the Trustee's investment policy must be dedicated to preserving the capital of the Trust Fund;
- (3) the Trustees must take advantage, where possible and reasonable in the circumstances, of all income tax exemptions and preferences or minimization available and, in particular, without limiting the generality of the foregoing, those income tax exemptions which are available to Indians and Bands; and
- (4) the administration of the Trust must take place on a reserve as defined in the *Indian Act*.

### 4.02 Power and Authorities

Subject to section 4.01, without in any way limiting or derogating from the powers, authorities and discretions otherwise howsoever available to the Trustees, whether under any statute or at common law or otherwise, and without application to or approval by any Court, the Trustees, acting by a majority, unless otherwise provided in this Trust

Indenture, shall, subject to the restrictions in section 4.04, have and be vested with the following powers, authorities and discretions and no person dealing with them shall be charged with any duty to inquire into the propriety of their action, except as set out in this Trust Indenture, that is to say:

(1) Dealing With Trust Funds

Subject to any specific direction set forth in this Trust Indenture concerning any of the property of the Trust Fund, to use their discretion in the realization of any of such property and to sell and call in and convert into money any part of the Trust Fund not consisting of money at such time or times and in such manner and upon such terms, and either for cash or credit or for part cash and part credit, as the Trustees may decide upon, or to postpone such conversion of any of such property or any part or parts thereof for such length of time as they consider advisable. The Trustees may retain, as an authorized investment of the Trust Fund, for such length of time as the Trustees consider necessary or advisable any cash or other property originally transferred to the Trustees pursuant to this Trust Indenture or hereafter assigned, transferred or appointed to the Trustees by the Settlor or by any other person or persons;

(2) Investments

Subject to section 4.01, to make investments of Trust Funds and in so doing the Trustees shall be limited to investments authorized by law for Trustees;

(3) Shares and Other Securities

To vote all shares and stocks forming part of the Trust Fund and to exercise all rights incidental to the ownership of shares, stocks, bonds, debentures or other securities or investments forming part of the Trust Fund and to issue proxies appointing one of their number and/or some person or persons their proxy to vote therefor to others; and to vote for the election of themselves or of any one or more of themselves to any executive or other board or committee of any such company or corporation or association, and to serve in any such office or on any such board or committee and accept and receive remuneration for such services without diminution of their compensation as fiduciaries under this Trust Indenture;

to sell or exercise any subscription rights and in connection with the exercise of subscription rights to use any portion of the Trust Fund for such purpose; to consent to and join in any plan for reconstruction, reorganization, amalgamation, consolidation, readjustment, liquidation, dissolution or winding-up, in respect of any company or corporation whose shares, stocks, bonds, debentures, notes or other securities for the time being form part of the Trust Fund or for the sale of the assets and undertaking, or a substantial portion thereof, of any such company or corporation, and in pursuance of any such plan to accept any shares, stocks, bonds, debentures, or other securities in exchange for the shares, stocks, bonds, debentures or other securities then forming part of the Trust Fund; and generally to act in respect of any securities or investments forming part of the Trust Fund as fully and effectually as if the same were not comprising part of the Trust Fund, but always in such manner as the Trustees shall in their uncontrolled discretion consider to be in the best interest of the persons entitled under this Trust Indenture;

(4) Dividends and Interest

Without limiting the generality of subsection 4.02(13), with respect to dividends or interest in respect of any investment, to:

- (a) determine, in the case of receipt of stock dividends or subscription rights, whether such stock dividends, subscription rights or proceeds thereof, shall be credited to capital or income,
- (b) determine whether any dividend or dividends distributed by the Trustees pursuant to section 83 of the *Income Tax Act* (Canada) shall constitute income or capital,
- (c) waive or agree to waive, in whole or in part, unpaid accrued interest, or accumulated dividends, or any investment which may be held by them at any time, or to release any person, firm, company or corporation from any obligation to the Trust, with or without compensation therefor;

(5) Registered Ownership of Trust Assets

Without affecting their liability as Trustees, to register any assets (real or personal) forming part of the Trust Fund in the name of a nominee, or to hold such assets unregistered, or in any manner in which title may pass by delivery, but without thereby increasing their liability as Trustees;

(6) Borrowing and Security

The Trustees may not borrow money or give security on any of the property of the Trust Fund;

(7) Agreements

Subject to the terms of this Trust Indenture and, in particular, subsections 4.02(2) and 4.02(8), to carry out any transactions and enter into any contracts or agreements with any person or corporation concerning any asset forming part of the Trust Fund where the Trustees consider such agreement to be in the best interests of this Trust, and in connection therewith the Trustees may make, execute, acknowledge and deliver any and all instruments that may be necessary, proper or desirable;

(8) Distribution of Trust Property

To make any payments, provisions, apportionments, or distributions, which may be required under the terms of this Trust Indenture in whole or in part in monies, securities or other property comprising the Trust Fund, and every apportionment and distribution, and valuation therefor, which in the discretion of the Trustees shall seem equitable, shall be final, conclusive and binding upon all persons interested under this Trust Indenture;

(9) Banking

To open and operate a bank account or bank accounts as may be expedient in the opinion of the Trustees, and to deposit any cash balances in the hands of the Trustees at any time in any chartered bank or trust company, provided that, except for deposits that are held overnight only, any such deposits must be:

- (a) guaranteed by the Government of Canada, or
- (b) deposited in a chartered bank or trust company that is rated "R1-middle" or better by Dominion Bond Rating Service, provided that, if Dominion Bond Rating Service or any successor shall not then be providing such a rating service, rated equivalent to an "R1-middle" or better by a recognized national or international debt rating service,

and, for the purposes of the Trust, to draw, make, endorse, deposit, or deal in cheques, bills of exchange, promissory notes, drafts or any other mercantile, commercial or security documents of any nature or kind, and to enter into contracts or agreements of any nature or kind, with such bank or trust company, and for such purposes the signatures of that Trustee or those Trustees designated by all of the Trustees in writing, as Trustees, and not in their personal capacity, shall be valid and binding upon the Trust, and all such forms as may be required to open bank accounts, operate same and related matters, shall be completed in the required manner and on the forms required by such bank or trust company account, and to designate any Trustee or Trustees as the signing authority for any such bank account or accounts or trust company account or accounts opened by the Trustee or Trustees;

(10) Professional Advice

To employ and pay for such professional assistance or other assistants and advisors, and to act on the written opinion or advice of same, as the Trustees consider necessary in order to discharge their duties as Trustees, and to do so without any liability for any neglect, omission, misconduct, or default of any such employed person, provided he or she was selected and retained with reasonable care;

(11) Legal Action

To institute, prosecute and defend any suits or actions or other proceedings affecting them or the Trust Fund or any part thereof; to compromise or settle any matter of difference, or to submit any such matters to arbitration; to compromise or compound any debts owing to or by the Trust upon evidence that to them shall

seem sufficient; to make partition in whole or in part at public auction or private sale or otherwise and upon such terms as they deem advisable with any co-owners or joint owners having any interest in any properties comprised in the Trust Fund, and to make such partition either by sale or by set-off or by agreement or otherwise (including where deemed desirable, provision for equality or exchange);

(12) Trustee Elections

To make, or refrain from making, in their absolute discretion, any election or elections, any determination or determinations, and any designation or designations permitted by any statute or statutes or regulation or regulations enacted by the Parliament or Government of Canada, by the legislature or government of any Province of Canada, or by any other legislative or governmental body of any other country, province, state or territory, and such exercise of discretion by the Trustees shall be conclusive and binding upon the Beneficiary;

(13) Power to Allocate and Apportion

To determine what is capital and what is income of this Trust, and to allocate or apportion receipts and expenses as between capital and income. By way of illustration (not limitation) of their discretion, the Trustees are authorized, to charge the premiums on securities purchased at a premium either against capital or against income or partly against each, and in such proportions as they shall deem proper; to apply stock dividends and other non-cash dividends to income or capital or apportion them between income and capital as they shall deem proper; to determine what expenses, costs, taxes (other than estate, inheritance, succession taxes and income taxes and other governmental charges of that nature) shall be charged against capital or income or apportioned between them and in what proportions; to change their plan of allocation or apportionment of receipts and expenses at any time and from time to time as they shall deem proper; and their allocation or apportionment shall be conclusive. For greater certainty, in making such determination or determinations, the Trustees shall proceed upon and be guided by principles of sound trust accounting practice,

including, without limiting the generality of the foregoing, generally accepted accounting principles;

(14) Power to Appoint a Corporate Trustee

To appoint, from time to time, by instrument in writing, whenever the Trustees deem it necessary or desirable to do so, a trust company incorporated under the laws of Manitoba or Canada, to be a trustee (the "Corporate Trustee") under this Trust Indenture. The Trustees are further empowered, in their discretion, to remove or replace the Corporate Trustee, by instrument in writing. Any Corporate Trustee appointed under this Trust Indenture shall have the responsibilities set forth in section 5.04, in addition to any other duties it may have as Trustee under this Trust Indenture. The Corporate Trustee shall, prior to becoming the Corporate Trustee under this Trust Indenture, execute an instrument in writing agreeing to be bound by all the terms and conditions contained in this Trust Indenture.

4.03 Powers not Exhausted

Subject to section 8.06, it is further agreed that where by any provisions of this Trust Indenture, whether express or implied, or by any inherent power and authority of the Trustees, an authority or power is conferred upon or is exercisable by the Trustees, or a duty is imposed upon the Trustees, such authority or power shall be exercisable and such duty shall be performed by such Trustee as there may be from time to time and as the occasion in their sole and unfettered discretion requires and it is further provided that no single exercise of any such power or authority and no one performance or non-performance of any such duty shall be taken to exhaust the exercise of any such power or authority or to be a complete performance of any such duty where a continued performance thereof shall be necessary, desirable or requisite in the sole and unfettered discretion of the Trustees. The Settlor further states and declares that it is the intention that in the management, operation, supervision and administration and carrying out of the terms of this Trust Indenture, the Trustees are to have the necessary powers and capacities to carry out the rights and duties under this Trust Indenture, except as may be limited by any express limitations contained in this Trust Indenture.



#### 4.04 Trust Indenture Self-Contained

The Trustees shall be entitled to exercise their said powers and authority until actual and final distribution of the Trust Funds and the termination of the Trust, without application to or approval by any court for any province or state or country, and, as to which, their judgment shall be final and binding upon all parties interested or potentially interested in this Trust, except as expressly set out in this Trust Indenture.

### ARTICLE 5

#### RIGHTS AND DUTIES OF THE TRUSTEES

##### 5.01 Right of Trustees to Deal with Trust

Notwithstanding anything else contained in this Trust Indenture, the Trustees shall have the right and privilege to engage or deal directly or indirectly with the Trust or any of the Trustees or persons related to them, including corporations, in which they or related persons are interested, if and only if such Trustee's interest is first declared, in writing.

##### 5.02 Trustee Compensation

Subject to prior approval of the Chief and Council, the Trustees are authorized unanimously to determine the amount of their reasonable compensation, and to pay the same to themselves, and to further reimburse themselves for all other necessarily and properly incurred expenses in the administration of this Trust, provided that any such compensation and reimbursements of expenses shall be disclosed separately in the financial statements of the Trust.

##### 5.03 Professional as Trustee

Any Trustee under this Trust Indenture being an accountant or solicitor or engaged in any other profession or business may make and be paid all usual professional and other charges for work done by him or his firm or any member thereof in relation to the administration of this Trust in the same manner in all respects as if he were not a Trustee, and also his reasonable charges in addition to disbursements for all work and business done and all time spent by him and his firm or any member thereof in connection with matters arising in relation to the Trust, including matters which might or should have been attended to in person by a Trustee not being an accountant or solicitor

or other professional person, but which such Trustee might reasonably require to be done by an accountant or solicitor or other professional person.

#### 5.04 **Corporate Trustee**

The Corporate Trustee, where one is appointed under this Trust Indenture, shall be responsible for the following matters:

- (1) to keep a complete and accurate set of accounts of the Trust Fund;
- (2) to prepare financial statements on an annual basis in accordance with generally accepted accounting principles for the Trust Fund;
- (3) to certify whether and when a payment of Income is made in accordance with the procedures set out in this Trust Indenture;
- (4) to perform the duties and exercise the rights set out in this Trust Indenture;
- (5) to prepare and deliver such reports and documentation as may be required by government agencies from time to time; and
- (6) to attend to the management functions of the Trust Fund.

Where no Corporate Trustee is appointed under this Trust Indenture, the Trustees will be responsible for performing the above duties and, in so doing, shall be entitled to obtain whatever professional advice and assistance they deem necessary and desirable, the costs of which shall be chargeable to the Trust pursuant to section 7.01.

#### 5.05 **Reporting**

As soon as practicable following the end of each fiscal year, the Trustees shall be required to provide to the Chief and Council and any Member who so requests a copy of the annual financial statements for the Trust, which will, if so requested by a majority of the Trustees, be audited by a chartered accountant or firm of chartered accountants, and which financial statements shall be signed by all the Trustees.

**ARTICLE 6**  
**TRUSTEES DECISIONS**

**6.01 Majority Rule in General**

- (1) Unless otherwise provided in this Trust Indenture, the Trustees, in carrying out their duties and exercising their rights and powers under this Trust Indenture and in all matters related to this Trust, shall act by the decision of a simple majority of them. Notwithstanding the foregoing, where there is any provision in this Trust Indenture that the Trustees (or any class of Trustees) shall act "as a whole" or "jointly" or "unanimously", then, such provision shall be deemed to mean that the said Trustees shall not be entitled to act in such matter by way of a simple majority decision, but shall in such matter act unanimously. Any decision or act of any required majority of the Trustees shall be deemed to be the decision or act of all of the Trustees, or class of Trustees, as the case may be, for all purposes under this Trust Indenture.
- (2) The Chairman of any meeting of the Trustees shall be the Chief or acting Chief of Chemawawin, whoever is then a Trustee. In the case of an equality of votes on any question, the Chairman shall not have a casting vote.

**6.02 Limited Right to Divide and Delegate Amongst Selves**

The Trustees may divide the duties of their offices between them as they may from time to time deem advisable, and further, any Trustee, with the consent of his co-Trustees, may be relieved of any and all powers, duties, and discretions, in and by this Trust Indenture vested in or imposed upon him, by delivering to the co-Trustees an instrument in writing delegating the same, or any part thereof, to such other Trustee or Trustees (being the remaining Trustee or Trustees), and any act done or decision made pursuant to such written instrument shall be binding upon and not subject to question or challenge by any person whomsoever. The Trustees, by instrument in writing, may provide that only one or more of their numbers may exercise any and all powers, duties and discretions vested in them jointly, but provided always, that any such delegation of powers, duties and discretions shall only relate to the management and administration and operation of the Trust or any property, business, firm, investment, or other asset in which it is interested, and shall under no circumstances apply to or permit the delegation

of any power, duty and discretion vested in the Trustees which is required under the terms of this Trust to be executed by the Trustees unanimously.

#### 6.03 Execution of Documents

No contract, document, instrument, promissory note, bill of lading, commercial instrument or other paper writing required to be signed, made on behalf of the Trust and purporting to bind the Trust shall in fact be binding upon the Trust unless the same is executed in the manner and by the person or persons designated unanimously from time to time by the Trustees, and only those contracts, documents, instruments, promissory notes, bills of lading, commercial instruments or other paper writings required to be signed, executed in the foregoing manner shall be valid and binding upon the Trust without further authorization or formality, provided however, that the Trustees for the time being acting unanimously shall be entitled to vary, alter, or amend this provision contained in this section, from time to time, and the Trustees shall be entitled in any specific instance to authorize any one or more of their number or any other person, firm or corporation to execute contracts, documents and instruments in writing and cheques, drafts, or orders for payment of money, and notes, and acceptances, and bills of exchange in relation to any bank accounts operated on behalf of the Trust at any chartered bank or trust company or other financial institution.

#### 6.04 Minutes

The Trustees shall cause minutes of meetings of the Trustees to be taken and entered in books kept for that purpose. Any such minutes, if purporting to be signed by the Chairman of the meeting at which the decisions were made or proceedings were had, or by the Chairman of the next succeeding meeting, shall be evidence of the proceedings. In addition, the Trustees may adopt, amend or cancel any rules from time to time for the purpose of governing their own procedure.

### ARTICLE 7

#### PROTECTION AND INDEMNIFICATION OF TRUSTEES

#### 7.01 Trustees Indemnified - No Liability

It is understood and agreed that each and every Trustee shall be deemed to have assumed his office on the express understanding, agreement and condition that every

Trustee of this Trust from time to time, and his heirs, executors, administrators and estate and effects respectively shall, from time to time, and at all times be indemnified and saved harmless out of the funds of the Trust from and against all costs, charges and expenses whatsoever which are brought, commenced, or prosecuted against him for or in respect of any act, deed, matter or thing whatsoever made, done or permitted by him in or about the execution of the duties of his office, and also from and against all other costs, charges and expenses which he sustains or incurs in or about in relation to the affairs of the Trust, except such costs, charges or expenses as are occasioned by his own willful gross neglect or gross default, and the Trustees shall not be liable for any error in judgment.

**7.02 No Deemed Indemnity of One Trustee by Another**

No Trustee shall be deemed to have indemnified any other Trustee or Trustees against any losses, costs, claims, charges or expenses brought against or sustained or incurred or suffered by any other Trustee who has guaranteed or is personally liable for any debt or obligation incurred or assumed for the benefit of and in the operation of the Trust, unless such indemnification shall be in writing executed by that Trustee or those Trustees so indemnifying the Trustee or Trustees becoming liable as aforesaid in his or their personal capacity, provided however that the Trustees are authorized from time to time to give indemnities from the Trust to any Trustee who has undertaken or is about to undertake any liability on behalf of the Trust or any other person, firm or corporation in whom the Trust is interested.

**7.03 Liability Unless Gross Neglect or Default**

No Trustee shall be liable for the acts, omissions, receipts, neglects or defaults of any other Trustee or person, firm or corporation employed or engaged by the Trust, or for joining in any receipt or act of conformity, or for any loss, damage or expense occasioned by the Trust through the insufficiency or deficiency of any security in or upon which any of the monies of or belonging to the Trust shall be placed out or invested, or for any loss or damages arising from the bankruptcy, insolvency or tortious act of any person, firm or corporation with whom or which any monies, securities or property of the Trust shall be lodged or deposited, or for any loss occasioned by error in judgment or oversight on his part, or for any other loss, damage or misfortune which may happen in

the execution of the duties of his respective office or trust, or in relation thereto, unless the same shall happen by or through his own willful gross neglect or gross default.

7.04 **May Rely Upon Reports**

The Trustees may rely and act upon the accuracy of any statement or report prepared by the accountants for the Trust or by any Corporate Trustee or any report or opinion from any solicitor for the Trust, and shall not be responsible or held liable for any loss or damage resulting from acting upon such statement, opinion or report.

7.05 **Lien on Trust Property**

The Trustees jointly shall have a first and paramount lien charged on all of the assets from time to time comprising the Trust (subject only to any specific charge or security from time to time given by them in the carrying out of this Trust) as security to them for the payment of all sums and monies which the Trust Funds are charged with paying to them pursuant to the indemnities and protection of their personal estates as provided in Article 7 and elsewhere in this Trust Indenture. Such lien shall extend to cover and include the capital of the Trust as well as the income therefrom and the future income of the Trust.

For the purpose of enforcing such lien, and in the event that the cash, or income or capital of the Trust in the hands of the Trustees shall at any time, or from time to time, be insufficient for the payment of monies properly due to the Trustees as in this Trust Indenture provided, or as by law provided, then, in each such event, and from time to time, the Trustees shall be entitled to sell all or such portion of the Trust Funds and assets comprising the Trust Funds as may be necessary to pay and discharge the monies so payable, and to utilize the proceeds of any such sale for such purpose.

7.06 **Indemnity for Fines, Penalties, Damages, etc.**

Should the Trustees, for any reason, fail to assess or report or pay any taxes that may be subject to assessment or payment during the currency of this Trust, and for which the Trustees might be responsible, the Trustees shall not be liable for any such failure; and in the event that the Trustees should be called upon to pay any such taxes, or penalties, or other charge thereon, any such money so paid out by the said Trustees shall be returned to them out of the income of the Trust, and if the income has been expended by

the Trustees before such payment or disbursement, then and in that event, there shall be refunded to the Trustees out of the capital of the Trust all such monies paid out and expended by them. This provision for indemnity and reimbursement shall also extend to and apply to any other fines, levies, assessments and damages levied against the Trustees, any matter or thing done or omitted to be done in connection with the management and operation and administration and carrying out of this Trust.

**7.07 Not Liable for Debts**

The Trustees shall not be personally liable for any monies to become due or for any claims against the Trust or for any investment executed by the Trustees under the provisions of this Trust Indenture, but the Trustees shall have power to bind the Trust estate without rendering themselves personally liable. The legal title to all property belonging to the Trust shall be and remain vested in the Trustees and their successors until the termination of this Trust as provided by this Trust Indenture.

**ARTICLE 8**

**REPLACEMENT OF TRUSTEES**

**8.01 Resignation**

Any Trustee shall be entitled at any time to resign on thirty (30) days notice in writing to the remaining Trustees and to the Chief and Council or upon such shorter notice as the remaining Trustees and the Chief and Council will accept as sufficient.

**8.02 Successors to Trustees**

In the event that any one of the Trustees should die or refuse or be unable to act or to continue to act or shall resign as Trustee or shall cease to qualify as a Trustee under section 8.02, the Chief and Council, by instrument in writing, shall appoint a Member to fill such vacancy, provided that:

- (1) one (1) Trustee shall at all times be the Chief or duly appointed Acting Chief of Chemawawin at that time;
- (2) two (2) Trustees shall at all times be Councillors of Chemawawin at that time other than the Chief; and

- (3) two (2) Trustees shall at all times be Elders of Chemawawin who are not Councillors of Chemawawin.

**8.03 New Chief and Council**

A Trustee, other than a Corporate Trustee, shall cease to be a Trustee upon the election from time to time of a Chief and Council. The incoming Chief and Council, by instrument in writing, shall appoint a sufficient number of persons to fill such vacancies, provided that until such appointments are made, the incumbent Trustees shall continue as Trustees for a period of no longer than thirty (30) days following the said election.

**8.04 Successor Trustees**

Every person or trust company so appointed as a Trustee under this Trust Indenture shall, as well before as after the Trust Fund becomes by law or otherwise vested in him, have the same powers, authorities and discretions, and may in all respects act as if he had been originally a Trustee by this Trust Indenture.

**8.05 Vacancies Must be Filled**

It is hereby further directed that at no time shall the number of Trustees be less than five (5) Trustees, excluding any Corporate Trustee from time to time appointed, and in the event that there shall ever arise any vacancy or vacancies in the office of Trustee or Trustees, then the remaining Trustee or Trustees shall be unable to act for the purposes of this Trust Indenture unless all of the vacancies shall have been duly filled by appointments made as provided in Article 8.

**8.06 Death, Bankruptcy or Mental Incompetency or Incapacity**

The office of Trustee shall be deemed to have been vacated by the death, bankruptcy or mental incompetency of any Trustee, and any vacancy so arising shall be filled in accordance with section 8.02.

**8.07 Residence**

A Trustee shall be required to be a resident of Canada and his trusteeship shall be and be deemed to be terminated upon such Trustee becoming other than a resident of Canada. In addition to the foregoing, a majority of the Trustees shall at all times be



residents of the Chemawawin Cree Nation Reserve in the Province of Manitoba, provided that if at any time there shall not be such a majority, all Trustees who are not residents of Chemawawin Cree Nation Reserve at such time shall be deemed to be terminated and the Chief and Council shall appoint some other qualified person or persons to fill such vacancy or vacancies.

**8.08 Property Vests in Successor Trustee**

The title of any property of the Trust Funds held by any Trustee who is no longer in office shall vest forthwith in any successor Trustee without further formality, but in any event, if requested, any resigned or removed or otherwise retired Trustee shall execute all instruments and do all acts necessary to vest such title as he may have had in the Trust Funds in any successor Trustee of record, without Court proceeding or other formality.

**8.09 Notices of Change**

Notice of all changes in the trusteeship under this Trust Indenture shall be endorsed on or attached to this Trust Indenture and shall be signed by the surviving or continuing Trustee or Trustees and every such notice shall be sufficient evidence to any person having dealings with the Trustees for the time being of the facts to which the notice relates.

**ARTICLE 9**

**POSITION OF THIRD PARTIES AND BENEFICIARY**

**9.01 Rely on Trustees' Authority**

This Trust Indenture need not be placed on record or filed in any Court or anywhere else in any jurisdiction where property belonging to the Trust is situated, and all persons dealing with the Trustees shall be entitled to rely on the authority of them to do and perform all acts or things, and to execute any and all instruments necessary or proper to carry out and consummate any and all transactions entered into between such persons and the Trustees, provided that such acts and instruments and transactions are executed in the proper manner as provided by this Trust Indenture.

**ARTICLE 10**  
**AMENDMENT AND VARIATION**

**10.01 Trust Irrevocable**

Except as provided in this Trust Indenture, the Trusts set forth in this Trust Indenture are intended and are hereby declared to be irrevocable by the Settlor.

**10.02 Amending Powers**

Subject to sections 10.03 and 10.04, at any time or from time to time during the term of the Trust, the Trustees, together with the Chief and Council, acting jointly and unanimously only, and with the consent of Hydro, may amend, vary, add to, revise or modify the terms and conditions of this Trust Indenture by deed or deeds revocable or irrevocable.

**10.03 Consent of the Court**

The Trustees, together with the Chief and Council acting jointly and unanimously only, may apply to any Court having jurisdiction over this Trust to interpret, amend or vary the Trust, without notice to the Beneficiary or any other interested party, and such application shall be in the following form:

The Trustees shall submit with the said application to the said Court, a plan or proposal for the interpretation and construction and meaning and implementation of this Trust, and this Trust Indenture, and their rights, obligations and discretions under this Trust Indenture, or for any change or amendment hereto, accompanied with such other affidavits or other evidence as will aid the said Court in reaching its decision.

**10.04 Procedure for Amendment or Dissolution**

Notwithstanding anything in sections 3.05 and 10.02, the Trustees shall not be entitled to dissolve, amend, vary, add to, revise or modify the Trust or pay or transfer the whole of the Trust Funds then remaining on the Distribution Date, unless and until such dissolution, amendment, variation, addition, revision, modification or payment or transfer has been approved by Chief and Council by council resolution and, in accordance with

the procedures established under section 10.05, and the written consents of Hydro and Manitoba have been obtained.

#### 10.05 Referendum Procedure

Prior to any dissolution, amendment, variation, addition, revision, or modification to the Trust or any payment or transfer of any Trust Funds, Chief and Council will have same approved by the Members in accordance with the following procedures:

- (1) Chief and Council will, by council resolution, request that the Minister responsible under the *Indian Act* (Canada) and the *Indian Referendum Regulations* make an order that a referendum be held, in accordance with requirements of the *Indian Act* (Canada) and the *Indian Referendum Regulations*, to determine if a majority of Members entitled to vote and voting at the referendum are in favour of the transaction.
- (2) The transaction will be approved by the Members if, at the referendum held in accordance with subsection 10.05(1), a majority of the Members entitled to vote and voting at such referendum vote to approve the transaction.
- (3) If the Minister responsible under the *Indian Act* (Canada) and the *Indian Referendum Regulations* does not make the order under subsection 10.05(1) within sixty (60) days after receiving the council resolution requesting same, subject to any extensions agreed upon by the Chief and Council, Chief and Council will conduct the referendum in accordance with the provisions of the *Indian Act* (Canada) and the *Indian Referendum Regulations* except that:
  - (a) no order of the Minister will be obtained;
  - (b) the electoral officer under the *Indian Referendum Regulations* will be a person to be determined by Chief and Council, rather than an officer of the Department of Indian Affairs acting under the direction of the Minister; and
  - (c) representatives of Chief and Council will prepare any reports or statements which otherwise would have been prepared by the officer

appointed by the Minister and will provide copies of the reports or statements to the Trustees.

- (4) Upon receipt of a written statement from the officer appointed by the Minister or the representative of Chief and Council appointed under paragraph 10.05(3)(b) confirming that the referendum was held in accordance with the procedures set forth in section 10.05 and that a majority of the Members entitled to vote and voting at the referendum voted in favour of the proposed transaction, the Trustees will be permitted, without further approvals, to proceed with the transaction.

## **ARTICLE 11**

### **MISCELLANEOUS**

#### **11.01 Proper Law of Trust**

This Trust is established under the laws in force in the Province of Manitoba and the rights of all parties and the construction and effect of each and every provision hereof shall be according to the laws in force in the Province of Manitoba including, without limiting the generality of the foregoing, the *Indian Act*.

#### **11.02 Perpetuities**

Should any law or rule relating to remoteness of vesting apply to this Trust, which law or rule provides that, as a result of the happening of any death, matter or thing of any nature or kind whatsoever this Trust shall be deemed to be void or shall otherwise offend the said rule or law, each Trust created under this Trust Indenture shall in any event terminate immediately prior to the end of the prospective period permitting for vesting and thereupon the property held in Trust shall be distributed, discharged of trust, to the persons then entitled to the capital in the proportions to which they are entitled under the provisions of this Trust Indenture.

#### **11.03 Accumulations**

Should any rule against accumulations be deemed to apply to this Trust, then notwithstanding anything contained in this Trust Indenture, the Trustees shall not be entitled to accumulate any of the income received by or derived from the Trust or Trust Funds, for a period exceeding the period of time permitted by such rule and until such

time, the Trustees shall be entitled, according to the discretionary provisions hereof, to accumulate income from the Trust Funds, but thereafter, the Trustees may not accumulate any further income from the Trust Funds and must allocate and distribute all income thereafter received from the Trust Funds according to the dispositive provisions of this Trust Indenture, in each year after the said accumulation period has ended.

**11.04 Enforcement of Trust**

Notwithstanding anything contained in this Trust Indenture, and subject to other rights of enforcement at law and the rights of others at law to enforce the terms hereof, in the event of the non-performance by the Trustees of their obligations and duties under this Trust Indenture, Chemawawin shall have the right to apply to a court of competent jurisdiction to enforce the Trust Indenture in accordance with its terms.

**11.05 Enurement**

This Trust Indenture, except as herein specifically or impliedly limited, shall enure to the benefit of and be binding upon the parties hereto, the Beneficiary, and the heirs, executors, administrators, successors and assigns of all of them.

SIGNED, SEALED AND DELIVERED  
In the presence of:

)  
)

CHEMAWAWIN CREE NATION,  
as represented by the Chief and Council,

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
CHIEF

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WITNESS

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COUNCILLOR

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TRUSTEE

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TRUSTEE

## SCHEDULE 2.2 - FORM OF COUNCIL RESOLUTION

### (Settlement of Trust Monies)

#### CHEMAWAWIN CREE NATION

#### COUNCIL RESOLUTION

First Nation: CHEMAWAWIN CREE NATION

Address: Box 9  
Easterville, Manitoba  
R0C 0V0

Date: \_\_\_\_\_, 200\_\_

- A. Chemawawin Cree Nation ("Chemawawin"), Her Majesty the Queen in right of Manitoba ("Manitoba"), and The Manitoba Hydro-Electric Board ("Manitoba Hydro") have negotiated an agreement (the "Comprehensive Forebay Agreement") to resolve certain outstanding issues between and among those parties in relation to and arising out of the Grand Rapids Hydro-Electric Project (the "Project");
- B. The Comprehensive Forebay Agreement provides, among other things, that Chemawawin is to receive certain payments (the "Trust Monies"), which payments are, under the terms of the Comprehensive Forebay Agreement, to be settled by Chemawawin in accordance with the terms of a trust indenture (the "Trust Indenture") in the form attached to and forming part of the Comprehensive Forebay Agreement;
- C. Chemawawin has approved the Comprehensive Forebay Agreement, including the form of Trust Indenture, by a referendum of the members of Chemawawin in accordance with the process contemplated in the Comprehensive Forebay Agreement; and
- D. Manitoba and Manitoba Hydro have each approved the Comprehensive Forebay Agreement, including the form of Trust Indenture.

#### **Therefore, be it resolved that:**

- 1. The Chief and Council, on behalf of Chemawawin, settle the Trust Monies to be received from Manitoba and Manitoba Hydro, together with interest, if any, thereon, in accordance with the Trust Indenture which has been presented to the Chief and Council for execution;
- 2. The trustees named in the Trust Indenture be named as trustees of the said trust;
- 3. The Chief and Council are hereby authorized to execute and deliver the Trust Indenture in the form attached to the Comprehensive Forebay Agreement;
- 4. The Chief of Chemawawin is hereby authorized and directed to deliver a copy of the resolution and the Trust Indenture to Manitoba and Manitoba Hydro;

5. The Chief of Chemawawin is hereby authorized and directed to pay to and settle upon, or cause to be paid to and settled upon, the trustees of the trust the Trust Monies upon receipt of such monies from Manitoba and Manitoba Hydro pursuant to the terms of the Comprehensive Forebay Agreement; and
6. The Chief of Chemawawin is hereby authorized and directed to do or cause to be done all things and execute or cause to be executed and delivered on behalf of Chemawawin all such further and other documents, instruments and assurances as may be necessary in order to effect the foregoing.



# PART III: CONCLUSION OF 1962 ARRANGEMENTS

## ARTICLE 3

### Land Exchange

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Schedule 3.1  
Schedule 3.2

Project Lands  
Exchange Lands

## PART III: CONCLUSION OF 1962 ARRANGEMENTS

### ARTICLE 3

#### 3.0 LAND EXCHANGE

#### 3.1 INTRODUCTION

##### 3.1.1 Introduction.

Article 3 relates to the commitment in the **1962 Arrangements** to exchange two acres of **Exchange Lands** for each acre of **Project Lands** taken for purposes of the **Project**, including mines and minerals with respect to one-half the total area of **Exchange Lands** to be conveyed to **Canada** for the use and benefit of **Chemawawin**.

#### 3.2 LAND EXCHANGE

##### 3.2.1 Taking of Project Lands.

By Order of the Governor in Council of Canada No. 1962-1617 dated November 15, 1962, **Canada** consented to the taking of the **Project Lands**, which lands are described in Schedule 3.1.

##### 3.2.2 Description of Exchange Lands.

The **Exchange Lands** are described in Schedule 3.2 and consist of lands for which administration and control has previously been transferred by **Manitoba** to **Canada** and which have been set apart as **Reserve** pursuant to the following Privy Council Orders:

- (a) No. 1979-2131 dated August 9, 1979;
- (b) No. 1989-1279 dated June 29, 1989; and
- (c) No. 1990-2519 dated November 22, 1990.

##### 3.2.3 Acknowledgement re: Exchange Lands.

The **Parties** acknowledge that the transactions described in subsection 3.2.2 fulfil **Manitoba's** commitment under the **1962 Arrangements** to exchange two acres of **Exchange Lands** for each acre of **Project Lands**, including mines and minerals with respect to one-half the total area of **Exchange Lands** to be conveyed to **Canada** for the use and benefit of **Chemawawin**.

**3.2.4 Reversion of Project Lands Not Flooded.**

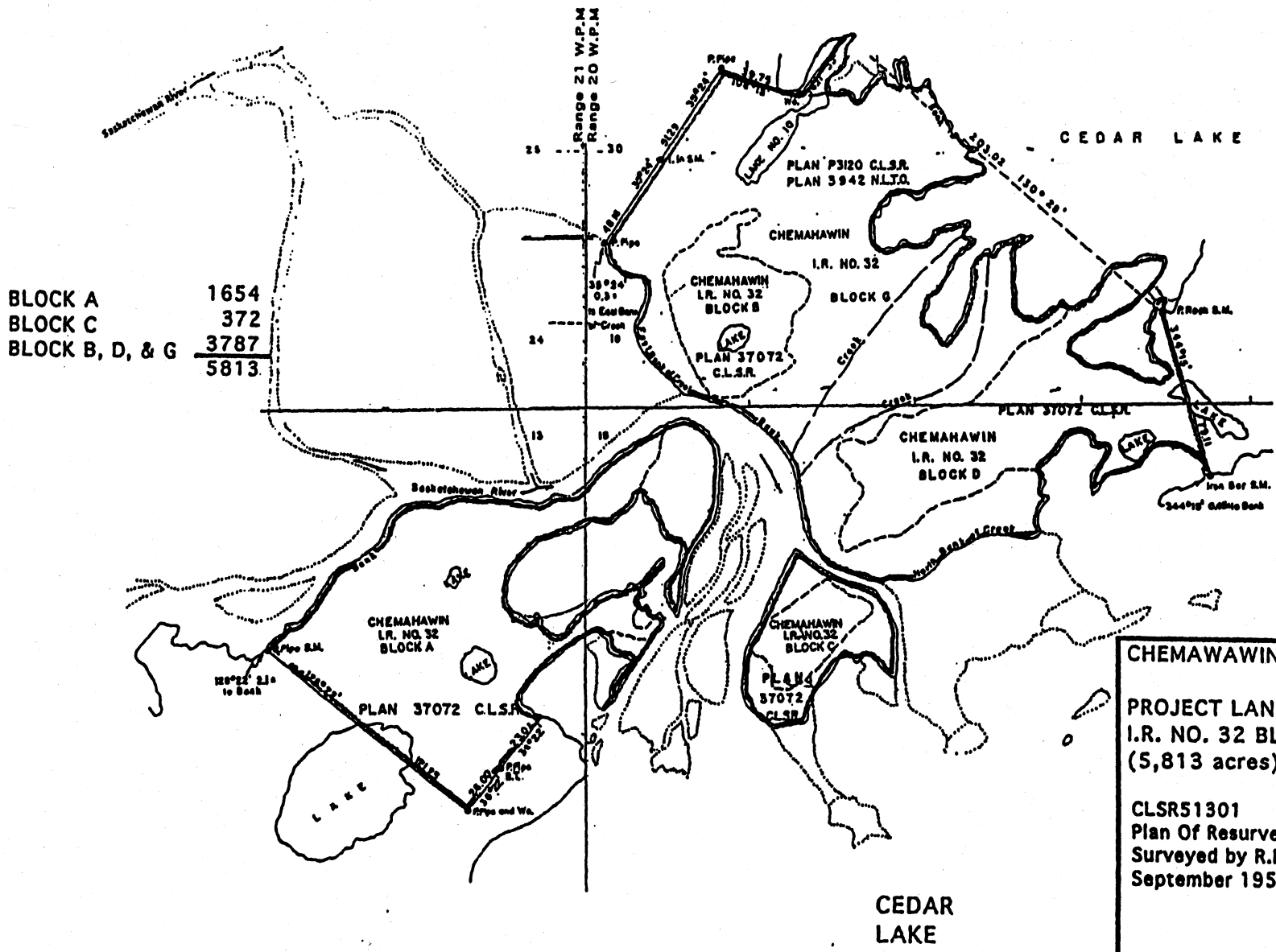
The **Parties** acknowledge that the conditions in Privy Council Order No. 1962-1617 dated November 15, 1962 in relation to the reversion of those lands not flooded on I.R. 32A, including mines and minerals underlying those lands not flooded, are fulfilled by the arrangements set forth in Article 4.

**3.2.5 Return of Portion of Project Lands under Article 6.**

A portion of the **Project Lands** will be returned by **Manitoba** to **Canada** to be set apart as **Reserve**, subject to **Project Easements**, in accordance with Article 6.

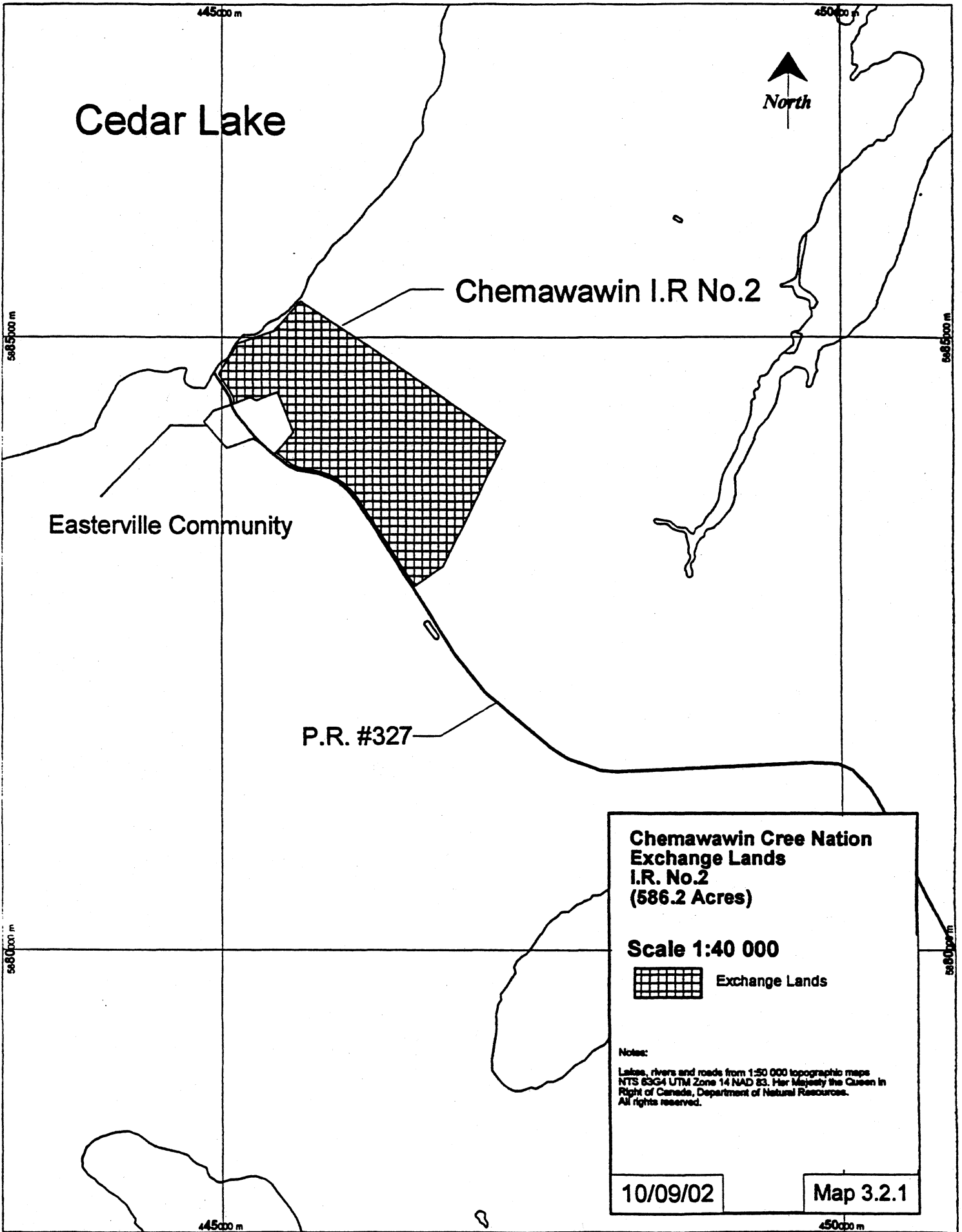
**SCHEDULE 3.1 - PROJECT LANDS**

<b>Lands</b>	<b>Legal Description</b>	<b>Area in Acres</b>	<b>Map Number</b>
I.R. 32	Blks A, B, C, D and G, Plan 4816 PLTO (N. Div.) CLSR 5130 1	5,813	3.1.1



**SCHEDULE 3.2 - EXCHANGE LANDS**

	<b>Legal Description</b>	<b>Area in Acres</b>	<b>Map Number</b>
Chemawawin I.R. No. 2	Plan 6270 PLTO (N. Div.) CLSR 62804	586.2	3.2.1
Chemawawin I.R. No. 3	Plan 7565 PLTO (N. Div.) CLSR 69315 Parcels A, B,C, D and E Parcel F	11,057.2 58.0	3.2.2
	<b>TOTAL</b>	<b>11,701.4</b>	



Cedar Lake

Chemawawin I.R No.2

Easterville Community

P.R. #327

**Chemawawin Cree Nation  
Exchange Lands  
I.R. No.2  
(586.2 Acres)**

**Scale 1:40 000**



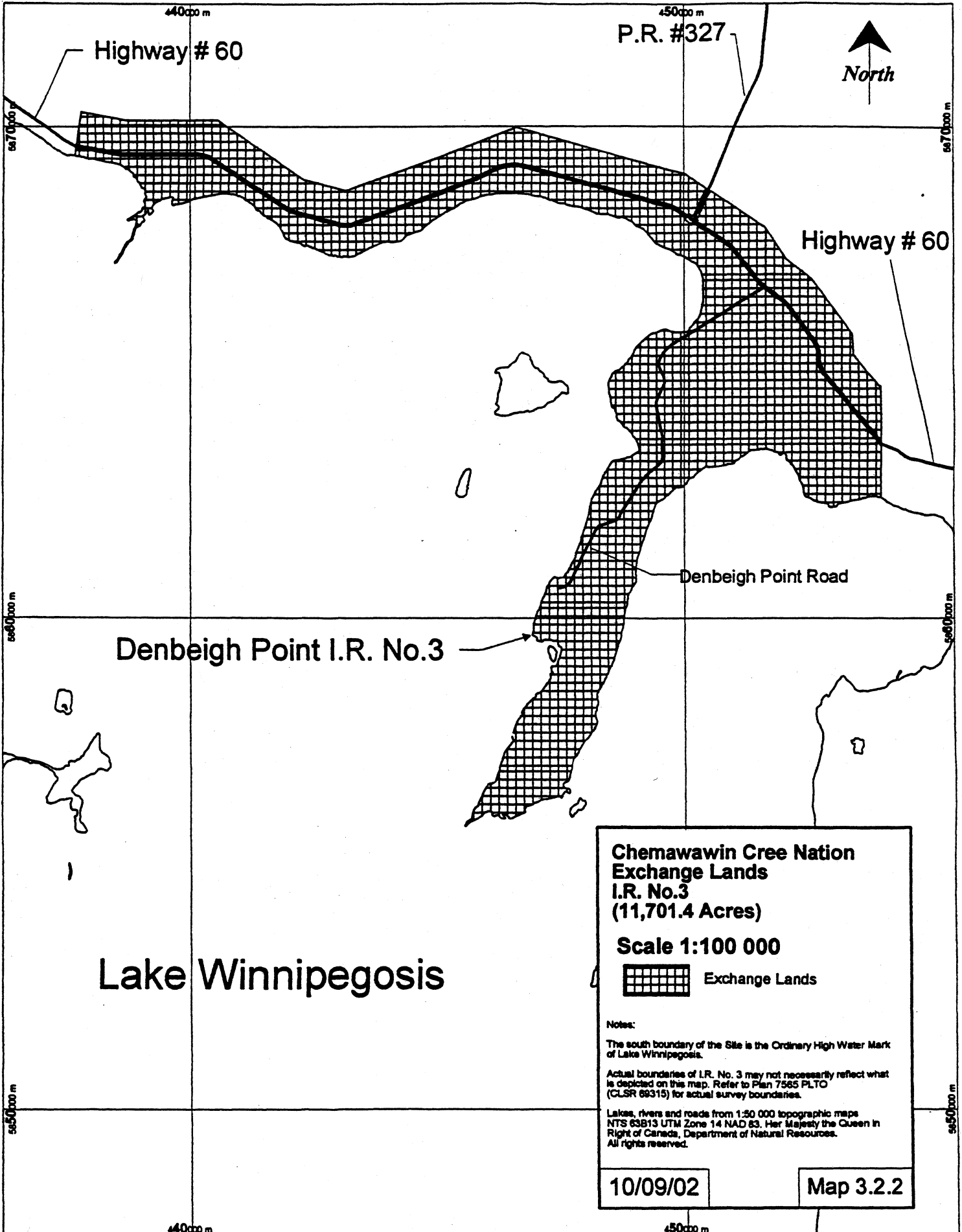
Exchange Lands

**Notes:**

Lakes, rivers and roads from 1:50 000 topographic maps  
NTS 63G4 UTM Zone 14 NAD 83. Her Majesty the Queen in  
Right of Canada, Department of Natural Resources.  
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10/09/02

Map 3.2.1



Highway # 60

P.R. #327



Highway # 60

Denbeigh Point Road

Denbeigh Point I.R. No.3

Lake Winnipegosis

**Chemawawin Cree Nation  
Exchange Lands  
I.R. No.3  
(11,701.4 Acres)**

**Scale 1:100 000**

 Exchange Lands

**Notes:**  
The south boundary of the Site is the Ordinary High Water Mark of Lake Winnipegosis.

Actual boundaries of I.R. No. 3 may not necessarily reflect what is depicted on this map. Refer to Plan 7565 PLTO (CLSR 69315) for actual survey boundaries.

Lakes, rivers and roads from 1:50 000 topographic maps NTS 63B13 UTM Zone 14 NAD 83. Her Majesty the Queen in Right of Canada, Department of Natural Resources. All rights reserved.

10/09/02

Map 3.2.2



ARTICLE 4

Reversion Lands

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**Lands**)

## ARTICLE 4

### 4.0 REVERSION LANDS

#### 4.1 INTRODUCTION

##### 4.1.1 Introduction.

Article 4 provides for the completion of the transfer from **Manitoba** to **Canada** of the administration and control of the **Reversion Lands** in contemplation of **Canada** accepting administration and control and setting the **Reversion Lands** apart as **Reserve**, in satisfaction of the commitment in the **1962 Arrangements** that all lands not flooded on former I.R. 32A revert to **Canada** for the use and benefit of **Chemawawin**.

### 4.2 REVERSION LANDS

#### 4.2.1 Description of Reversion Lands.

The **Reversion Lands** consist of unflooded parcels on former I.R. 32A which were taken in 1962 for purposes of the **Project** and which are subject to reversion to **Canada** pursuant to the provisions of Privy Council Order No. 1962-1617, and include:

- (a) the parcel identified in Part 1 of Schedule 4.1 for which administration and control was transferred by **Manitoba** to **Canada** pursuant to Manitoba Order in Council No. 818/78, dated August 30, 1978, which parcel was accepted by **Canada** and set apart as **Reserve** pursuant to Privy Council Order No. 1979-2131 dated August 9, 1979; and
- (b) parcels for which administration and control has been agreed by **Chemawawin** and **Manitoba** to be transferred to **Canada**, and that are described in Part 2 of Schedule 4.1.

### 4.3 SURVEYS

#### 4.3.1 Request for Approval of Survey Instructions.

**Manitoba** will request that the Surveyor General of **Canada** approve the survey instructions for the **Reversion Lands**, which instructions will be based on Schedule 10.1.

#### 4.3.2 Surveys by Manitoba.

As soon as reasonably practicable after the **Date of this Agreement**, and having regard to field conditions, **Manitoba**, in consultation with **Chemawawin** and **Hydro**, will commence

legal surveys of the boundaries of **Reversion Lands** described in Part 2 of Schedule 4.1 in accordance with subsection 4.3.3 and the survey instructions referred to in subsection 4.3.1.

#### 4.3.3 Completion of Surveys.

Subject to subsection 4.3.4, **Manitoba** will make reasonable efforts to have legal surveys completed in relation to each parcel of **Reversion Lands** described in Part 2 of Schedule 4.1 within twelve (12) months of:

- (a) the commencement of the survey of such parcel of **Reversion Lands**;
- (b) the approval of a change in survey instructions under subsection 10.3.6 in respect of such parcel of **Reversion Lands**; or
- (c) the date of the final resolution of any dispute arising under Article 11 in relation to such parcel.

#### 4.3.4 Delay in Surveying.

Where a legal survey referred to in subsection 4.3.3 is delayed due to:

- (a) weather or other conditions outside the control of **Manitoba**;
- (b) a change in survey instructions under subsection 10.3.6; or
- (c) any dispute which may arise in relation to a proposed change in survey instructions for a parcel;

**Manitoba** will complete or cause to be completed legal surveys of the boundaries of the parcel of **Reversion Lands** as soon thereafter as may be reasonably practicable.

## 4.4 TRANSFER OF REVERSION LANDS

### 4.4.1 Transfer Free from Encumbrances.

**Manitoba** will, in accordance with section 4.4, transfer to **Canada** the administration and control of the **Reversion Lands** described in Part 2 of Schedule 4.1 free and clear of all encumbrances, reservations, estates, rights and interests in favour of any person, other than **Canada**, or any person whose interest is claimed through **Canada**, for the purpose of **Canada** setting apart those lands as **Reserve**, and for greater certainty:

- (a) no reservations to **Manitoba** under subsection 4(1) of *The Crown Lands Act* (Manitoba) will apply to the **Reversion Lands**; and
- (b) administration and control of rights in mines and minerals, both precious and base, rights in Crown timber and all other estates, rights and interests will be transferred by **Manitoba** to **Canada** as part of the **Reversion Lands**.

#### 4.4.2 Plans and Descriptions Provided by Manitoba.

Prior to the transfer of administration and control of any parcel of **Reversion Lands** for which administration and control is to be transferred by **Manitoba** to **Canada** under this **Agreement**, **Manitoba** will:

- (a) determine that the legal description of the parcel of **Reversion Lands** is satisfactory to the Surveyor General of Canada; and
- (b) provide to **Chemawawin**:
  - (i) plans of the boundaries of the parcel of **Reversion Lands**, and
  - (ii) a legal description of the parcel of **Reversion Lands**.

#### 4.4.3 Confirmation by Chemawawin.

Upon receipt of the plans and legal descriptions provided by **Manitoba** under subsection 4.4.2, **Chemawawin** will:

- (a) by **Council Resolution** substantially in the form attached as Schedule 4.2, confirm in relation to each parcel that, as at the date of such **Council Resolution**:
  - (i) the parcel is properly described as **Reversion Lands**;
  - (ii) no condition, which does not meet acceptable environmental standards as contemplated under Article 11, has been discovered, and
  - (iii) the parcel is accepted by **Chemawawin** as **Reversion Lands**; and
- (b) provide a copy of the **Council Resolution** referred to in paragraph (a) to both **Manitoba** and **Canada**.

#### 4.4.4 Provision of Form of Order in Council to Canada.

Upon receipt by **Manitoba** of:

- (a) confirmation by the Surveyor General of Canada that the plans and legal descriptions referred to in subsection 4.4.2 are acceptable to the Surveyor General of Canada; and
- (b) the **Council Resolution** referred to in subsection 4.4.3;

**Manitoba** will provide **Canada** with a copy of the form of Order in Council attached as Schedule 4.3 transferring administration and control of the **Reversion Lands to Canada** for the purpose of **Canada** setting these lands apart as **Reserve**.

#### 4.4.5 Consultation on Changes to Form of Order in Council.

If **Canada** requires changes to the form of Order in Council provided to it by **Manitoba** under subsection 4.4.4, **Manitoba** will consult with **Canada** and **Chemawawin** on the changes required to the form of Order in Council.

#### 4.4.6 Transfer by Order in Council.

Following assurances from **Canada** that the form of Order in Council referred to in subsections 4.4.4 is acceptable to **Canada**, **Manitoba** will:

- (a) transfer, by Order in Council substantially in the form of Schedule 4.3, or, where applicable, in the form determined as a result of the consultation under subsection 4.4.5, administration and control of the relevant parcel of **Reversion Lands to Canada** in contemplation of **Canada** accepting administration and control of that parcel and setting that parcel apart as **Reserve**; and
- (b) provide a certified copy of that Order in Council to both **Chemawawin** and **Canada**.

#### 4.4.7 Request for Reserve Status.

Upon receipt of a certified copy of the Order in Council referred to in paragraph 4.4.6(b), **Chemawawin** will:

- (a) by **Council Resolution** substantially in the form attached as Schedule 4.4, request that **Canada** set apart as **Reserve** the **Reversion Lands** referred to in that Order in Council;

- (b) provide a copy of the **Council Resolution** referred to in paragraph (a) to both **Canada** and **Manitoba**.

#### 4.4.8 Acceptance and Setting Apart of Reversion Lands by Canada.

Upon **Manitoba's** receipt of the **Council Resolution** referred to in subsection 4.4.7, **Manitoba** will request that **Canada**:

- (a) record the plans referred to in subsection 4.4.2 in accordance with the *Canada Lands Surveys Act*;
- (b) by instrument under the *Federal Real Property Act*, accept administration and control of the **Reversion Lands**, being a requirement for the lands to be set apart as **Reserve**;
- (c) provide notice of acceptance of administration and control to **Chemawawin, Manitoba** and **Hydro**;
- (d) by Privy Council Order, set the **Reversion Lands** referred to in that **Council Resolution** apart as **Reserve**; and
- (e) provide a copy of the Privy Council Order(s) relevant to those **Reversion Lands** to both **Chemawawin** and **Manitoba**.

#### 4.4.9 Completion of Process.

The **Parties** will cooperate to enable **Canada** to complete the processes outlined in subsection 4.4.8 as soon as practicable after **Canada's** receipt of the **Council Resolution** referred to in subsection 4.4.7 as such processes relate to the **Reversion Lands** referred to in that **Council Resolution**.

### 4.5 **CONSOLIDATION OF TRANSFER**

#### 4.5.1 Consolidation of Transfer.

Where all **Parties** and **Canada** agree, the transfer of lands under Article 4 may be consolidated with the transfer of lands on I.R. 32A under Article 6. Where **Chemawawin** and **Canada** agree, any one or more of the parcels of land to be transferred under Article 4 and Article 6 may be consolidated with the existing **Reserve** at I.R. 32A.

## 4.6 CEMETERY LANDS

### 4.6.1 Cemetery Lands.

Hydro has entered into an agreement with Chemawawin to fund the Old Post Cemetery Project, which project involves, among other things, the raising of the lands upon which the Old Post Lower Cemetery is located to an elevation at or above 848 feet A.S.L. The Old Post Cemetery Project also involves the construction of certain causeways to provide access to the site.

### 4.6.2 Inclusion of Lands in Reversion Lands.

Manitoba agrees that any lands raised to an elevation at or above the required Easement Line as a result of the completion of the Old Post Cemetery Project will, upon completion of the project, be deemed to be included in the Reversion Lands, and will be dealt with in accordance with Article 4.

### 4.6.3 Inclusion of Lands in Returned Project Lands.

Manitoba agrees that any lands, including, without limitation, any permanent causeways, raised to an elevation at or above 842 feet A.S.L., but below the required Easement Line, as a result of the completion of the Old Post Cemetery Project, will, upon completion of the project, be deemed to be included in the Returned Project Lands, and will be dealt with in accordance with Article 6.

## SCHEDULE 4.1 - REVERSION LANDS

### Part 1: **Reversion Lands Previously Transferred to Canada and set apart as Reserve**

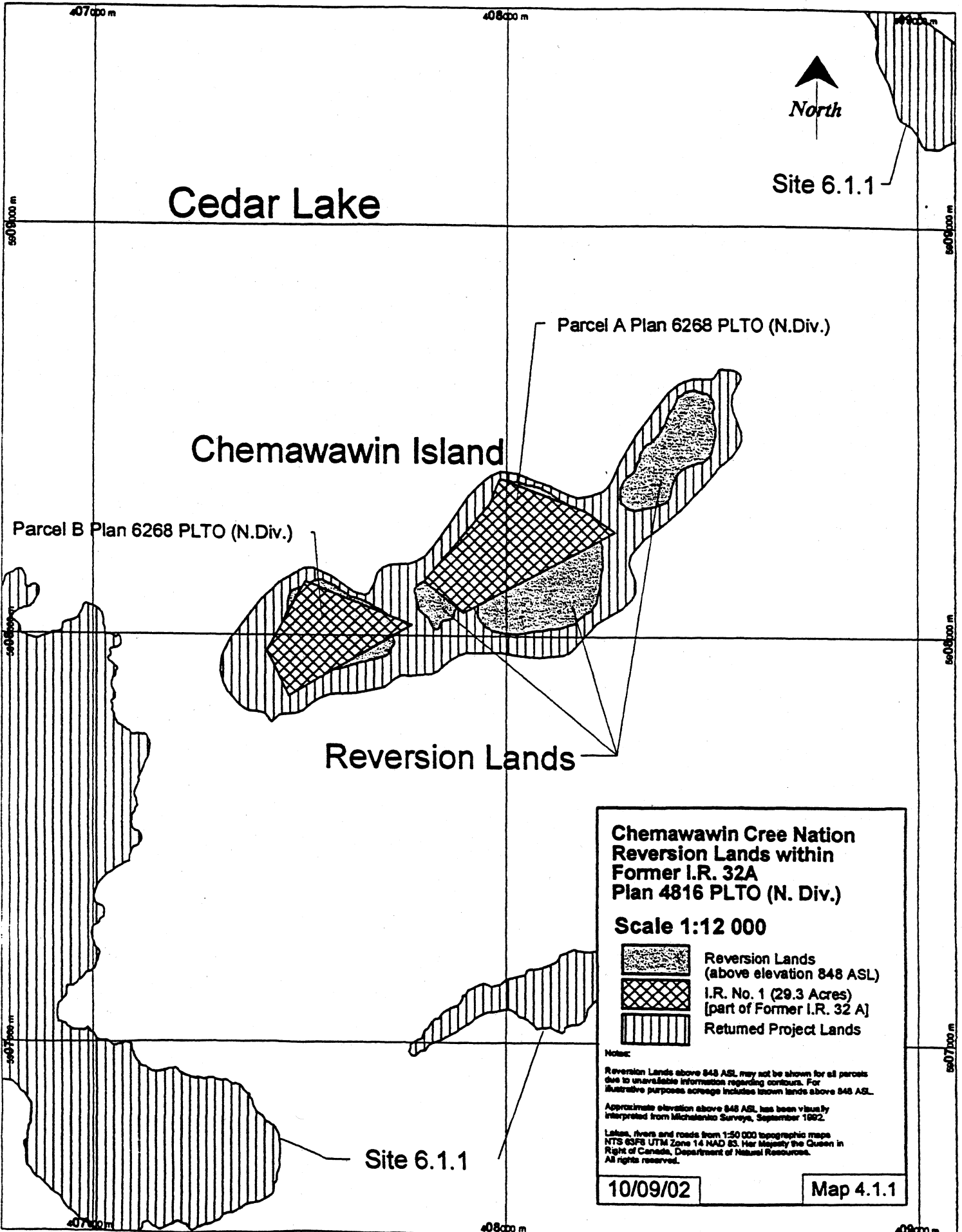
All those portions of unsurveyed township fifty in ranges twenty and twenty-one west of the Principal Meridian in Manitoba, which are shown as Parcel "A" and Parcel "B" on a Plan of Survey filed in the P.L.T.O. (N. Div.) as No. 6268, a copy of which is recorded as 62803 in the Canada Lands Surveys Records at Ottawa, said Parcels A and B containing together 29.34 acres more or less, including all mines and minerals.

### Part 2: **Reversion Lands to be Transferred to Canada**

All parcels of land in former I.R. 32A at or above the required **Easement Line** that are:

- (a) depicted as "**Reversion Lands**" on Map. 4.1.1; or
- (b) raised to an elevation at or above the **Easement Line** as a result of the Old Post Cemetery Project as provided for in subsection 4.6.2; or
- (c) not included under paragraph (a) or (b) but are:
  - (i) greater than 10 acres in size; or
  - (ii) are less than 10 acres in size but are adjacent to the lands described in Part 1 of Schedule 4.1.





**SCHEDULE 4.2 – FORM OF COUNCIL RESOLUTION  
(Confirmation by Chemawawin – Reversion Lands)**

**CHEMAWAWIN CREE NATION**

**COUNCIL RESOLUTION**

---

First Nation: CHEMAWAWIN CREE NATION

Address: Box 9  
Easterville, Manitoba  
R0C 0V0

Date: \_\_\_\_\_, 200\_\_

- A. In 1962, Her Majesty the Queen in right of Manitoba ("Manitoba") and The Manitoba Hydro-Electric Board ("Manitoba Hydro") made certain commitments to the Chemawawin Cree Nation ("Chemawawin") arising from anticipated effects of the development and operation of the Grand Rapids Hydro-Electric Project (the "Project") and the acquisition and use of certain Chemawawin lands for water storage, which commitments were more particularly set out in a letter dated June 7, 1962 sent to Chemawawin by the Grand Rapids Forebay Administration Committee, on behalf of Manitoba and Manitoba Hydro and subsequent arrangements (collectively, the "1962 Arrangements");
- B. By Order of the Governor in Council of Canada No. 1962-1617, dated November 15, 1962, Canada consented to the taking of the whole of Chemawawin Reserve I.R. 32 subject to the reversion of all lands not flooded on I.R. 32A, together with all mines and minerals underlying the lands not flooded;
- C. By Order in Council No. 818/78, dated August 30, 1978, Manitoba transferred to Canada administration and control of a portion of those lands not flooded on I.R. 32A, together with all mines and minerals;
- D. On \_\_\_\_\_, 200\_\_, Chemawawin, Manitoba, and Manitoba Hydro entered into an agreement (the "Comprehensive Forebay Agreement") to resolve the issues between and among those parties in relation to and arising out of the Project and the 1962 Arrangements;
- E. The Comprehensive Forebay Agreement provides, among other things, that Manitoba is to transfer to Her Majesty the Queen in right of Canada ("Canada") administration and control of the Crown (Manitoba) lands described in Schedule "A" (the "Reversion Lands"), being the remaining portion of the lands not flooded on I.R. 32A that are above elevation 848 A.S.L., which portion was not transferred to Canada by Order in Council No. 818/78, dated August 30, 1978 and which portion is, pursuant to the Comprehensive Forebay Agreement, intended to be set apart as reserve under the *Indian Act* (Canada) for the use and benefit of Chemawawin;

- F. The Comprehensive Forebay Agreement provides that Manitoba, prior to transferring administration and control of the Reversion Lands, is to complete legal surveys of the boundaries of the Reversion Lands and provide to Chemawawin plans and legal descriptions of each parcel of Reversion Lands;
- G. Manitoba has completed such surveys and has provided to Chemawawin plans and legal descriptions with respect to the parcels of Reversion Lands; and
- H. The Comprehensive Forebay Agreement provides, among other things, that upon receipt of such plans and legal descriptions, Chemawawin will, by Council Resolution, confirm in relation to each parcel of the Reversion Lands certain matters as hereinafter specified.

**Therefore, be it resolved that:**

- 1. In relation to each parcel of Reversion Lands described in Schedule "A" hereto, Chemawawin hereby confirms that, as of the date hereof:
  - (a) the parcel is properly described as "Reversion Lands" as defined in the Comprehensive Forebay Agreement;
  - (b) no condition, which does not meet acceptable environmental standards as contemplated in the Comprehensive Forebay Agreement, has been discovered by Chemawawin; and
  - (c) the parcel is accepted by Chemawawin as "Reversion Lands"; and
- 2. The Chief of Chemawawin is hereby authorized and directed to deliver a copy of this resolution to Manitoba and to execute all documents and do all things necessary to give effect to this resolution.

## Schedule A

### Legal Description of Reversion Lands

(description will be completed after survey and will include all mines and minerals, both precious and base, rights in Crown timber and all other estates, rights and interests impliedly reserved to the Crown under *The Crown Lands Act* (Manitoba))

**SCHEDULE 4.3 - FORM OF MANITOBA ORDER IN COUNCIL  
(Transfer of Reversion Lands)**

See attached.



No. ....

SCHEDULE 4.3

(FORM OF) ORDER IN COUNCIL

ORDER

1. The administration and control of Crown (Manitoba) lands described in Schedule "A" be transferred to Her Majesty the Queen in right of Canada.
2. The Minister is authorized to execute all documents and to do all things necessary to give effect to this Order.

BACKGROUND

- A. In 1962, Her Majesty the Queen in right of Manitoba ("Manitoba") and The Manitoba Hydro-Electric Board ("Manitoba Hydro") made certain commitments to the Chemawawin Cree Nation ("Chemawawin") arising from anticipated effects of the development and operation of the Grand Rapids Hydro-Electric Project (the "Project"), including the need for acquisition and use of certain Chemawawin lands for water storage, more particularly set out in a letter dated June 7, 1962 sent to Chemawawin by the Grand Rapids Forebay Administration Committee, on behalf of Manitoba and Manitoba Hydro and subsequent arrangements (collectively, the "1962 Arrangements");
- B. By Order of the Governor in Council of Canada No. 1962-1617, dated November 15, 1962, Canada consented to the taking of the whole of Chemawawin I.R. 32, subject to the reversion of all lands not flooded on I.R. 32A, together with all mines and minerals underlying the lands not flooded;
- C. By Order in Council No. 818/78, dated August 30, 1978, Manitoba transferred administration and control of a portion of those lands not flooded on I.R. 32A, together with all mines and minerals;
- D. On \_\_\_\_\_, 200\_\_, Chemawawin, Manitoba, and Manitoba Hydro entered into an agreement (the "Comprehensive Forebay Agreement") to fully and finally resolve all issues between and among those parties in relation to and arising out of the Project and the 1962 Arrangements; and
- E. The Comprehensive Forebay Agreement provides, among other things, that Manitoba is to transfer to Her Majesty the Queen in right of Canada ("Canada") administration and control of the Crown (Manitoba) lands described in Schedule "A", being the remaining portion of the lands not flooded on I.R. 32A that are above elevation 848 feet A.S.L., which portion was not transferred to Canada by Order in Council No. 818/78, dated August 30, 1978, and which portion is, pursuant to the Comprehensive Forebay Agreement, to be set apart as a reserve under the *Indian Act* (Canada) for the use and benefit of Chemawawin.

\_\_\_\_\_

Initiating Department/Agency

Authorized Officer

APPROVED BY:

Civil Service Commission

Finance

APPROVED AS TO FORM BY:

Name

Civil Legal Services or  
Legislative Council Office

Initials

\_\_\_\_\_

RECOMMENDED:

Minister of Conservation

APPROVED BY EXECUTIVE COUNCIL:

Presiding Member

ORDERED:

Lieutenant Governor

Date

\_\_\_\_\_



No. ....

**Schedule A**

**Legal Description of Reversion Lands to be Transferred**

(description will be completed after survey and will include all mines and minerals, both precious and base, rights in Crown timber and all other estates, rights and interests impliedly reserved to the Crown under *The Crown Lands Act* (Manitoba))

**SCHEDULE 4.4 – FORM OF COUNCIL RESOLUTION  
(Request for Reserve Status – Reversion Lands)**

**CHEMAWAWIN CREE NATION**

**COUNCIL RESOLUTION**

---

First Nation: CHEMAWAWIN CREE NATION

Address: Box 9  
Easterville, Manitoba  
R0V 0C0

Date: \_\_\_\_\_, 200\_\_

- A. In 1962, Her Majesty the Queen in right of Manitoba ("Manitoba") and The Manitoba Hydro-Electric Board ("Manitoba Hydro") made certain commitments to the Chemawawin Cree Nation ("Chemawawin") arising from anticipated effects of the development and operation of the Grand Rapids Hydro-Electric Project (the "Project") and the acquisition and use of certain Chemawawin lands for water storage, which commitments were more particularly set out in a letter dated June 7, 1962 sent to Chemawawin by the Grand Rapids Forebay Administration Committee, on behalf of Manitoba and Manitoba Hydro and subsequent arrangements (collectively, the "1962 Arrangements");
- B. By Order of the Governor in Council of Canada No. 1962-1617, dated November 15, 1962, Her Majesty the Queen in Right of Canada ("Canada") consented to the taking of the whole of Chemawawin Reserve I.R. 32 subject to the reversion of all lands not flooded on I.R. 32A, together with all mines and minerals underlying the lands not flooded;
- C. By Order in Council No. 818/78, dated August 30, 1978, Manitoba transferred administration and control of a portion of those lands not flooded on I.R. 32A, together with all mines and minerals;
- D. On \_\_\_\_\_, 200\_\_, Chemawawin, Manitoba, and Manitoba Hydro entered into an agreement (the "Comprehensive Forebay Agreement") to resolve the issues between and among those parties in relation to and arising out of the Project and the 1962 Arrangements;
- E. The Comprehensive Forebay Agreement provides, among other things, that Manitoba is to transfer to Canada administration and control of the Crown (Manitoba) lands described in Schedule "A" (the "Reversion Lands"), being the remaining portion of the lands not flooded on I.R. 32A that are above elevation 848 A.S.L., which portion was not transferred to Canada by Order in Council No. 818/78, dated August 30, 1978, and which portion is, pursuant to the Comprehensive Forebay Agreement, to be set apart as reserve under the *Indian Act* (Canada) for the use and benefit of Chemawawin;



- F. By Manitoba Order in Council No. \_\_\_\_\_, dated \_\_\_\_\_, 200\_, a copy of which is attached hereto as Schedule "B", Manitoba has transferred to Canada administration and control of the lands described in Schedule "A"; and
- G. The Comprehensive Forebay Agreement provides, among other things, that Chemawawin will, upon receipt of the Manitoba Order in Council, a copy of which is attached as Schedule "B", request, by Council Resolution, that Canada accept administration and control of the Reversion Lands and set them apart as reserve, and that Chemawawin then provide a copy of such Council Resolution to Canada and Manitoba.

**Therefore, be it resolved that:**

1. Chemawawin hereby requests that Canada accept administration and control of the Reversion Lands, which lands have been transferred to Canada pursuant to the Order in Council No. \_\_\_\_\_, dated \_\_\_\_\_, 200\_, a copy of which is attached hereto as Schedule "B", and that Canada set the Reversion Lands apart as reserve under the *Indian Act* (Canada), for the use and benefit of Chemawawin;
2. Chemawawin hereby requests that Canada take such further and other steps as may be required to effect the foregoing; and
3. The Chief of Chemawawin is hereby authorized and directed to deliver a copy of this resolution to Canada and Manitoba and to execute all documents and do all things necessary to give effect to this resolution.

## **Schedule A**

### **Legal Description of Reversion Lands**

(description will be completed after survey and will include all mines and minerals, both precious and base, rights in Crown timber and all other estates, rights and interests impliedly reserved to the Crown under *The Crown Lands Act* (Manitoba))

**Schedule B**

**Order in Council**

**Transfer of Reversion Lands**

**[Order in Council in form of Schedule 4.3]**



No. ....

SCHEDULE 4.3

(FORM OF) ORDER IN COUNCIL

ORDER

1. The administration and control of Crown (Manitoba) lands described in Schedule "A" be transferred to Her Majesty the Queen in right of Canada.
2. The Minister is authorized to execute all documents and to do all things necessary to give effect to this Order.

BACKGROUND

- A. In 1962, Her Majesty the Queen in right of Manitoba ("Manitoba") and The Manitoba Hydro-Electric Board ("Manitoba Hydro") made certain commitments to the Chemawawin Cree Nation ("Chemawawin") arising from anticipated effects of the development and operation of the Grand Rapids Hydro-Electric Project (the "Project"), including the need for acquisition and use of certain Chemawawin lands for water storage, more particularly set out in a letter dated June 7, 1962 sent to Chemawawin by the Grand Rapids Forebay Administration Committee, on behalf of Manitoba and Manitoba Hydro and subsequent arrangements (collectively, the "1962 Arrangements");
- B. By Order of the Governor in Council of Canada No. 1962-1617, dated November 15, 1962, Canada consented to the taking of the whole of Chemawawin I.R. 32, subject to the reversion of all lands not flooded on I.R. 32A, together with all mines and minerals underlying the lands not flooded;
- C. By Order in Council No. 818/78, dated August 30, 1978, Manitoba transferred administration and control of a portion of those lands not flooded on I.R. 32A, together with all mines and minerals;
- D. On \_\_\_\_\_, 200\_\_, Chemawawin, Manitoba, and Manitoba Hydro entered into an agreement (the "Comprehensive Forebay Agreement") to fully and finally resolve all issues between and among those parties in relation to and arising out of the Project and the 1962 Arrangements; and
- E. The Comprehensive Forebay Agreement provides, among other things, that Manitoba is to transfer to Her Majesty the Queen in right of Canada ("Canada") administration and control of the Crown (Manitoba) lands described in Schedule "A", being the remaining portion of the lands not flooded on I.R. 32A that are above elevation 848 feet A.S.L., which portion was not transferred to Canada by Order in Council No. 818/78, dated August 30, 1978, and which portion is, pursuant to the Comprehensive Forebay Agreement, to be set apart as a reserve under the *Indian Act* (Canada) for the use and benefit of Chemawawin.

\_\_\_\_\_

Including Department/Agency

Authorized Officer

APPROVED BY:

Civil Service Commission

Finance

APPROVED AS TO FORM BY:

Name \_\_\_\_\_ Initials \_\_\_\_\_

Civil Legal Services or  
Legislative Counsel Office

---

RECOMMENDED:

Minister of Conservation

---

APPROVED BY EXECUTIVE COUNCIL:

Presiding Member

---

ORDERED:

Lieutenant Governor

---

Date



No. ....

**Schedule A**

**Legal Description of Reversion Lands to be Transferred**

(description will be completed after survey and will include all mines and minerals, both precious and base, rights in Crown timber and all other estates, rights and interests impliedly reserved to the Crown under *The Crown Lands Act (Manitoba)*)

# PART IV: NEW LAND ARRANGEMENTS

## ARTICLE 5

### Denbeigh Point Mines and Minerals

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## PART IV: NEW LAND ARRANGEMENTS

### ARTICLE 5

#### 5.0 DENBEIGH POINT MINES AND MINERALS

#### 5.1 INTRODUCTION

##### 5.1.1 Introduction.

Article 5 provides for the transfer from **Manitoba** to or for the benefit of **Chemawawin** of the mines and minerals within that portion of the **Exchange Lands** previously transferred by **Manitoba** to **Canada** and set apart as **Reserve** without mines and minerals.

#### 5.2 TRANSFER OF MINES AND MINERALS

##### 5.2.1 Application of Section 5.2.

Section 5.2 relates to mines and minerals within the parcels of **Exchange Lands** identified in Schedule 5.1 that are to be transferred to **Canada** to be set apart as **Reserve** and will only apply following the receipt of written assurances from **Canada** that it will:

- (a) accept administration and control of the mines and minerals; and
- (b) set those mines and minerals apart as **Reserve**.

##### 5.2.2 Provision of Form of Order in Council to **Canada**.

**Manitoba** will provide **Canada** with a copy of the form of Order in Council attached as Schedule 5.2 transferring administration and control of the mines and minerals within the parcels of **Exchange Lands** identified in Schedule 5.1 to **Canada** for the purpose of **Canada** setting the mines and minerals apart as **Reserve**.

##### 5.2.3 Consultation on Changes to Form of Order in Council.

If **Canada** requires changes to the form of Order in Council provided to it by **Manitoba** under subsection 5.2.2, **Manitoba** will consult with **Canada** and **Chemawawin** on the changes required to the form of Order in Council.

##### 5.2.4 Transfer by Order in Council.

Following assurances from **Canada** that the form of Order in Council referred to in subsection 5.2.2 is acceptable to **Canada**, **Manitoba** will:

- (a) transfer, by Order in Council substantially in the form of Schedule 5.2 or, where applicable, in the form determined as a result of the consultation under subsection 5.2.3, administration and control of the mines and minerals within the parcels of **Exchange Lands** identified in Schedule 5.1 to **Canada** in contemplation of **Canada** accepting administration and control of the mines and minerals and setting the mines and minerals apart as **Reserve** as provided for in subsection 5.2.6; and
- (b) provide a certified copy of that Order in Council to both **Chemawawin** and **Canada**.

#### 5.2.5 Request for Reserve Status.

Upon receipt of the certified copy of the Order in Council referred to in paragraph 5.2.4(b), **Chemawawin** will:

- (a) by **Council Resolution** substantially in the form attached as Schedule 5.3, request that **Canada** set apart as **Reserve** the mines and minerals referred to in that Order in Council; and
- (b) provide a copy of the **Council Resolution** referred to in paragraph (a) to both **Canada** and **Manitoba**.

#### 5.2.6 Acceptance and Setting Apart of Mines and Minerals by Canada.

Upon **Manitoba's** receipt of the **Council Resolution** referred to in subsection 5.2.5, **Manitoba** will request that **Canada**:

- (a) by instrument under the *Federal Real Property Act* (Canada), accept administration and control of the mines and minerals referred to in that **Council Resolution**, being a requirement for the mines and minerals to be set apart as **Reserve**;
- (b) provide notice of acceptance of administration and control to both **Chemawawin** and **Manitoba**;
- (c) by Privy Council Order, set the mines and minerals referred to in that **Council Resolution** apart as **Reserve**; and



(d) provide a copy of the Privy Council Order to both **Manitoba** and **Chemawawin**.

**5.2.7 Completion of Process.**

The **Parties** will cooperate to enable **Canada** to complete the processes outlined in subsection 5.2.6 as soon as practicable after **Canada's** receipt of the **Council Resolution** referred to in subsection 5.2.5.

**5.2.8 Mines and Minerals to be Allocated where Canada does not Provide Assurances.**

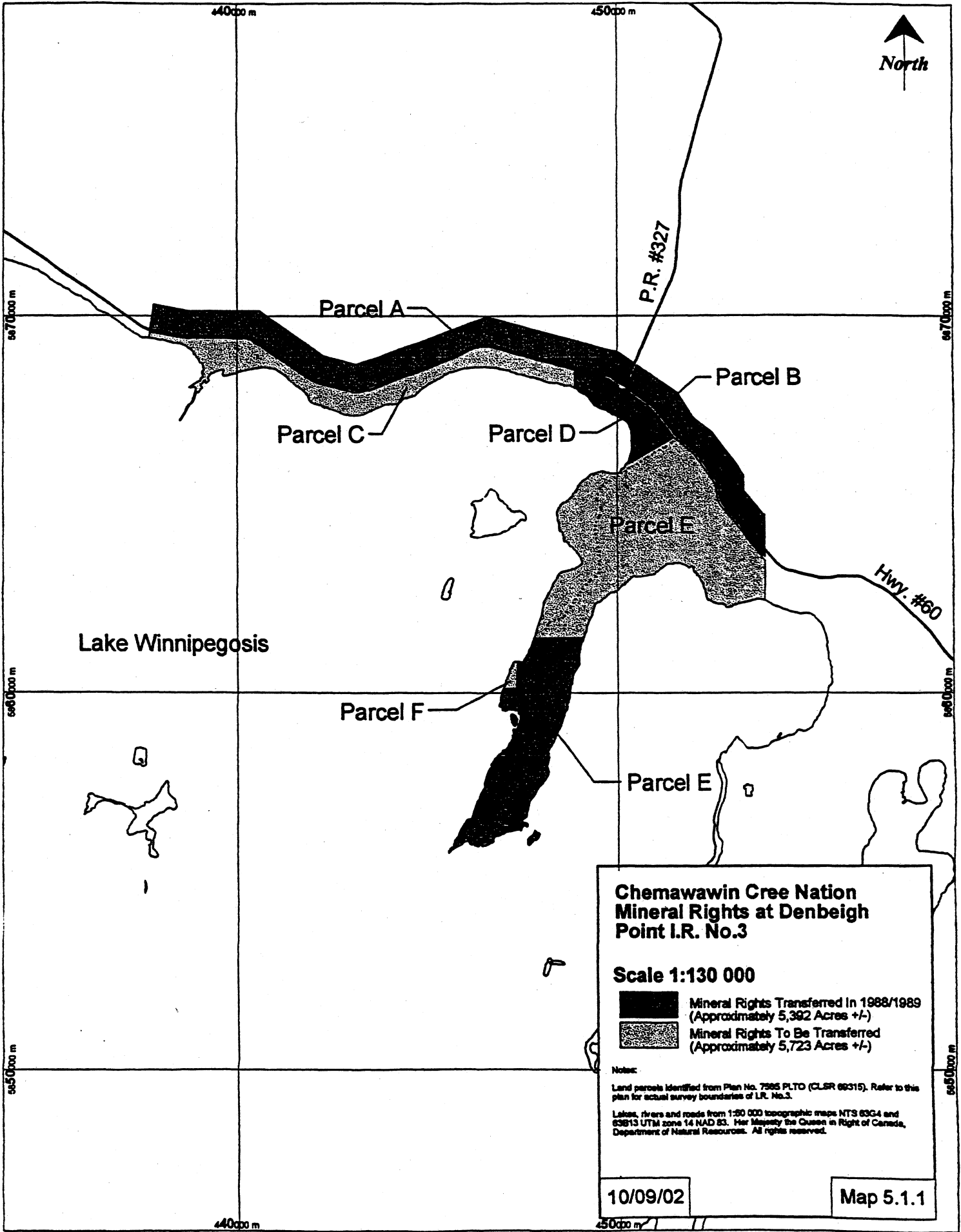
Where **Canada** has not provided **Manitoba** with the written assurances set out in subsection 5.2.1 within twenty-four (24) months of the **Date of this Agreement**, **Manitoba** will, at the request of **Chemawawin** by **Council Resolution**, allocate rights in the mines and minerals to the **Land Corporation** in accordance with *The Mines and Minerals Act* (Manitoba).

## SCHEDULE 5.1 - MINES AND MINERALS TO BE TRANSFERRED TO CANADA

### Map 5.1.1

Chemawawin IR No. 3

Parcel C, all that portion of Parcel E lying to the north of a line drawn north of, parallel with, and perpendicularly distant 1,220 meters from the most southerly limit of Parcel F, and Parcel F, as the said parcels are shown on Plan 7565 PLTO (N. Div.) CLSR 69315.



Lake Winnipegosis

Parcel A

Parcel B

Parcel C

Parcel D

Parcel E

Parcel F

Parcel E

P.R. #327

Hwy. #60

**Chemawawin Cree Nation  
Mineral Rights at Denbeigh  
Point I.R. No.3**

**Scale 1:130 000**

- Mineral Rights Transferred in 1988/1989  
(Approximately 5,392 Acres +/-)
- Mineral Rights To Be Transferred  
(Approximately 5,723 Acres +/-)

**Note:**  
Land parcels identified from Plan No. 7995 PLTD (CLSR 69315). Refer to this plan for actual survey boundaries of I.R. No.3.

Lakes, rivers and roads from 1:50 000 topographic maps NTS 63G4 and 63B13 UTM zone 14 NAD 83. Her Majesty the Queen in Right of Canada, Department of Natural Resources. All rights reserved.

10/09/02

Map 5.1.1

**SCHEDULE 5.2 - FORM OF MANITOBA ORDER IN COUNCIL**

**(Transfer of Mines and Minerals)**

See attached.



No. ....

SCHEDULE 5.2

(FORM OF) ORDER IN COUNCIL

ORDER

Initiating Department/Agency
Authorized Officer
APPROVED BY:
Civil Service Commission
Finance
APPROVED AS TO FORM BY:
Name
Civil Legal Services or Legislative Counsel Office
Initials
RECOMMENDED:
Minister of Conservation APPROVED BY EXECUTIVE COUNCIL:
Presiding Member
ORDERED:
Lieutenant Governor
Date

1. The administration and control of the mines and minerals (precious and base) and the royalties derived therefrom on the lands described in Schedule "A" are transferred to Her Majesty the Queen in Right of Canada.
2. The Minister of Conservation is authorized to execute all documents and to do all things necessary to give effect to this Order.

BACKGROUND

- A. In 1962, Her Majesty the Queen in right of Manitoba ("Manitoba") and The Manitoba Hydro-Electric Board ("Manitoba Hydro") made certain commitments to the Chemawawin Cree Nation ("Chemawawin") arising from anticipated effects of the development and operation of the Grand Rapids Hydro-Electric Project (the "Project"), including the need for acquisition and use of certain Chemawawin lands for water storage, more particularly set out in a letter dated June 7, 1962 sent to Chemawawin by the Grand Rapids Forebay Administration Committee, on behalf of Manitoba and Manitoba Hydro and subsequent arrangements (collectively, the "1962 Arrangements");
- B. The 1962 Arrangements included a commitment by Manitoba to exchange two acres of Crown (Manitoba) lands ("Exchange Lands") for each acre of lands taken for purposes of the Project, including mines and minerals with respect to one-half the total area to be conveyed to Her Majesty the Queen in right of Canada ("Canada") for the use and benefit of Chemawawin;
- C. By Orders in Council No. 819/78 dated August 30, 1978, No. 240/88 dated March 11, 1988 and No. 1217/89 dated October 18, 1989, Manitoba transferred to Canada administration and control of the Exchange Lands, including all estates, rights and interests reserved to the Crown (Manitoba) under *The Crown Lands Act* (Manitoba), but excepted thereout all mines and minerals within the parcels of Exchange Lands described in Schedule "A";
- D. By Orders of the Governor in Council of Canada No. 1979-2131 dated August 9, 1979, No. 1989-1279 dated June 29, 1989, and No. 1990-2519 dated November 22, 1990, Canada accepted administration and control of the Exchange Lands and set the Exchange Lands apart as reserve for the use and benefit of Chemawawin, excluding all mines and minerals within the parcels of Exchange Lands described in Schedule "A";
- E. On \_\_\_\_\_, 200\_\_, Chemawawin, Manitoba, and Manitoba Hydro entered into an agreement (the "Comprehensive Forebay Agreement") to fully and finally resolve all issues between and among those parties in relation to and arising out of the Project and the 1962 Arrangements; and
- F. The Comprehensive Forebay Agreement provides, among other things, that Manitoba is to transfer to Canada administration and control of the mines and minerals (precious and base) and the royalties derived therefrom on the Exchange Lands described in Schedule "A", to be set apart as reserve for the use and benefit of Chemawawin.



No. ....

**Schedule A**

Chemawawin IR No. 3

Parcel C, all that portion of Parcel E lying to the north of a line drawn north of, parallel with, and perpendicularly distant 1,220 meters from the most southerly limit of Parcel F, and Parcel F, as the said parcels are shown on Plan 7565 PLTO (N. Div.) CLSR 69315.

**SCHEDULE 5.3 – FORM OF COUNCIL RESOLUTION**  
**(Request for Reserve Status – Mines and Minerals)**

**CHEMAWAWIN CREE NATION**

**COUNCIL RESOLUTION**

---

First Nation: CHEMAWAWIN CREE NATION

Address: Box 9  
Easterville, Manitoba  
R0C 0V0

Date: \_\_\_\_\_, 200\_\_

- A. In 1962, Her Majesty the Queen in right of Manitoba ("Manitoba") and The Manitoba Hydro-Electric Board ("Manitoba Hydro") made certain commitments to the Chemawawin Cree Nation ("Chemawawin") arising from anticipated effects of the development and operation of the Grand Rapids Hydro-Electric Project (the "Project") and the acquisition and use of certain Chemawawin lands for water storage, which commitments were more particularly set out in a letter dated June 7, 1962 sent to Chemawawin by the Grand Rapids Forebay Administration Committee, on behalf of Manitoba and Manitoba Hydro and subsequent arrangements (collectively, the "1962 Arrangements");
- B. The 1962 Arrangements included a commitment by Manitoba to exchange two acres of Crown (Manitoba) Lands ("Exchange Lands") for each acre of lands taken for purposes of the Project, including mines and minerals with respect to one-half of the total area to be conveyed to Her Majesty the Queen in right of Canada ("Canada") for the use and benefit of Chemawawin;
- C. By Orders in Council No. 819/78 dated August 30, 1978, No. 240/88 dated March 11, 1988 and No. 1217/89 dated October 18, 1989, Manitoba transferred to Canada administration and control of the Exchange Lands, including all estates, rights and interests reserved to the Crown (Manitoba) under *The Crown Lands Act* (Manitoba), but excepted thereout all mines and minerals within the parcels of Exchange Lands described in Schedule "A";
- D. By Orders of the Governor in Council of Canada No. 1979-2131 dated August 9, 1979, No. 1989-1279 dated June 29, 1989, and No. 1990-2519 dated November 22, 1990, Canada accepted administration and control of the Exchange Lands and set the Exchange Lands apart as reserve for the use and benefit of Chemawawin, excluding all mines and minerals within the parcels of Exchange Lands described in Schedule "A";
- E. On \_\_\_\_\_, 200\_\_, Chemawawin, Manitoba, and Manitoba Hydro entered into an agreement (the "Comprehensive Forebay Agreement") to resolve the issues between and among those parties in relation to and arising out of the Project and the 1962 Arrangements;

- F. The Comprehensive Forebay Agreement provides, among other things, that Manitoba is to transfer to Canada the administration and control of the mines and minerals (precious and base) and the royalties derived therefrom on the Exchange Lands described in Schedule "A", to be set apart as reserve for the use and benefit of Chemawawin;
- G. By Manitoba Order in Council No. \_\_\_\_\_, dated \_\_\_\_\_, 200\_, a copy of which is attached hereto as Schedule "B", Manitoba has transferred to Canada administration and control of the mines and minerals (precious and base) and the royalties derived therefrom on the Exchange Lands described in Schedule "A", to be set apart as reserve for Chemawawin; and
- H. The Comprehensive Forebay Agreement provides, among other things, that Chemawawin will, upon receipt of the Order in Council attached as Schedule "B", request, by Council Resolution, that Canada set apart as reserve the lands and interests described in the said Order in Council and provide a copy of such Council Resolution to Canada and Manitoba.

**Therefore, be it resolved that:**

1. Chemawawin hereby requests that Canada accept administration and control of the mines and minerals (precious and base) and the royalties derived therefrom on the Exchange Lands described in Schedule "A", all of which have been transferred to Canada pursuant to Manitoba Order in Council No. \_\_\_\_\_, dated \_\_\_\_\_, 200\_, a copy of which is attached hereto as Schedule "B", and that Canada set apart same as reserve under the *Indian Act* (Canada) for the use and benefit of Chemawawin;
2. Chemawawin hereby requests that Canada take such further and other steps as may be required to effect the foregoing; and
3. The Chief of Chemawawin is hereby authorized and directed to deliver a copy of this resolution to Canada and Manitoba and to execute all documents and do all things necessary to give effect to this resolution.



### Schedule A

Chemawawin IR No. 3

Parcel C, all that portion of Parcel E lying to the north of a line drawn north of, parallel with, and perpendicularly distant 1,220 meters from the most southerly limit of Parcel F, and Parcel F, as the said parcels are shown on Plan 7565 PLTO (N. Div.) CLSR 69315.

**Schedule B**

Copy of Manitoba Order in Council to be attached

ARTICLE 6

Returned Project Lands

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## ARTICLE 6

### 6.0 RETURNED PROJECT LANDS

#### 6.1 INTRODUCTION

##### 6.1.1 Introduction.

Article 6 provides for the transfer of the **Returned Project Lands** to or for the benefit of **Chemawawin**.

### 6.2 RETURNED PROJECT LANDS

#### 6.2.1 Description of Returned Project Lands.

The **Returned Project Lands** are a portion of those **Reserve** lands taken in 1962 for purposes of the **Project** and are described in Schedule 6.1.

#### 6.2.2 Land Use Permits.

**Manitoba** will issue a **Land Use Permit** for each parcel of **Returned Project Lands** in accordance with Article 9.

#### 6.2.3 Land Bordering Actual Shoreline.

**Manitoba:**

- (a) confirms that **Chemawawin** has the right of free access over the Crown (Manitoba) land situated between the actual water's edge of Cedar Lake and the lower boundary of each parcel of **Returned Project Lands**; and
- (b) agrees that no person other than **Hydro, Manitoba** or **Chemawawin** can construct on or in any way alter the Crown (Manitoba) land situated between the actual water's edge of Cedar Lake and the lower boundary of each parcel of **Returned Project Lands**.

### 6.3 SURVEYS

#### 6.3.1 Request for Approval of Survey Instructions.

**Manitoba** will request that the Surveyor General of Canada approve the survey instructions for the **Returned Project Lands**, which instructions will be based on Schedule 10.1.

### 6.3.2 Surveys by Manitoba.

As soon as reasonably practicable after the **Date of this Agreement**, and having regard to field conditions, **Manitoba**, in consultation with **Chemawawin** and **Hydro**, will commence legal surveys of the boundaries of **Returned Project Lands** in accordance with subsection 6.3.3 and the survey instructions referred to in subsection 6.3.1.

### 6.3.3 Completion of Surveys.

Subject to subsection 6.3.4, **Manitoba** will make reasonable efforts to have legal surveys completed in relation to each parcel of **Returned Project Lands** within twelve (12) months of:

- (a) the commencement of the survey of such parcel of **Returned Project Lands**;
- (b) the approval of a change in survey instructions under subsection 10.3.6 in respect of such parcel of **Returned Project Lands**; or
- (c) the date of the final resolution of any dispute arising under Article 11 in relation to such parcel.

### 6.3.4 Delay in Surveying.

Where a legal survey referred to in subsection 6.3.3 is delayed due to:

- (a) weather or other conditions outside the control of **Manitoba**;
- (b) a change in survey instructions under subsection 10.3.6; or
- (c) any dispute which may arise in relation to a proposed change in survey instructions for a parcel;

**Manitoba** will complete or cause to be completed a legal survey of the boundaries of the parcel of **Returned Project Lands** as soon thereafter as may be reasonably practicable.

### 6.3.5 Parcels Below Easement Line.

In the event that:

- (a) a legal survey for a parcel of **Returned Project Lands** determines that the parcel is entirely below the **Easement Line**; and

- (b) that parcel is not adjacent to any parcel that is **Reserve** or is intended to become **Reserve** under this **Agreement**;

that parcel will no longer be considered to be **Returned Project Lands** and will be considered to be **Permit and Fee Simple Lands**, in which case Article 8 will apply to that parcel.

## 6.4 TRANSFER OF RETURNED PROJECT LANDS TO CANADA

### 6.4.1 Application of this Section.

Section 6.4 relates to parcels of **Returned Project Lands** that are to be transferred to **Canada** to be set apart as **Reserve** subject to a **Project Easement** and will only apply with respect to any parcel following the receipt of written assurances from **Canada** that **Canada** will:

- (a) accept administration and control of the parcel;
- (b) grant a **Project Easement** in favour of **Manitoba** and **Hydro** for that parcel; and
- (c) set the parcel apart as **Reserve** subject to a **Project Easement**.

### 6.4.2 Transfer Free from Encumbrances.

**Manitoba** will, in accordance with section 6.4, transfer to **Canada** the administration and control of the **Returned Project Lands** free and clear of all encumbrances, reservations, caveats, estates, rights and interests in favour of any person other than **Canada**, or any person whose interest is claimed through **Canada**, for the purpose of **Canada** setting apart those lands as **Reserve**, and for greater certainty:

- (a) no reservations to **Manitoba** under subsection 4(1) of *The Crown Lands Act* (Manitoba) will apply to the **Returned Project Lands**; and
- (b) administration and control of rights in mines and minerals, both precious and base, rights in Crown timber and all other estates, rights and interests will be transferred by **Manitoba** to **Canada** as part of the **Returned Project Lands**.

### 6.4.3 Plans and Descriptions Provided by Manitoba.

Prior to the transfer of administration and control of any parcel of **Returned Project Lands** for which administration and control is to be transferred by **Manitoba** to **Canada** under this **Agreement**, **Manitoba** will:

- (a) determine that the legal descriptions of the parcel of **Returned Project Lands** and any portion of the parcel to be subject to a **Project Easement** are satisfactory to the Surveyor General of Canada; and
- (b) provide to **Chemawawin**:
  - (i) a plan of the boundaries of the parcel of **Returned Project Lands**,
  - (ii) a legal description of the parcel of **Returned Project Lands**, and
  - (iii) a legal description of any portion of the parcel to be subject to a **Project Easement**.

#### **6.4.4 Confirmation by Chemawawin.**

Upon receipt of the plans and legal descriptions provided by **Manitoba** under subsection 6.4.3, **Chemawawin** will:

- (a) by **Council Resolution** substantially in the form attached as Schedule 6.2, confirm in relation to each parcel that, as of the date of the **Council Resolution**:
  - (i) the parcel is properly described as **Returned Project Lands**,
  - (ii) no condition, which does not meet acceptable environmental standards as contemplated under Article 11, has been discovered, and
  - (iii) the parcel is accepted by **Chemawawin** as **Returned Project Lands** subject to the **Project Easement** required for that parcel; and
- (b) provide a copy of the **Council Resolution** referred to in paragraph (a) to both **Manitoba** and **Canada**.

#### **6.4.5 Provision of Form of Order in Council to Canada.**

Upon receipt by **Manitoba** of:

- (a) confirmation by the Surveyor General of Canada that the plans and legal descriptions referred to in subsection 6.4.3 are acceptable to the Surveyor General of Canada; and
- (b) the **Council Resolution** referred to in subsection 6.4.4;

**Manitoba** will provide **Canada** with a copy of the form of Order in Council attached as Schedule 6.3 transferring administration and control of the **Returned Project Lands** to **Canada** for the purpose of **Canada** setting these lands apart as **Reserve** and granting a **Project Easement** on each parcel of **Returned Project Lands**.

6.4.6 Consultation on Changes to Form of Order in Council.

If **Canada** requires changes to the form of Order in Council provided to it by **Manitoba** under subsection 6.4.5, **Manitoba** will consult with **Canada** and **Chemawawin** on the changes required to the form of Order in Council.

6.4.7 Transfer by Order in Council.

Following assurances from **Canada** that the form of Order in Council referred to in subsection 6.4.5 is acceptable to **Canada**, **Manitoba** will:

- (a) transfer, by Order in Council substantially in the form of Schedule 6.3 or, where applicable, in the form determined as a result of the consultation referred to in subsection 6.4.6, administration and control of the relevant parcel of **Returned Project Lands** to **Canada** for the purpose of **Canada** accepting administration and control of that parcel, granting the **Project Easement** required for that parcel, and setting the parcel apart as **Reserve** subject to a **Project Easement**; and
- (b) provide a certified copy of the Order in Council to both **Chemawawin** and **Canada**.

6.4.8 Request for Reserve Status.

Upon receipt of a certified copy of the Order in Council referred to in paragraph 6.4.7(b), **Chemawawin** will:

- (a) by **Council Resolution** substantially in the form attached as Schedule 6.4, request that **Canada** set apart as **Reserve** the **Returned Project Lands** referred to in that Order in Council, subject to required **Project Easements**; and
- (b) provide a copy of the **Council Resolution** referred to in paragraph (a) to each of **Canada**, **Manitoba** and **Hydro**.



#### 6.4.9 Acceptance and Setting Apart of Returned Project Lands by Canada.

Upon **Manitoba's** receipt of the **Council Resolution** referred to in subsection 6.4.8, **Manitoba** will request that **Canada**:

- (a) record the plans referred to in subsection 6.4.3 in accordance with the *Canada Lands Surveys Act* (Canada);
- (b) by instrument under the *Federal Real Property Act* (Canada), accept administration and control of the **Returned Project Lands**, being a requirement for the lands to be set apart as **Reserve**;
- (c) provide notice of acceptance of administration and control to **Chemawawin and Manitoba**;
- (d) grant a **Project Easement** in favour of **Manitoba** and **Hydro** on each parcel of **Returned Project Lands**;
- (e) transfer partial administration and control to **Manitoba**, on the same terms and conditions as contained in the **Project Easement Agreements** for the **Returned Project Lands**;
- (f) by Privy Council Order, set the **Returned Project Lands** referred to in that **Council Resolution** apart as **Reserve** subject to **Project Easements** and file the **Project Easement Agreements** on the **Returned Project Lands** in accordance with the *Indian Act* (Canada); and
- (g) provide fully executed copies of the **Project Easement Agreements** and the Privy Council Order(s) relevant to the **Returned Project Lands** to each of **Manitoba, Chemawawin and Hydro**.

#### 6.4.10 Execution of Project Easement Agreements.

The **Parties** will, with **Canada**, execute any **Project Easement Agreements** necessary for **Canada** to grant a **Project Easement** for each parcel of **Returned Project Lands**.

#### 6.4.11 Completion of Process.

The **Parties** will cooperate to enable **Canada** to complete the processes outlined in subsection 6.4.9 as soon as practicable after **Canada's** receipt of the **Council Resolution**

referred to in subsection 6.4.8 as such processes relate to the **Returned Project Lands** referred to in that **Council Resolution**.

## **6.5 CONSOLIDATION OF TRANSFER**

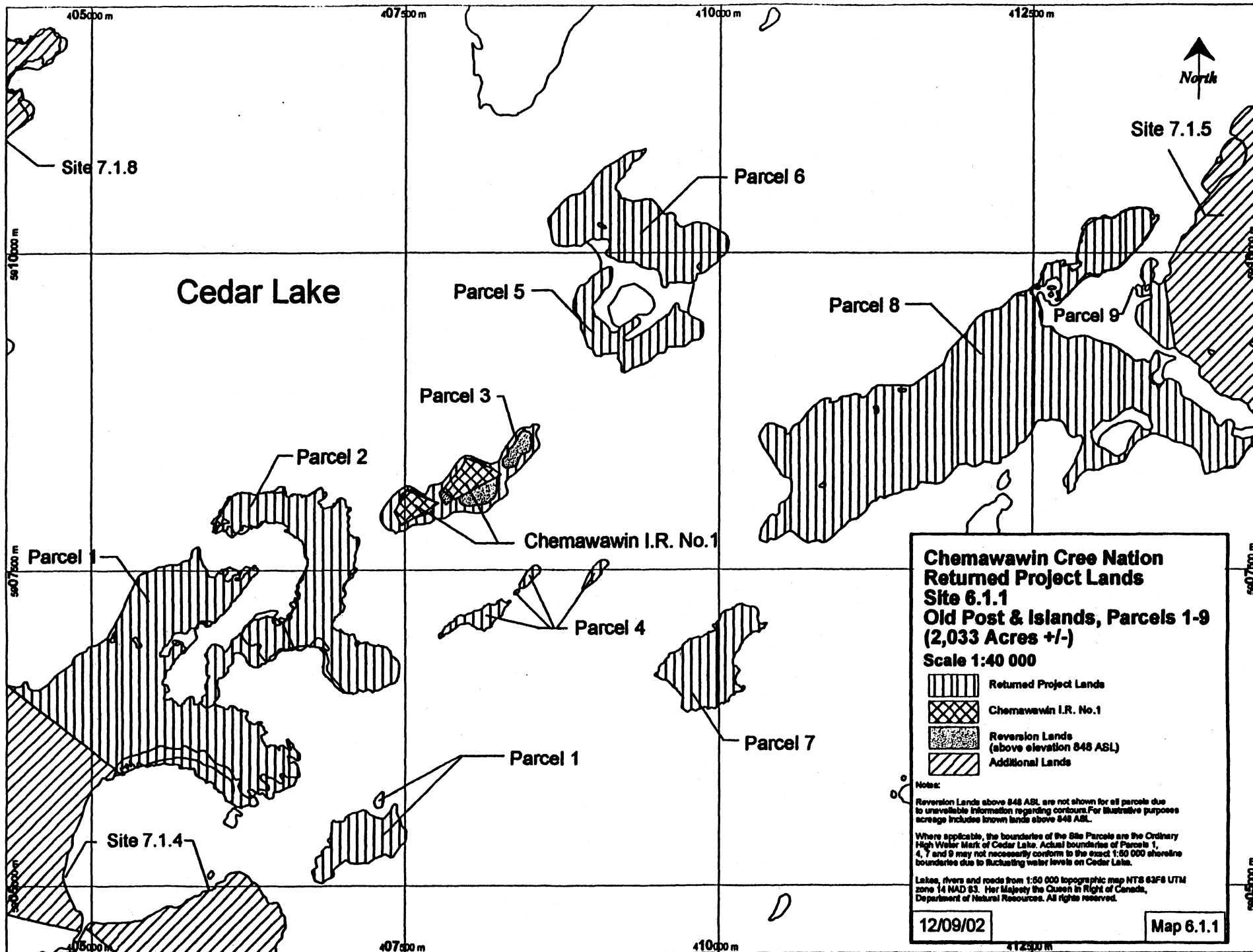
### **6.5.1 Consolidation of Transfer.**

Where all **Parties** and **Canada** agree, the transfer of lands under Article 4 may be consolidated with the transfer of lands on I.R. 32A under Article 6. Where **Chemawawin** and **Canada** agree any one or more of the parcels of land to be transferred under Article 4 and Article 6 may be consolidated with the existing **Reserve** at I.R. 32A.

## SCHEDULE 6.1 - RETURNED PROJECT LANDS

All those lands contained within the limits of Parcels 1, 2, 3, 4, 5, 6, 7, 8 and 9, as shown on Map 6.1.1 lying above the **OHWM** of Cedar Lake, including all mines and minerals, both precious and base, rights in Crown timber and all other estates, rights and interests impliedly reserved to the Crown under *The Crown Lands Act* (Manitoba), but excluding:

- (a) any parcels entirely below the **Easement Line** which, pursuant to subsection 6.3.5, are no longer considered to be **Returned Project Lands**; and
- (b) any portion of a parcel reverting to **Chemawawin** under Article 4.



**SCHEDULE 6.2 – FORM OF COUNCIL RESOLUTION**  
**(Confirmation by Chemawawin – Returned Project Lands)**

**CHEMAWAWIN CREE NATION**

**COUNCIL RESOLUTION**

---

First Nation: CHEMAWAWIN CREE NATION

Address: Box 9  
Easterville, Manitoba  
R0C 0V0

Date: \_\_\_\_\_, 200\_\_

- A. In 1962, Her Majesty the Queen in right of Manitoba ("Manitoba") and The Manitoba Hydro-Electric Board ("Manitoba Hydro") made certain commitments to the Chemawawin Cree Nation ("Chemawawin") arising from anticipated effects of the development and operation of the Grand Rapids Hydro-Electric Project (the "Project") and the acquisition and use of certain Chemawawin lands for water storage, which commitments were more particularly set out in a letter dated June 7, 1962 sent to Chemawawin by the Grand Rapids Forebay Administration Committee, on behalf of Manitoba and Manitoba Hydro and subsequent arrangements (collectively, the "1962 Arrangements");
- B. On \_\_\_\_\_, 200\_\_, Chemawawin, Manitoba, and Manitoba Hydro entered into an agreement (the "Comprehensive Forebay Agreement") to resolve the issues between and among those parties in relation to and arising out of the Project and the 1962 Arrangements;
- C. The Comprehensive Forebay Agreement provides, among other things, that Manitoba is to transfer to Her Majesty the Queen in right of Canada ("Canada") administration and control of certain Crown (Manitoba) lands described in Schedule "A" (the "Returned Project Lands"), being a portion of the Chemawawin reserve lands taken in 1962 for purposes of the Project, to be set apart as reserve for Chemawawin;
- D. Manitoba Hydro and Manitoba require the limited rights and privileges to regulate the flow of and to inundate and store water on or over the Returned Project Lands sufficient to accommodate a maximum wind eliminated water level of 842 feet A.S.L. immediately upstream of the Grand Rapids Hydro-Electric Generating Station, and to affect from time to time, the Returned Project Lands to a level at or about 848 feet A.S.L., for purposes of the Project;
- E. Chemawawin has agreed that this right be protected by way of an easement (the "Project Easement") in favour of Manitoba Hydro and Manitoba, as set out in the Comprehensive Forebay Agreement;

- F. The Comprehensive Forebay Agreement provides, among other things, that Manitoba is to complete legal surveys of the boundaries of the Returned Project Lands and provide to Chemawawin plans and legal descriptions of each parcel of Returned Project Lands;
- G. Manitoba has completed such surveys and has provided to Chemawawin plans and legal descriptions with respect to the parcels of Returned Project Lands described in Schedule "A" hereto; and
- H. The Comprehensive Forebay Agreement provides, among other things, that upon receipt of such plans and legal descriptions, Chemawawin will, by Council Resolution, confirm in relation to each parcel of the Returned Project Lands certain matters as hereinafter specified.

**Therefore, be it resolved that:**

- 1. Chemawawin hereby confirms in relation to each parcel of Returned Project Lands described in Schedule "A" hereto that, as of the date hereof:
  - (a) the parcel is properly described as "Returned Project Lands" as defined in the Comprehensive Forebay Agreement,
  - (b) no condition, which does not meet acceptable environmental standards as contemplated in the Comprehensive Forebay Agreement, has been discovered by Chemawawin in relation to such parcel,
  - (c) the parcel is accepted by Chemawawin as "Returned Project Lands", as defined in the Comprehensive Forebay Agreement, subject to the Project Easement required for that parcel; and
- 2. The Chief of Chemawawin is hereby authorized and directed to deliver a copy of this resolution to Manitoba and to execute all documents and do all things necessary to give effect to this resolution.

## **Schedule A**

### **Legal Description of Returned Project Lands**

(description will be completed after survey and will include all mines and minerals, both precious and base, rights in Crown timber and all other estates, rights and interests impliedly reserved to the Crown under *The Crown Lands Act* (Manitoba))

**SCHEDULE 6.3 - FORM OF MANITOBA ORDER IN COUNCIL**

**(Transfer of Returned Project Lands)**

See attached.





No. ....

SCHEDULE 6.3  
(FORM OF) ORDER IN COUNCIL

ORDER

1. The administration and control of Crown (Manitoba) lands described in Schedule "A" is transferred to Her Majesty the Queen in right of Canada.
2. The Minister is authorized to execute all documents and to do all things necessary to give effect to this Order.

BACKGROUND

- A. In 1962, Her Majesty the Queen in right of Manitoba ("Manitoba") and The Manitoba Hydro-Electric Board ("Manitoba Hydro") made certain commitments to the Chemawawin Cree Nation ("Chemawawin") arising from anticipated effects of the development and operation of the Grand Rapids Hydro-Electric Project (the "Project"), including the need for acquisition and use of certain Chemawawin lands for water storage, more particularly set out in a letter dated June 7, 1962 sent to Chemawawin by the Grand Rapids Forebay Administration Committee, on behalf of Manitoba and Manitoba Hydro and subsequent arrangements (collectively, the "1962 Arrangements");
- B. On \_\_\_\_\_, 200\_\_, Chemawawin, Manitoba, and Manitoba Hydro entered into an agreement (the "Comprehensive Forebay Agreement") to fully and finally resolve all issues between and among those parties in relation to and arising out of the Project and the 1962 Arrangements;
- C. The Comprehensive Forebay Agreement provides, among other things, that Manitoba is to transfer to Her Majesty the Queen in right of Canada ("Canada") administration and control of the Crown (Manitoba) lands described in Schedule "A" ("Returned Project Lands"), being a portion of the Chemawawin reserve lands taken in 1962 for purposes of the Project, to be set apart as reserve for Chemawawin;
- D. Manitoba Hydro and Manitoba require the limited rights and privileges to regulate the flow of and to inundate and store water on or over the Returned Project Lands sufficient to accommodate a maximum wind eliminated water level of 842 feet A.S.L. immediately upstream of the Grand Rapids Hydro-Electric Generating Station, and to affect from time to time, the Returned Project Lands to a level at or about 848 feet A.S.L., for purposes of the Project;
- E. Chemawawin has agreed that this right be protected by way of an easement in favour of Manitoba Hydro and Manitoba, as set out in the Comprehensive Forebay Agreement; and
- F. Canada has provided written assurances that it will accept administration and control of the Returned Project Lands, that it will grant the easements to Manitoba Hydro and Manitoba on the same terms and conditions as agreed to between Chemawawin, Manitoba and Manitoba Hydro in the Comprehensive Forebay Agreement, and that it will set the Returned Project Lands apart as reserve for Chemawawin subject to an easement.

\_\_\_\_\_  
 Initiating Department/Agency  
 Authorized Officer  
 Approved by  
 Civil Service Commission  
 Finance  
 Approved as to form by  
 Name  
 Civil Legal Services or  
 Legislative Counsel Office

RECOMMENDED:  
 \_\_\_\_\_  
 Minister of Conservation  
 APPROVED BY EXECUTIVE COUNCIL:  
 \_\_\_\_\_  
 Presiding Member  
 ORDERED:  
 \_\_\_\_\_  
 Lieutenant Governor  
 \_\_\_\_\_  
 Date



No. ....

**Schedule A**

**Legal Description of Returned Project Lands to be Transferred**

(description will be completed after survey and will include all mines and minerals, both precious and base, rights in Crown timber and all other estates, rights and interests impliedly reserved to the Crown under *The Crown Lands Act* (Manitoba))

**SCHEDULE 6.4 – FORM OF COUNCIL RESOLUTION**  
**(Request for Reserve Status – Returned Project Lands)**

**CHEMAWAWIN CREE NATION**  
**COUNCIL RESOLUTION**

---

First Nation: CHEMAWAWIN CREE NATION

Address: Box 9  
Easterville, Manitoba  
R0C 0V0

Date: \_\_\_\_\_, 200\_\_

- A. In 1962, Her Majesty the Queen in right of Manitoba ("Manitoba") and The Manitoba Hydro-Electric Board ("Manitoba Hydro") made certain commitments to the Chemawawin Cree Nation ("Chemawawin") arising from anticipated effects of the development and operation of the Grand Rapids Hydro-Electric Project (the "Project") and the acquisition and use of certain Chemawawin lands for water storage, which commitments were more particularly set out in a letter dated June 7, 1962 sent to Chemawawin by the Grand Rapids Forebay Administration Committee, on behalf of Manitoba and Manitoba Hydro and subsequent arrangements (collectively, the "1962 Arrangements");
- B. On \_\_\_\_\_, 200\_\_, Chemawawin, Manitoba, and Manitoba Hydro entered into an agreement (the "Comprehensive Forebay Agreement") to resolve the issues between and among those parties in relation to and arising out of the Project and the 1962 Arrangements;
- C. The Comprehensive Forebay Agreement provides, among other things, that Manitoba is to transfer to Her Majesty the Queen in right of Canada ("Canada") administration and control of certain Crown (Manitoba) lands described in Schedule "A" (the "Returned Project Lands"), being a portion of the Chemawawin reserve lands taken in 1962 for purposes of the Project, to be set apart as reserve for Chemawawin;
- D. Manitoba Hydro and Manitoba require the limited rights and privileges to regulate the flow of and to inundate and store water on or over the Returned Project Lands sufficient to accommodate a maximum wind eliminated water level of 842 feet A.S.L. immediately upstream of the Grand Rapids Hydro-Electric Generating Station, and to affect from time to time, the Returned Project Lands to a level at or about 848 feet A.S.L., for purposes of the Project;
- E. Chemawawin has agreed that this right be protected by way of an easement (the "Project Easement") in favour of Manitoba Hydro and Manitoba, as set out in the Comprehensive Forebay Agreement;
- F. Canada has provided written assurances that it will accept administration and control of the Returned Project Lands, that it will grant the Project Easement to Manitoba and

Manitoba Hydro, and that it will set the Returned Project Lands apart as reserve for Chemawawin subject to the Project Easement;

- G. By Manitoba Order in Council No. \_\_\_\_\_, dated \_\_\_\_\_, 200\_, a copy of which is attached hereto as Schedule "B", Manitoba has transferred to Canada administration and control of the lands described in Schedule "A"; and
- H. The Comprehensive Forebay Agreement provides, among other things, that Chemawawin will, upon receipt of the Manitoba Order in Council attached as Schedule "B", request, by Council Resolution, that Canada accept administration and control of the Returned Project Lands, grant the Project Easement to Manitoba and Manitoba Hydro and set the Returned Project Lands apart as reserve subject to the Project Easement, and that Chemawawin then provide a copy of such Council Resolution to Canada and Manitoba.

**Therefore, be it resolved that:**

1. Chemawawin hereby requests that Canada accept administration and control of the Returned Project Lands described in Schedule "A", which lands have been transferred to Canada pursuant to Manitoba Order in Council No. \_\_\_\_\_ dated \_\_\_\_\_, 200\_, a copy of which is attached hereto as Schedule "B", grant the Project Easement described above to Manitoba and Manitoba Hydro and set the Returned Project Lands apart as reserve subject to the Project Easement;
2. Chemawawin hereby requests that Canada take such further and other steps as may be required to effect the foregoing; and
3. The Chief of Chemawawin is hereby authorized and directed to deliver a copy of this resolution to Canada and Manitoba and to execute all documents and do all things necessary to give effect to this resolution.

## Schedule A

### Legal Description of Returned Project Lands

(description will be completed after survey and will include all mines and minerals, both precious and base, rights in Crown timber and all other estates, rights and interests impliedly reserved to the Crown under *The Crown Lands Act* (Manitoba))

**Schedule B**

**Order in Council**

**[Order in Council in form of Schedule 6.3]**



No. ....

SCHEDULE 6.3

(FORM OF) ORDER IN COUNCIL

ORDER

1. The administration and control of Crown (Manitoba) lands described in Schedule "A" is transferred to Her Majesty the Queen in right of Canada.
2. The Minister is authorized to execute all documents and to do all things necessary to give effect to this Order.

BACKGROUND

- A. In 1962, Her Majesty the Queen in right of Manitoba ("Manitoba") and The Manitoba Hydro-Electric Board ("Manitoba Hydro") made certain commitments to the Chemawawin Cree Nation ("Chemawawin") arising from anticipated effects of the development and operation of the Grand Rapids Hydro-Electric Project (the "Project"), including the need for acquisition and use of certain Chemawawin lands for water storage, more particularly set out in a letter dated June 7, 1962 sent to Chemawawin by the Grand Rapids Forebay Administration Committee, on behalf of Manitoba and Manitoba Hydro and subsequent arrangements (collectively, the "1962 Arrangements");
- B. On \_\_\_\_\_, 200\_\_, Chemawawin, Manitoba, and Manitoba Hydro entered into an agreement (the "Comprehensive Forebay Agreement") to fully and finally resolve all issues between and among those parties in relation to and arising out of the Project and the 1962 Arrangements;
- C. The Comprehensive Forebay Agreement provides, among other things, that Manitoba is to transfer to Her Majesty the Queen in right of Canada ("Canada") administration and control of the Crown (Manitoba) lands described in Schedule "A" ("Returned Project Lands"), being a portion of the Chemawawin reserve lands taken in 1962 for purposes of the Project, to be set apart as reserve for Chemawawin;
- D. Manitoba Hydro and Manitoba require the limited rights and privileges to regulate the flow of and to inundate and store water on or over the Returned Project Lands sufficient to accommodate a maximum wind eliminated water level of 842 feet A.S.L. immediately upstream of the Grand Rapids Hydro-Electric Generating Station, and to affect from time to time, the Returned Project Lands to a level at or about 848 feet A.S.L., for purposes of the Project;
- E. Chemawawin has agreed that this right be protected by way of an easement in favour of Manitoba Hydro and Manitoba, as set out in the Comprehensive Forebay Agreement; and
- F. Canada has provided written assurances that it will accept administration and control of the Returned Project Lands, that it will grant the easements to Manitoba Hydro and Manitoba on the same terms and conditions as agreed to between Chemawawin, Manitoba and Manitoba Hydro in the Comprehensive Forebay Agreement, and that it will set the Returned Project Lands apart as reserve for Chemawawin subject to an easement.

\_\_\_\_\_  
 Minister of Conservation  
 APPROVED BY EXECUTIVE COUNCIL:  
 \_\_\_\_\_  
 Presiding Member  
 \_\_\_\_\_  
 ORDERED:  
 \_\_\_\_\_  
 Lieutenant Governor  
 \_\_\_\_\_  
 Date

RECOMMENDED:  
 \_\_\_\_\_  
 Minister of Conservation  
 APPROVED BY EXECUTIVE COUNCIL:  
 \_\_\_\_\_  
 Presiding Member  
 \_\_\_\_\_  
 ORDERED:  
 \_\_\_\_\_  
 Lieutenant Governor  
 \_\_\_\_\_  
 Date



No. ....

**Schedule A**

**Legal Description of Returned Project Lands to be Transferred**

(description will be completed after survey and will include all mines and minerals, both precious and base, rights in Crown timber and all other estates, rights and interests impliedly reserved to the Crown under *The Crown Lands Act* (Manitoba))



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**Additional Lands**  
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## ARTICLE 7

### 7.0 ADDITIONAL LANDS

#### 7.1 INTRODUCTION

##### 7.1.1 Introduction.

Article 7 provides for the transfer of **Additional Lands** to or for the benefit of **Chemawawin**.

#### 7.2 ADDITIONAL LANDS

##### 7.2.1 Description of Additional Lands.

The **Additional Lands** have been agreed upon by **Chemawawin** and **Manitoba** and are described in Schedule 7.1.

##### 7.2.2 Land Use Permit.

**Manitoba** will issue a **Land Use Permit** for each parcel of **Additional Lands** in accordance with Article 9.

##### 7.2.3 Land Bordering Actual Shoreline.

**Manitoba:**

- (a) confirms that **Chemawawin** has the right of free access over the Crown (Manitoba) land situated between the actual water's edge of Cedar Lake and the lower boundary of each parcel of **Additional Lands**; and
- (b) agrees that no person other than **Hydro**, **Manitoba** or **Chemawawin** can construct on or in any way alter the Crown (Manitoba) land situated between the actual water's edge of Cedar Lake and the lower boundary of each parcel of **Additional Lands**.

##### 7.2.4 Transfer of Additional Lands.

At any time after a **Land Use Permit** is issued for a parcel of **Additional Lands**, **Chemawawin** may:

- (a) subject to subsection 7.2.6, by **Council Resolution** substantially in the form attached as Schedule 7.2, request that the parcel be transferred to **Canada** in order that it be set apart as **Reserve**, subject to any required **Project Easement** as provided for in section 7.4; or

- (b) by **Council Resolution** substantially in the form attached as Schedule 7.3, request that the parcel be transferred, subject to any required **Project Easement**, to the **Land Corporation** in fee simple, in which case Article 9 will apply.

#### 7.2.5 Disposition of Mines and Minerals to Third Parties.

**Manitoba** will continue to withhold from disposition to any third party the Crown interests in mines and minerals within the **Additional Lands** until **Canada** accepts administration and control of the **Additional Lands**, or the lands are transferred to the **Land Corporation** in fee simple.

#### 7.2.6 Arrangements Regarding Site 7.1.1 – Extension IR No. 2 (Foreshore).

**Manitoba** and **Chemawawin** have identified certain environmental conditions affecting the parcel of **Additional Lands** described in Schedule 7.1 as Site 7.1.1 “Extension IR No. 2 (Foreshore)”. **Manitoba** and **Chemawawin** acknowledge that the environmental conditions in Schedule 7.1 may result in **Canada** not accepting administration and control of the parcel for the purpose of setting it apart as **Reserve**. **Chemawawin** and **Manitoba** have agreed that, with respect to Site 7.1.1 “Extension IR No. 2 (Foreshore)”:

- (a) **Manitoba** will not be responsible for remedying the environmental conditions described in Schedule 7.1; and
- (b) **Chemawawin** will not request that such parcel be transferred by **Manitoba** to **Canada** to be set apart as **Reserve** as provided in paragraph 7.2.4(a), until
- (i) the environmental conditions described in Schedule 7.1, have been remedied, and
- (ii) the receipt of written assurances from **Canada** that **Canada** will accept administration and control of such parcel, grant a **Project Easement** in favour of **Manitoba** and **Hydro**, and set the parcel apart as **Reserve**, subject to the required **Project Easement**.

### 7.3 SURVEYS

#### 7.3.1 Request for Approval of Survey Instructions.

**Manitoba** will request that the Surveyor General of Canada approve the survey instructions for the **Additional Lands**, which instructions will be based on Schedule 10.1.

#### 7.3.2 Surveys by Manitoba.

As soon as reasonably practicable after the **Date of this Agreement**, and having regard to field conditions, **Manitoba**, in consultation with **Chemawawin** and **Hydro**, will commence legal surveys of the boundaries of **Additional Lands** in accordance with subsection 7.3.3 and the survey instructions referred to in subsection 7.3.1.

#### 7.3.3 Completion of Surveys.

Subject to subsection 7.3.4, **Manitoba** will make reasonable efforts to have legal surveys completed in relation to each parcel of **Additional Lands** within twelve (12) months of:

- (a) the commencement of the survey of such parcel of **Additional Lands**;
- (b) the approval of a change in survey instructions under subsection 10.3.6 in respect of such parcel of **Additional Lands**; or
- (c) the date of the final resolution of any dispute arising under Article 11 in relation to such parcel.

#### 7.3.4 Delay in Surveying.

Where a legal survey referred to in subsection 7.3.2 is delayed due to:

- (a) weather or other conditions outside the control of **Manitoba**;
- (b) a change in survey instructions under subsection 10.3.6; or
- (c) any dispute which may arise in relation to a proposed change in survey instructions for a parcel;

**Manitoba** will complete or cause to be completed a legal survey of the boundaries of the parcel of **Additional Lands** as soon thereafter as may be reasonably practicable.

## 7.4 TRANSFER OF LANDS TO CANADA

### 7.4.1 Application of this Section.

Section 7.4 relates to parcels of **Additional Lands** that are to be transferred to **Canada** to be set apart as **Reserve** subject to any required **Project Easements**, and will only apply with respect to any parcel following the receipt of written assurances from **Canada** that **Canada** will:

- (a) accept administration and control of the parcel;
- (b) grant a **Project Easement** in favour of **Manitoba** and **Hydro** if required for that parcel; and
- (c) set the parcel apart as **Reserve** subject to any required **Project Easement**.

### 7.4.2 Transfer Free from Encumbrances.

**Manitoba** will, in accordance with section 7.4, transfer to **Canada** the administration and control of the **Additional Lands**, subject, where applicable, to a **Project Easement**, but otherwise free and clear of all encumbrances, reservations, estates, rights and interests in favour of any person, other than **Canada**, or any person whose interest is claimed through **Canada**, for the purpose of **Canada** setting apart those lands as **Reserve**, and for greater certainty:

- (a) no reservations to **Manitoba** under subsection 4(1) of *The Crown Lands Act* (Manitoba) will apply to the **Additional Lands**; and
- (b) administration and control of rights in mines and minerals, both precious and base, rights in Crown timber and all other estates, rights and interests will be transferred by **Manitoba** to **Canada** as part of the **Additional Lands**.

### 7.4.3 Plans and Descriptions Provided by Manitoba.

Prior to the transfer of administration and control of any parcel of **Additional Lands** for which administration and control is to be transferred by **Manitoba** to **Canada** under this **Agreement**, **Manitoba** will:

- (a) determine that the legal descriptions of the parcel of **Additional Lands** and any portion of the parcel to be subject to a **Project Easement** are satisfactory to the Surveyor General of Canada; and

- (b) provide to **Chemawawin**:
  - (i) a plan of the boundaries of the parcel of **Additional Lands**,
  - (ii) a legal description of the parcel of **Additional Lands**, and
  - (iii) a legal description of any portion of the parcel to be subject to a **Project Easement**.

#### 7.4.4 Confirmation by Chemawawin.

Upon receipt of the plans and legal descriptions provided by **Manitoba** under subsection 7.4.3, **Chemawawin** will:

- (a) by **Council Resolution** substantially in the form attached as Schedule 7.4, confirm, in relation to each parcel that, as of the date of such **Council Resolution**:
  - (i) the parcel is properly described as **Additional Lands**,
  - (ii) no condition, which does not meet acceptable environmental standards as contemplated under section 11.3, has been discovered,
  - (iii) the parcel has not been rejected under section 11.3,
  - (iv) there has been no fundamental change in respect of the parcel of the nature contemplated in section 11.4,
  - (v) any portion of the parcel to be subject to a **Project Easement** is properly described, and
  - (vi) the parcel is accepted by **Chemawawin** as **Additional Lands** subject to any **Project Easement** required for that parcel; and
- (b) provide a copy of the **Council Resolution** referred to in paragraph (a) to both **Manitoba** and **Canada**.

#### 7.4.5 Provision of Form of Order in Council to Canada.

Upon receipt by **Manitoba** of:

- (a) confirmation by the Surveyor General of Canada that the plans and legal descriptions referred to in subsection 7.4.3 are acceptable to the Surveyor General of Canada; and
- (b) the **Council Resolution** referred to in subsection 7.4.4;

**Manitoba** will provide **Canada** with a copy of the form of Order in Council attached as Schedule 7.5 transferring administration and control of the **Additional Lands** to **Canada** for the purpose of **Canada** setting these lands apart as **Reserve** and, where applicable, granting **Project Easements**.

**7.4.6** Consultation on Changes to Form of Order in Council.

If **Canada** requires changes to the form of Order in Council provided to it by **Manitoba** under subsection 7.4.5, **Manitoba** will consult with **Canada** and **Chemawawin** on the changes required to the form of Order in Council.

**7.4.7** Transfer by Order in Council.

Following assurances from **Canada** that the form of Order in Council referred to in subsection 7.4.5 is acceptable to **Canada**, **Manitoba** will:

- (a) transfer, by Order in Council substantially in the form of Schedule 7.5, or, where applicable, in the form determined as a result of the consultation under subsection 7.4.6, administration and control of the **Additional Lands** to **Canada** for the purpose of **Canada** accepting administration and control of those **Additional Lands**, granting any required **Project Easements** and setting those **Additional Lands** apart as **Reserve** subject to any required **Project Easements**; and
- (b) provide a certified copy of the Order in Council to both **Chemawawin** and **Canada**.

**7.4.8** Request for Reserve Status.

Upon receipt of a certified copy of the Order in Council referred to in paragraph 7.4.7(b), **Chemawawin** will:



- (a) by **Council Resolution** substantially in the form attached as Schedule 7.6, request that **Canada** set apart as **Reserve** the **Additional Lands** referred to in that Order in Council, subject, where applicable, to **Project Easements**; and
- (b) provide a copy of the **Council Resolution** referred to in paragraph (a) to each of **Canada, Manitoba and Hydro**.

#### 7.4.9 Acceptance and Setting Apart of Additional Lands by Canada.

Upon **Manitoba's** receipt of the **Council Resolution** referred to in subsection 7.4.8, **Manitoba** will request that **Canada**:

- (a) record the plans referred to in subsection 7.4.3 in accordance with the *Canada Lands Surveys Act* (Canada);
- (b) by instrument under the *Federal Real Property Act* (Canada), accept administration and control of the **Additional Lands**, being a requirement for the lands to be set apart as **Reserve**;
- (c) provide notice of acceptance of administration and control to **Chemawawin and Manitoba**;
- (d) grant **Project Easements** in favour of **Manitoba and Hydro** on those parcels of **Additional Lands** where **Project Easements** are required;
- (e) transfer partial administration and control to **Manitoba**, on the same terms and conditions as contained in the **Project Easement Agreements**, for the **Additional Lands**;
- (f) by Privy Council Order, set the **Additional Lands** referred to in that **Council Resolution** apart as **Reserve** subject, where applicable, to **Project Easements** and file the **Project Easement Agreements** on the **Additional Lands** in accordance with the *Indian Act* (Canada); and
- (g) provide fully executed copies of the **Project Easement Agreements** and the Privy Council Order(s) relevant to the **Additional Lands** to each of **Manitoba, Chemawawin and Hydro**.

#### 7.4.10 Execution of Project Easement Agreements.

The Parties will, with Canada, execute any Project Easement Agreements necessary for Canada to grant a Project Easement for those parcels of Additional Lands where Project Easements are required.

#### 7.4.11 Completion of Process.

The Parties will cooperate to enable Canada to complete the processes outlined in subsection 7.4.9 as soon as practicable after Canada's receipt of the Council Resolution referred to in subsection 7.4.8 as such processes relate to the Additional Lands referred to in that Council Resolution.

### 7.5 LANDS EXCLUDED FROM SITE 7.1.5 – KOOKOOKUHOO ISLAND AS A RESULT OF MINING CLAIMS

#### 7.5.1 Lands Excluded from Site 7.1.5 "Kookookuhoo Island".

Manitoba will issue a Land Use Permit in the form attached as Schedule 9.1 for the parcels of land subject to Mining Claims W52579 CEDAR 1 and W52580 CEDAR 2 excluded from the parcel of Additional Lands described in Schedule 7.1 as Site 7.1.5 "Kookookuhoo Island". Subsections 9.2.4 and 9.2.11 will apply to the lands covered by such Land Use Permit notwithstanding that such lands are excluded from Additional Lands.

#### 7.5.2 Inclusion of Lands as Additional Lands.

Manitoba agrees that once the interest of Gossan Resources Limited under the mining claims described in subsection 7.5.1, or the interest of any successor in interest or assignee of such mining claims, ends, as contemplated in subsection 7.5.3, the parcels of land excluded from Site 7.1.5 will, from and after such date, be deemed to be Additional Lands and will be dealt with in accordance with sections 7.2 to 7.4 inclusive.

#### 7.5.3 End of Interest.

The interest of Gossan Resources Limited under Mining Claims W52579 CEDAR 1 and W52580 CEDAR 2 in the parcels of land excluded from Site 7.1.5, or the interest of any successor in interest or assignee of such mining claims, will end upon:

- (a) the expiry of the term of the mining claims, or the expiry of any interest derived therefrom, including any renewal or extension periods;

- (b) the written agreement of Gossan Resources Limited, or of any successor in interest or assignee, to release or surrender its interest in the parcels of land affected by the mining claims; or
- (c) the termination of the mining claims by **Manitoba** in the event that **Manitoba** exercises any right it may have at law to terminate the mining claims as a result of the failure of Gossan Resources Limited or of any successor in interest or assignee of such mining claims to comply with any term of the mining claims or any interest derived therefrom provided that **Manitoba** will act in accordance with its normal policies and practices in exercising any right it may have at law to terminate such interest.

## 7.6 LANDS EXCLUDED FROM SITE 7.1.2 "EXTENSION OF IR NO. 2" AS A RESULT OF QUARRY LEASE

### 7.6.1 Lands Excluded from Site 7.1.2 "Extension IR No. 2"

**Manitoba** and **Chemawawin** have agreed to the exclusion from the parcel of **Additional Lands** described in Schedule 7.1 as Site 7.1.2 "Extension IR No. 2" of certain lands that are the subject of Quarry Lease No. QL-698 held by Riverside Gravel (1985) Inc., which lands are more particularly described in Schedule 7.1, and any existing access, until the interest of Riverside Gravel (1985) Inc. ends as contemplated in subsection 7.6.3.

### 7.6.2 Inclusion of Lands as Additional Lands.

**Manitoba** agrees that once the interest of Riverside Gravel (1985) Inc. under Quarry Lease No. QL-698 ends as contemplated in subsection 7.6.3, the parcels of land excluded from Site 7.1.2 will, from and after such date, be deemed to be **Additional Lands**, and will be dealt with in accordance with sections 7.2 to 7.4 inclusive.

### 7.6.3 End of Interest.

The interest of Riverside Gravel (1985) Inc. under the quarry lease described in subsection 7.6.1 will end upon:

- (a) the expiry of the term of the quarry lease, including any renewal or extension periods;
- (b) the written agreement of Riverside Gravel (1985) Inc. to release or surrender its interest in the parcels of land affected by the quarry lease; or

- (c) the termination of the quarry lease by **Manitoba** in the event that **Manitoba** exercises any right it may have at law to terminate the quarry lease as a result of the failure of Riverside Gravel (1985) Inc. to comply with any term of the quarry lease provided that **Manitoba** will act in accordance with its normal policies and practices in exercising any right it may have at law to terminate such interest.

## **7.7 SITE 7.1.13 "SHALLOW BAY CORRIDOR"**

### **7.7.1 Public Purpose Requirement.**

A portion of the parcel of **Additional Lands** described in Schedule 7.1 as Site 7.1.13 "Shallow Bay Corridor" is required by **Manitoba** for public purposes, specifically the possible future transmission line development, by **Hydro**, across Site 7.1.13. The exact location of such transmission line will not be determined except as part of the development of such line following environmental and licensing processes and approvals.

### **7.7.2 Surveys by Manitoba.**

As soon as reasonably practicable following the determination by **Hydro** of the portion of Site 7.1.13 "Shallow Bay Corridor" required for development of future transmission lines referred to in subsection 7.7.1 (in section 7.7, the "Transmission Line Exclusion") and having regard to field conditions, **Manitoba**, in consultation with **Hydro**, will complete legal surveys of the boundaries of the Transmission Line Exclusion in accordance with subsection 7.3.3 and the survey instructions referred to in subsection 7.3.1. The Transmission Line Exclusion, once surveyed, will thereafter be excluded from Site 7.1.13 "Shallow Bay Corridor".

### **7.7.3 Interim Access over Site 7.1.13.**

Until a **Land Use Permit** is issued for Site 7.1.13 "Shallow Bay Corridor" in accordance with subsection 7.7.4, nothing herein will restrict or be deemed to restrict the right of **Chemawawin** and **Members** to access over such site as Crown (Manitoba) lands. During the same period, **Chemawawin** may, subject to its obtaining all necessary approvals from **Manitoba**, build permanent access within that portion of Site 7.1.13 shown on Map 7.1.13 as the "Access Corridor to Site 7.1.12 (Parcel A)" or in such other location or locations as may be agreed upon between **Chemawawin**, **Hydro** and **Manitoba**.

#### 7.7.4 Land Use Permit for Site 7.1.13.

As soon as reasonably practicable after the completion of the survey referred to in subsection 7.7.2, **Manitoba** will issue a **Land Use Permit** for that portion of Site 7.1.13 not required for the Transmission Line Exclusion.

#### 7.7.5 Access over Transmission Line Exclusion.

After the completion of the survey referred to in subsection 7.7.2, **Chemawawin** and **Members** will be entitled to the continued use of any permanent access constructed in accordance with subsection 7.7.3. **Chemawawin** and **Members** will also have the same rights of access over the Transmission Line Exclusion referred to in subsection 7.7.3 provided that any access will, in addition to complying with the restrictions in subsection 7.7.3, not interfere with any reasonable operational, safety or security measures of **Hydro** in relation to the transmission line requirement.

#### 7.7.6 Application of Provisions of Agreement Pertaining to Additional Lands.

Except as otherwise provided in Section 7.7, the provisions of this **Agreement** applicable to **Additional Lands** shall apply to Site 7.1.13 "Shallow Bay Corridor".

#### 7.7.7 Non-Waiver.

Nothing in this **Agreement** will be deemed to constitute or infer the approval, consent or support of **Chemawawin** to the construction of the transmission lines referred to in subsection 7.1 or release **Manitoba** or **Hydro** with respect to any damages arising therefrom.

#### 7.7.8 Abandonment.

In the event that **Manitoba** and **Hydro** determine that no portion of Site 7.1.13 "Shallow Bay Corridor" will be required for the development of future transmission lines, **Manitoba** and **Hydro** will, as soon as practicable after such determination is made, notify **Chemawawin** in writing of such determination. As soon as practicable after such determination, **Manitoba** will issue a **Land Use Permit** for Site 7.1.13 and the provisions of this **Agreement** applicable to **Additional Lands** shall apply to all of Site 7.1.13.

## SCHEDULE 7.1 - ADDITIONAL LANDS

The acreage shown for individual sites has not been adjusted to exclude the area of those exclusions which are identified in this schedule but not identified on the map for that site.

### Site 7.1.1 - Extension IR No. 2 (Foreshore)

7+/- acres

Map 7.1.1

#### Boundary Description

All that portion of Frac. Section 1 Township 48 Range 17 WPM bounded as follows: On the Northeast, by the straight production Northwesterly of the Northeastern Limit of Parcel A, Plan No. 6270 PLTO (N. Div.); on the Southeast, by the Northwestern Limit of the said Parcel; on the Southwest, by the straight line production Northwesterly of the Southwestern Limit of the said Parcel to its intersection with Parcel B of Plan 7129 PLTO (N. Div.) thence the Easterly limit of said Parcel B; and on the Northwest by the **OHWM** of Cedar Lake

#### Project Easement

All those lands lying between the **OHWM** of Cedar Lake and an **Easement Line** at the Northwestern Boundary of IR No. 2, Parcel A, Plan 6270 PLTO (N. Div.)

#### Environmental Conditions

The **Parties** have identified environmental contamination caused by the school lagoon situated on the **Reserve** adjacent to the above site.

### Site 7.1.2. - Extension IR No. 2

29,433+/- acres

Map 7.1.2

#### Boundary Description

Commencing at the intersection of UTM 6°Grid Line 452800<sup>m</sup> E with the Northern Limit of Transmission Line Plan No. 6211 PLTO (N. Div.), thence Westerly along the said Northern Limit to the Northern Limit of Transmission Line Plan No. 6490 PLTO (N. Div.), thence Westerly along the last said Northern Limit to the intersection with UTM 6° Grid Line 442900<sup>m</sup> E, thence Northerly along the last Grid Line to the **OHWM** of Cedar Lake, thence Northerly and Easterly along the **OHWM** of Cedar Lake to the intersection with the Western Limit of south east quarter of Sec. 2-48-17 WPM, thence Southerly along the last said Western Limit and the Western Limit of East half of Sec. 35-47-17 WPM, and the Western Limit of North east quarter of Sec. 26-47-17 to the North West corner of the South East quarter of the said section 26 thence Easterly along the Northern Limit of the said North East quarter of Sec. 26 and the South Half of Sec. 25 to the North East Corner of the South East quarter of said Sec. 25, thence diagonally to the North West corner of the North East quarter of Sec. 19-47-16 WPM thence Easterly along the Northern Limit of the said NE ¼ of Sec. 19 and the Northern Limit of Sec. 20-47-16 WPM to the North East corner of the said Sec. 20 thence Northerly along the Western Limit of the North East quarter of Sec. 21-47-16 to its intersection with the Northeasterly Limit of Public Road Plan No. 4969 PLTO (N. Div.), thence Northwesterly along the said Northeastern Limit to the intersection with the Southeastern Limit of I.R. No. 2 shown as

Parcel B, Plan No. 6270 PLTO (N. Div.), thence Northeasterly along the said Southeastern Limit to the North East Corner of said Parcel B, thence Northwesterly along the Northeastern Limit of said Parcel B to Wilson Avenue Plan No. 801 PLTO (N. Div.), thence Northeasterly in a straight line to the most Easterly corner of I.R. No. 2 shown as Parcel A, Plan No. 6270 PLTO (N. Div.), thence Northwesterly along the Northeastern Limit of said Parcel A and the straight production thereof Northeasterly, to its intersection with the **OHWM** of Cedar Lake, thence Northerly, Southerly and Easterly along the **OHWM** of Cedar Lake to the intersection with the intersection of UTM 6° Grid Line 451800<sup>m</sup> E, thence Southerly along the last said Grid Line to the intersection with UTM 6° Grid Line 5882000<sup>m</sup> N, thence Easterly along the last said Grid Line to the intersection with UTM 6° Grid Line 452800<sup>m</sup> E, thence Southerly along the last said Grid Line to the point of commencement.

### Exclusions

- Firstly, Public Road Plan No. 4969 PLTO (N. Div.) The Public Road allowance will be expanded to a total width of 130 metres (426.51 feet) centered on PR 327.
- Secondly, should the revised Public Road Allowance be insufficient in any area to include the Right-of-Way required to accommodate the existing Hydro transmission line, the Right-of-Way will be expanded as required.
- Thirdly, an additional Right-of-Way, 100 feet in width on the north side of Transmission Line Plan 6211 PLTO (N. Div) to accommodate an additional 25 KV power line.
- Fourthly, land occupied by Quarry Lease Q.L. 698.

### Project Easement

All those lands lying between the **OHWM** of Cedar Lake and an **Easement Line**.

**Site 7.1.3 - Extension IR No. 3**

**16,233+/- acres Map 7.1.3.**

### Boundary Description

Commencing at the intersection of the Eastern Limit of Public Road Plan No. 6944 PLTO (N. Div.) with the Northeastern Limit of Parcel B, Plan No. 7565 PLTO (N. Div.), thence Southeasterly along the said Northeastern Limit to the Eastern Limit of said Parcel B, thence Northerly along the straight line production Northerly of the said Eastern Limit to the intersection with the Southern Limit of Transmission Line Plan No. 6211 PLTO (N. Div.), thence Westerly along the said Southern Limit to the intersection with UTM 6° Grid Line 442900<sup>m</sup> E, thence Southerly along the said Grid Line to the intersection with UTM 6° Grid Line 5871400<sup>m</sup> N, thence Westerly along the last said Grid Line to the intersection with UTM 6° Grid Line 436000<sup>m</sup> E, thence Southerly along the said Grid Line to the intersection with the **OHWM** of Lake Winnipegosis, thence Southeasterly along the last said **OHWM** to the intersection with the Western Limit of Parcel C, Plan No. 7565 PLTO (N. Div.), thence Northerly along the last said Western Limit and the Western Limit of Parcel A Plan No. 7565 PLTO (N. Div), to the Northern Limit of said Parcel A, thence Easterly along the last said Northern Limit to the intersection with the

Western Limit of Public Road Plan No. 6944 PLTO (N. Div.), thence Easterly in a straight line to the point of commencement.

### Exclusions

Firstly, Public Road Plan 6944 PLTO (N. Div.). Right of Way to be widened to a total width of 130 metres (426.51 feet) centered on PR 327.

Secondly, Public Road Plan 4969 PLTO (N. Div.). Right of Way to be widened to a total width of 130 metres (426.51 feet) centered on PR 327.

Thirdly, Public Road Plan 6861 PLTO (N. Div.). Right of Way to be widened to a total width of 140 metres (459.32 feet) centered on PH 60.

### **Site 7.1.4 - Extension to I.R. No. 1**

**2,753+/- acres      Map 7.1.4**

#### Boundary Description

Commencing at the intersection of the **OHWM** of Cedar Lake and a straight line drawn Southeasterly at a UTM 6° Grid Bearing of 110° 00' 00" which passes through the intersection of UTM 6° Grid Line 5906400<sup>m</sup> N and UTM 6° Grid Line 404600<sup>m</sup> E, thence Southeasterly along the said Grid Bearing to the **OHWM** of Cedar Lake, thence Southerly along the said **OHWM** of Cedar Lake to its intersection with UTM 6° Grid Line 5897800<sup>m</sup> N, thence Westerly along the last said Grid Line to the intersection with UTM 6° Grid Line 406900<sup>m</sup> E, thence Northwesterly in a straight line to the intersection of UTM 6° Grid Lines 5901000<sup>m</sup> N and 406600<sup>m</sup> E, thence Northeasterly in a straight line to the intersection of UTM 6° Grid Lines 5902400<sup>m</sup> N and 406800<sup>m</sup> E, thence Northwesterly in a straight line to the intersection of UTM 6° Grid Lines 5903600<sup>m</sup> N and 406200<sup>m</sup> E, thence Northwesterly in a straight line to the intersection of UTM 6° Grid Line 5904900<sup>m</sup> N and 403800<sup>m</sup> E, thence Southwesterly in a straight line to the intersection of UTM 6° Grid Lines 5904700<sup>m</sup> N and 402200<sup>m</sup> E, thence Northwesterly at a UTM 6° Grid Bearing of 290° 00' 00" to the intersection with the **OHWM** of Cedar Lake, thence Easterly along the said **OHWM** of Cedar Lake to the point of commencement.

#### Project Easement

All those lands lying between **OHWM** of Cedar Lake and an **Easement Line**.

### **Site 7.1.5. Kookookuhoo Island**

**9,825+/- acres      Map 7.1.5**

#### Boundary Description

Kookookuhoo Island located in Cedar Lake at the intersection of UTM 6° Grid Line 423000<sup>m</sup> E and UTM 6° Grid Line 5913000<sup>m</sup> N.

#### Project Easement

All those lands lying between **OHWM** of Cedar Lake and an **Easement Line**.



Exclusions

Parcels 8 & 9, Schedule 6.1 Map 6.1.1.

That portion of the land described in the above noted boundary description that is occupied by Mining Claims W52579 and W52580 held by Gossan Resources Limited until the interest of Gossan Resources Limited ends as provided in subsection 7.5.3.

**Site 7.1.6 South Crossing Island****362+/- acres****Map 7.1.6**Boundary Description

South Crossing Island located in Cedar Lake at the intersection of UTM 6° Grid Lines 5917000<sup>m</sup> N and 421000<sup>m</sup> E.

Project Easement

All those lands lying between the **OHW**M of Cedar Lake and an **Easement Line**.

**Site 7.1.7 North Crossing Island****404+/- acres****Map 7.1.7**Boundary Description

North Crossing Island located in Cedar Lake at the intersection of UTM 6° Grid Lines 5918800<sup>m</sup> N and 420000<sup>m</sup> E.

Project Easement

All those lands lying between the **OHW**M of Cedar Lake and an **Easement Line**.

**Site 7.1.8 Kaneaskweyak Island****1,829+/- acres****Map 7.1.8**Boundary Description

Kaneaskweyak Island located in Cedar Lake at the intersection of UTM 6° Grid Lines 5909000<sup>m</sup> N and 401000<sup>m</sup> E.

Project Easement

All those lands lying between the **OHW**M of Cedar Lake and an **Easement Line**.

**Site 7.1.9 Lands within Easterville Community  
Boundary**

**2 +/- acres**

**Map 7.1.9**

Boundary Description

Parcel A:

All that portion of the bed of Cedar Lake in Township 48 Range 17 WPM lying between the North West Limit of Road No. 1, as same is shown on Public Road Plan No. 4957 P.L.T.O. (NDiv) and the SE Limit of Parcel C Plan No. 7129 P.L.T.O. (NDiv) which lies between a straight line drawn Northerly from a point in the Northwest limit of said Road No. 1 distant 57.051 meters from the Northwest corner of Road No. 1 which line forms an angle on its west side with the said Northwest limit of 89-41-50 and a straight line drawn Northwesterly from the said Northwest corner which line forms an angle on its east side with the said Northwest limit of 100-28-10.

Parcel B:

All that portion of Road No. 1 as same is shown on Public Road Plan No. 4957 P.L.T.O. (NDiv) in the Frac SW  $\frac{1}{4}$  of Sec 1-48-17 WPM contained within the following limits: Commencing at the Northwest corner of said Road No. 1 thence Northeasterly along the Northwest limit of Road No. 1 to a point therein distant 57.051 meters from the said Northwest corner thence Southeasterly in a straight line to the first deflection in the Southwest limit of Road No. 1 Southeast of the point of commencement thence Northwesterly in a straight line to the point of commencement.

Parcel C:

All that portion of the Frac SW  $\frac{1}{4}$  of Sec 1-48-17 WPM contained within the following limits: Commencing at the Northwest corner of Road No. 1 as same is shown on Public Road Plan No. 4957 P.L.T.O. (NDiv) thence Southeasterly in a straight line to the first deflection in the Southwest limit of Road No. 1 Southeast of the point of commencement thence Southerly along the West limit of said Road No. 1 to a point distant 74.340 meters from the said deflection thence Westerly in a straight line which line forms an angle on its north side with the said West limit of 93-54-50 a distance of 37.067 meters thence Northerly in a straight line which line forms an angle on its east side with the last described course of 89-26-30 a distance of 75.664 thence North Westerly in a straight line to the point of commencement.

**Site 7.1.10 Paul Harbour**

**4,370+/- acres**

**Map 7.1.10**

Boundary Description

Commencing at the northern intersection of Cedar Lake and UTM 6° Grid Line 437850<sup>m</sup> E, and then southerly to the southern intersection of Cedar Lake and UTM 6° Grid Line 437850<sup>m</sup> E, thence northwesterly, westerly, northeasterly and easterly along the OHWM of Cedar Lake to the point of commencement.

**Project Easement**

All those lands lying between the **OHWM** of Cedar Lake and an **Easement Line**.

**Exclusion**

For public purposes, site of Conservation cabin situated in SE 35-50-18W on shore of Cedar Lake, said site to be 600 feet by 600 feet to accommodate existing cabin and helicopter pad.

**Site 7.1.11 Connolly Bay**

**4,800+/- acres      Map 7.1.11**

**Boundary Description**

Commencing at the intersection of Cedar Lake and UTM 6° Grid Line 382694<sup>m</sup> E, and then Southwesterly to the intersection of Grid Line 381883<sup>m</sup> E and Grid Line 5914996<sup>m</sup> N, and then Northwesterly to the intersection of Grid Line 371088<sup>m</sup> E and Grid Line 5922444<sup>m</sup> N, thence Northeasterly to the **OHWM** of Cedar Lake at Grid Line 371438<sup>m</sup> E, thence Southeasterly along the **OHWM** of Cedar Lake to the point of commencement.

**Project Easement**

All those lands lying between the **OHWM** of Cedar Lake and an **Easement Line**.

**Site 7.1.12 Shallow Bay Site**

**8,684+/- acres      Map 7.1.12**

**Boundary Description**

## Parcel A:

Commencing at the intersection of the **OHWM** of Cedar Lake and UTM 6° Grid Line 460914<sup>m</sup> E, and Grid Line 5880251<sup>m</sup> N, thence Westerly to the intersection of Grid Line 457566<sup>m</sup> E, and Grid Line 5880254<sup>m</sup> N, thence Northerly to the intersection of Grid Line 457567<sup>m</sup> E, and Grid Line 5881981<sup>m</sup> N at the **OHWM** of Muskeg Lake, thence along the last said **OHWM** to the intersection of Grid Line 458716<sup>m</sup> E, and Grid Line 5883775<sup>m</sup> N, thence Northeasterly to the intersection of Grid Line 459164<sup>m</sup> E, and Grid Line 5884004<sup>m</sup> N, thence Northerly along the said Grid Line 459164<sup>m</sup> E to its intersection the **OHWM** of Cedar Lake, thence southerly, easterly and westerly to the point of commencement.

## Parcel B:

Commencing at the intersection of the **OHWM** of Cedar Lake and Grid Line 451800<sup>m</sup> E thence southerly to the intersection of Grid Line 451800<sup>m</sup> E and Grid Line 5885706<sup>m</sup> N, thence northeasterly to the intersection of Grid Line 455152<sup>m</sup> E and Grid Line 5886955<sup>m</sup> N, thence northerly along the said Grid Line 455152<sup>m</sup> E to its intersection with the **OHWM** of Cedar Lake, thence southwesterly to the point of commencement.

**Site 7.1.13 Shallow Bay Corridor****6,360+/- acres      Map 7.1.13****Boundary Description**

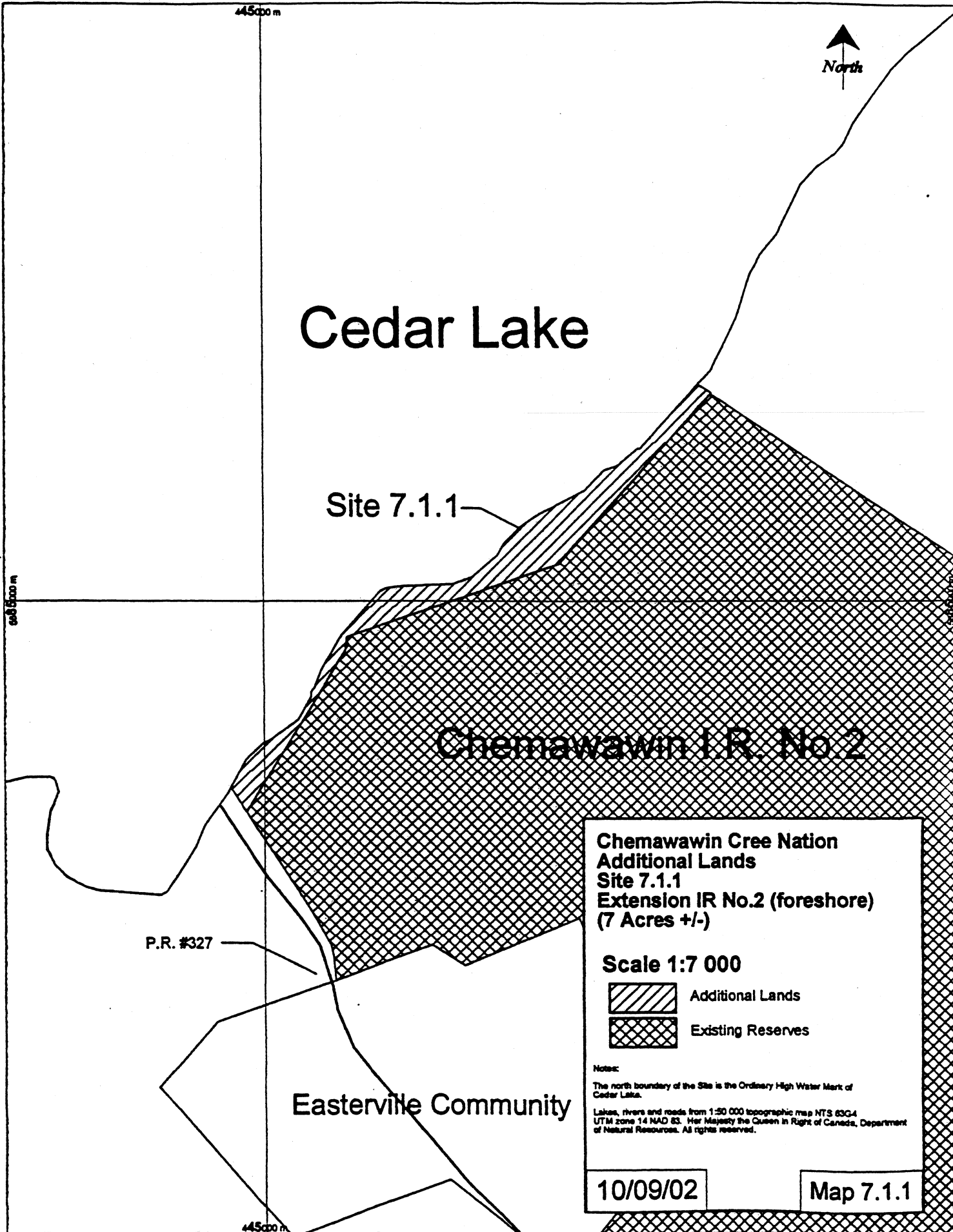
Commencing at the intersection of Grid Line 455152<sup>m</sup> E and Grid Line 5886955<sup>m</sup> N, thence northerly along the said Grid Line 455152<sup>m</sup> E to its intersection with the **OHWM** of Cedar Lake, thence northerly, easterly and southerly to the intersection of the said **OHWM** and Grid Line 459164<sup>m</sup> E thence southerly to the intersection of Grid Line 459164<sup>m</sup> E and Grid Line 58866342<sup>m</sup> N thence Northwesterly to the intersection of Grid Line 457234<sup>m</sup> E and Grid Line 5886955<sup>m</sup> N, thence along said Grid Line 5886955<sup>m</sup> N to the point of commencement.

**Exclusions**

Hydro power line corridor to be determined when surveyed.

**Project Easement**

All those lands lying between the **OHWM** of Cedar Lake and an **Easement Line**.



445000 m



# Cedar Lake

Site 7.1.1

Chemawawin I.R. No. 2

P.R. #327

Easterville Community

**Chemawawin Cree Nation  
Additional Lands  
Site 7.1.1  
Extension IR No.2 (foreshore)  
(7 Acres +/-)**

**Scale 1:7 000**

-  Additional Lands
-  Existing Reserves

**Notes:**

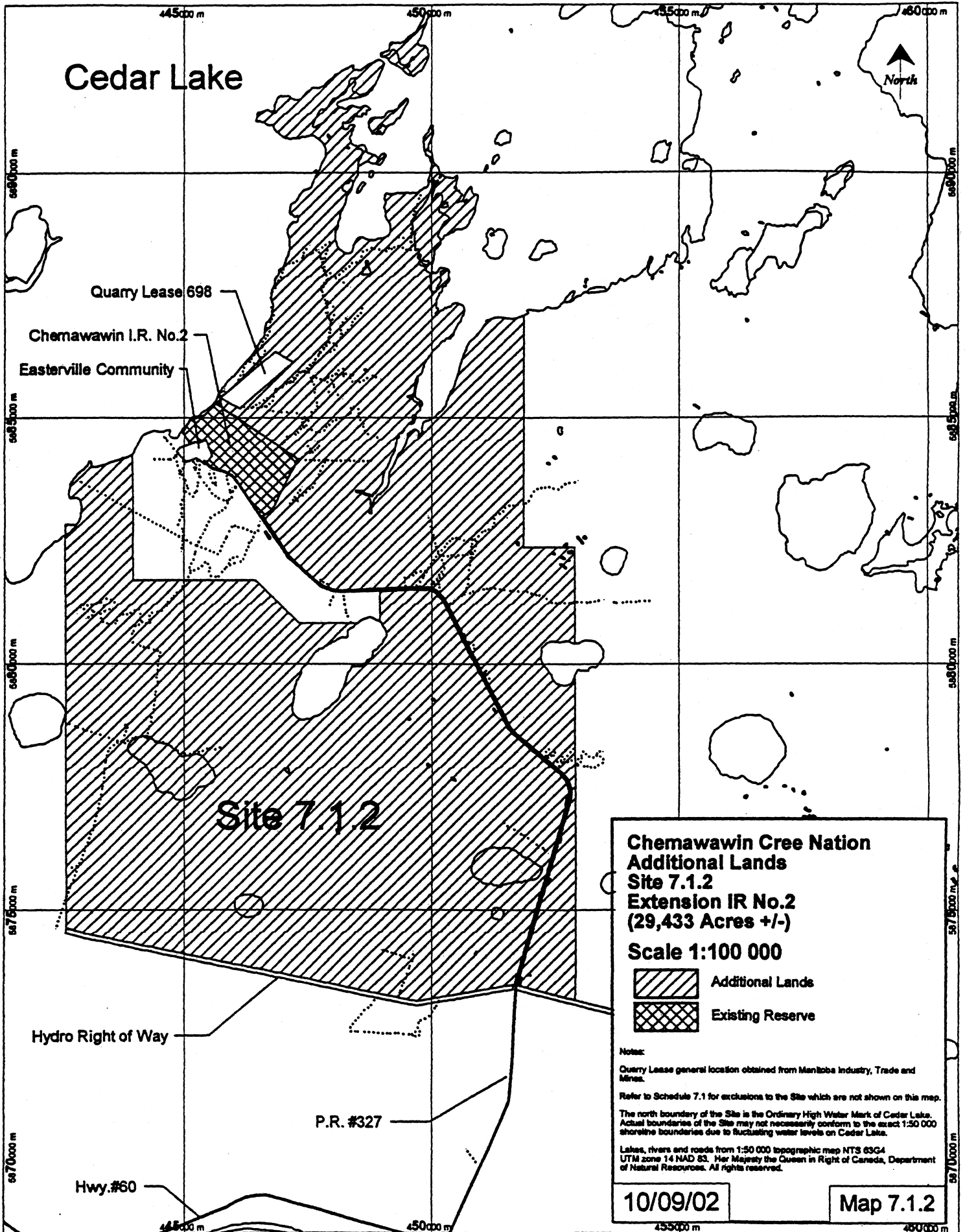
The north boundary of the Site is the Ordinary High Water Mark of Cedar Lake.

Lakes, rivers and roads from 1:50 000 topographic map NTS 63G4 UTM zone 14 NAD 83. Her Majesty the Queen in Right of Canada, Department of Natural Resources. All rights reserved.

10/09/02

Map 7.1.1

445000 m



Cedar Lake

Quarry Lease 698

Chemawawin I.R. No.2

Easterville Community

Site 7.1.2

Hydro Right of Way

P.R. #327

Hwy.#60

**Chemawawin Cree Nation  
Additional Lands  
Site 7.1.2  
Extension IR No.2  
(29,433 Acres +/-)**

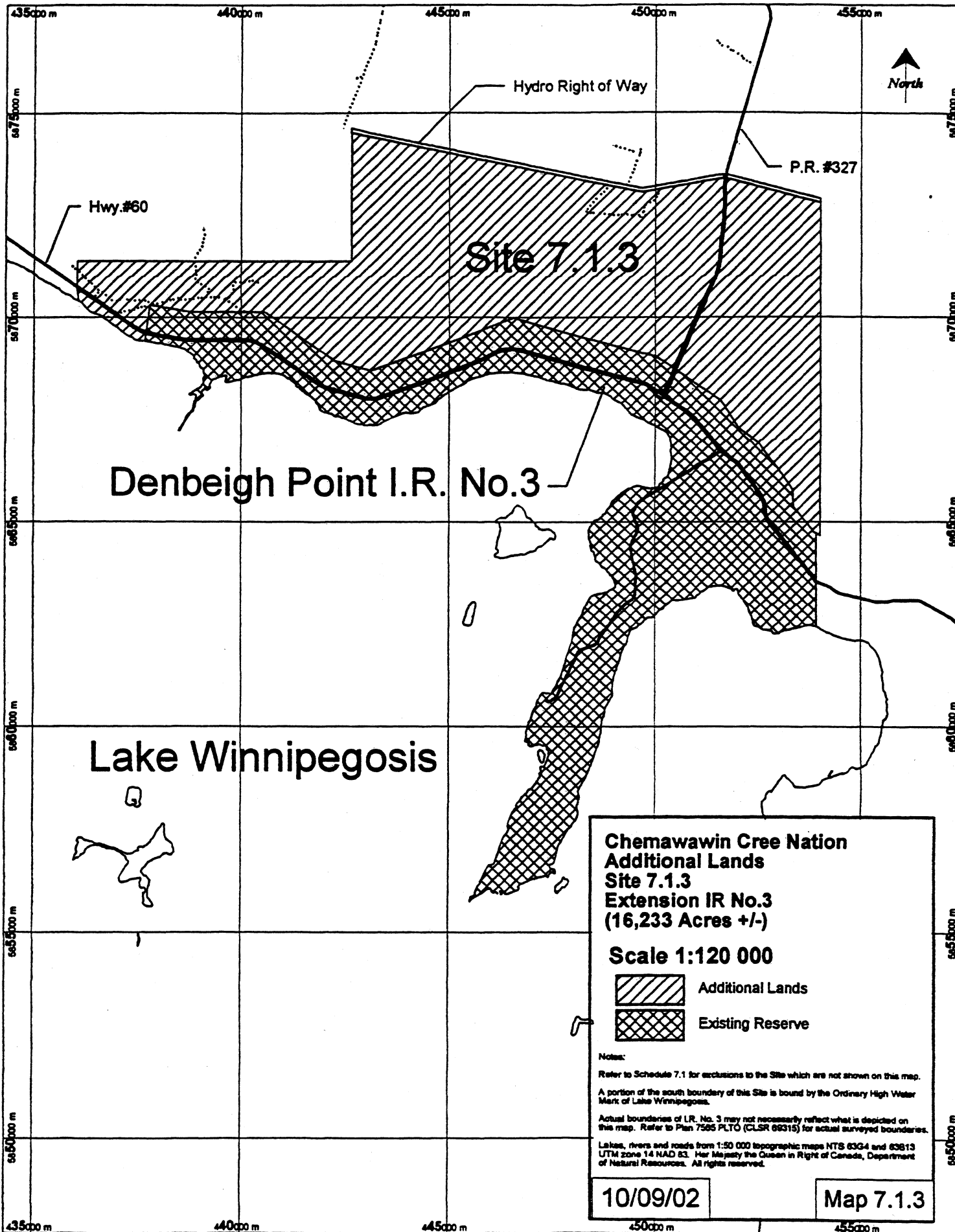
**Scale 1:100 000**

-  Additional Lands
-  Existing Reserve

**Notes:**  
 Quarry Lease general location obtained from Manitoba Industry, Trade and Mines.  
 Refer to Schedule 7.1 for exclusions to the Site which are not shown on this map.  
 The north boundary of the Site is the Ordinary High Water Mark of Cedar Lake. Actual boundaries of the Site may not necessarily conform to the exact 1:50 000 shoreline boundaries due to fluctuating water levels on Cedar Lake.  
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Map 7.1.2



Denbeigh Point I.R. No.3

Site 7.1.3

Lake Winnipegosis

**Chemawawin Cree Nation  
Additional Lands  
Site 7.1.3  
Extension IR No.3  
(16,233 Acres +/-)**

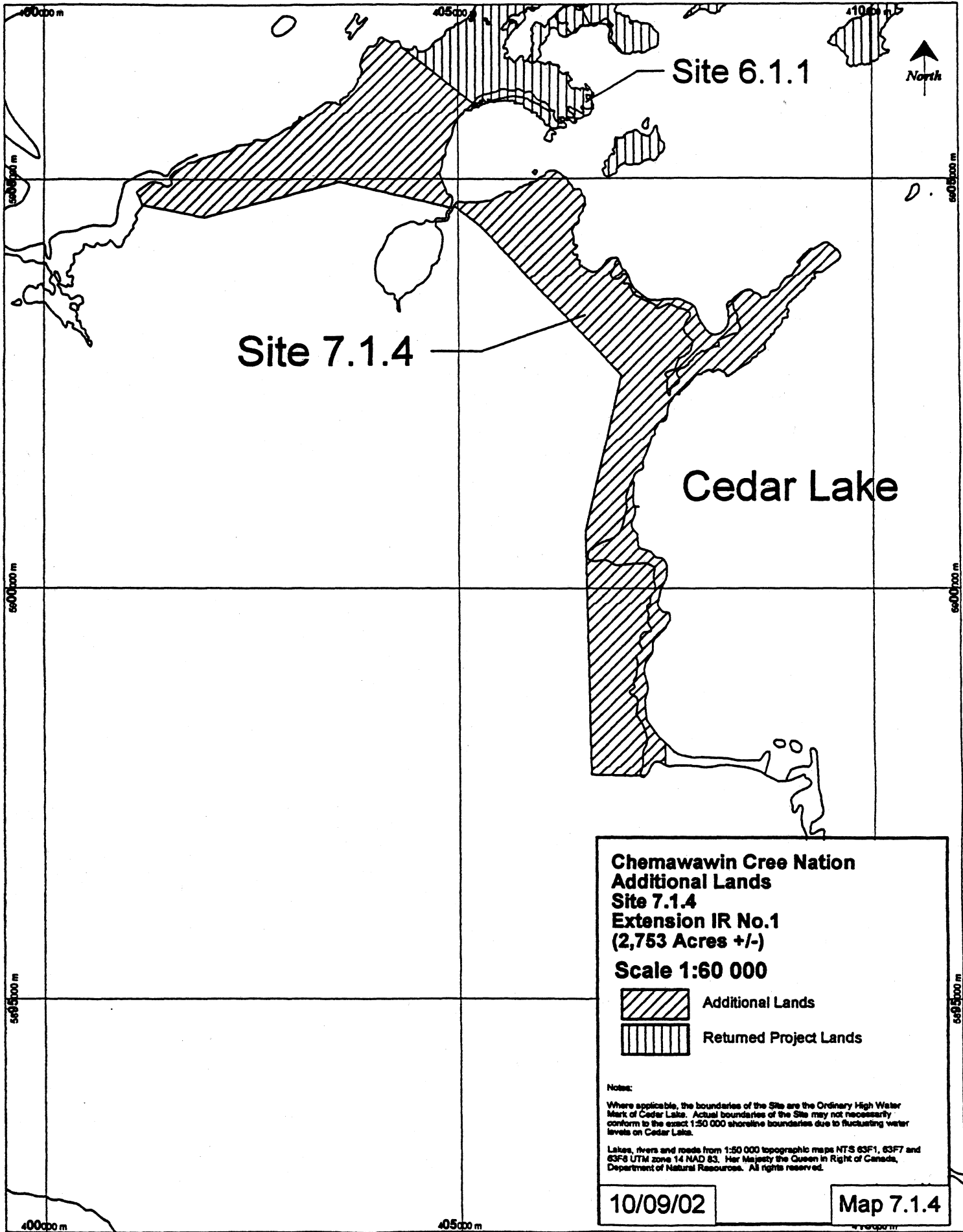
**Scale 1:120 000**

-  Additional Lands
-  Existing Reserve

**Notes:**  
 Refer to Schedule 7.1 for exclusions to the Site which are not shown on this map.  
 A portion of the south boundary of this Site is bound by the Ordinary High Water Mark of Lake Winnipegosis.  
 Actual boundaries of I.R. No. 3 may not necessarily reflect what is depicted on this map. Refer to Plan 7585 PLTO (CLSR 68315) for actual surveyed boundaries.  
 Lakes, rivers and roads from 1:50 000 topographic maps NTS 63G4 and 63B13 UTM zone 14 NAD 83. Her Majesty the Queen in Right of Canada, Department of Natural Resources. All rights reserved.

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Map 7.1.3





Site 6.1.1

Site 7.1.4

Cedar Lake

**Chemawawin Cree Nation  
Additional Lands  
Site 7.1.4  
Extension IR No.1  
(2,753 Acres +/-)  
Scale 1:60 000**

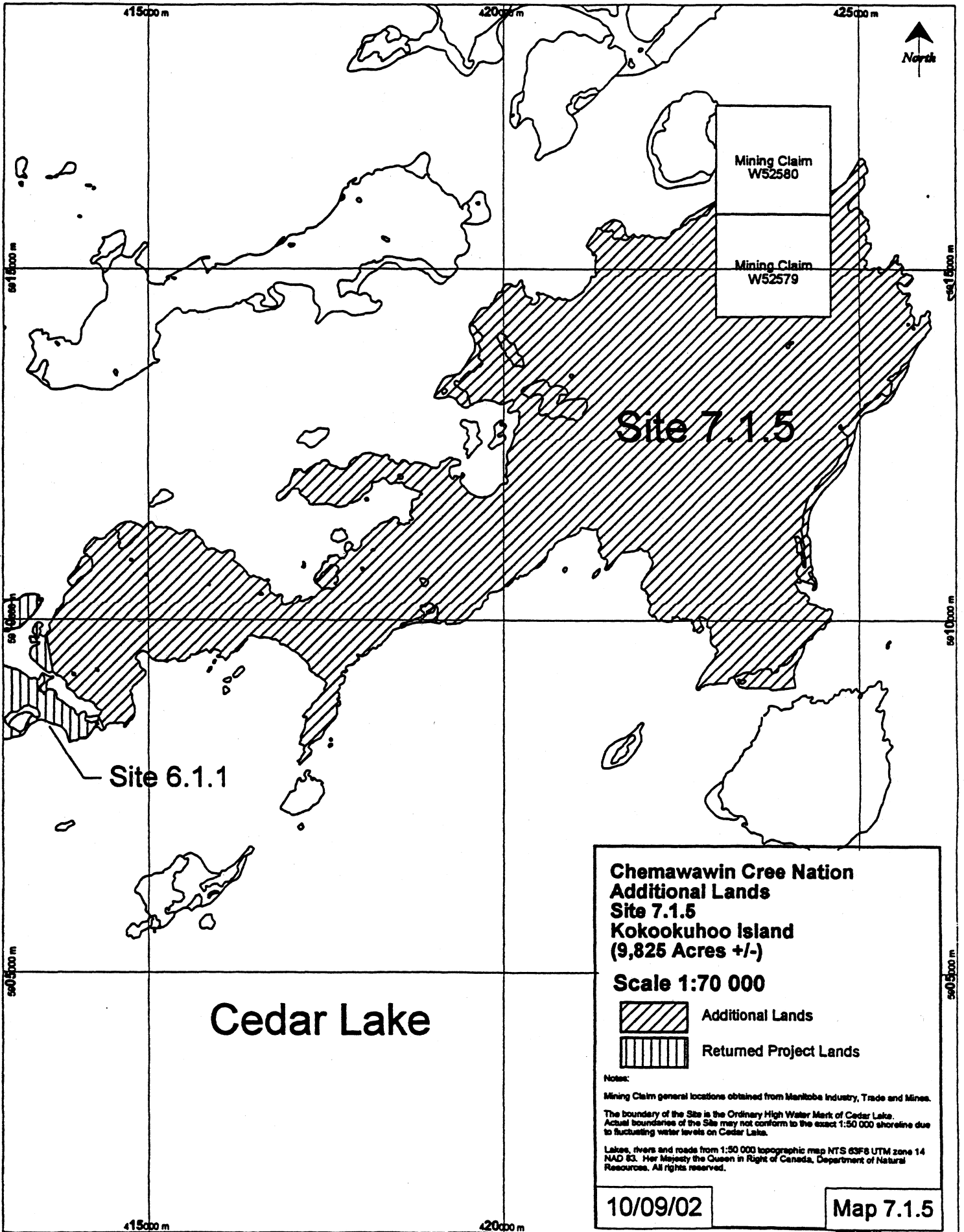
-  Additional Lands
-  Returned Project Lands

**Notes:**  
Where applicable, the boundaries of the Site are the Ordinary High Water Mark of Cedar Lake. Actual boundaries of the Site may not necessarily conform to the exact 1:50 000 shoreline boundaries due to fluctuating water levels on Cedar Lake.  
Lakes, rivers and roads from 1:50 000 topographic maps NTS 63F1, 63F7 and 63F8 UTM zone 14 NAD 83. Her Majesty the Queen in Right of Canada, Department of Natural Resources. All rights reserved.

10/09/02

Map 7.1.4





Site 6.1.1

Site 7.1.5



Mining Claim  
W52580

Mining Claim  
W52579

Cedar Lake

**Chemawawin Cree Nation  
Additional Lands  
Site 7.1.5  
Kokookuhoo Island  
(9,825 Acres +/-)**

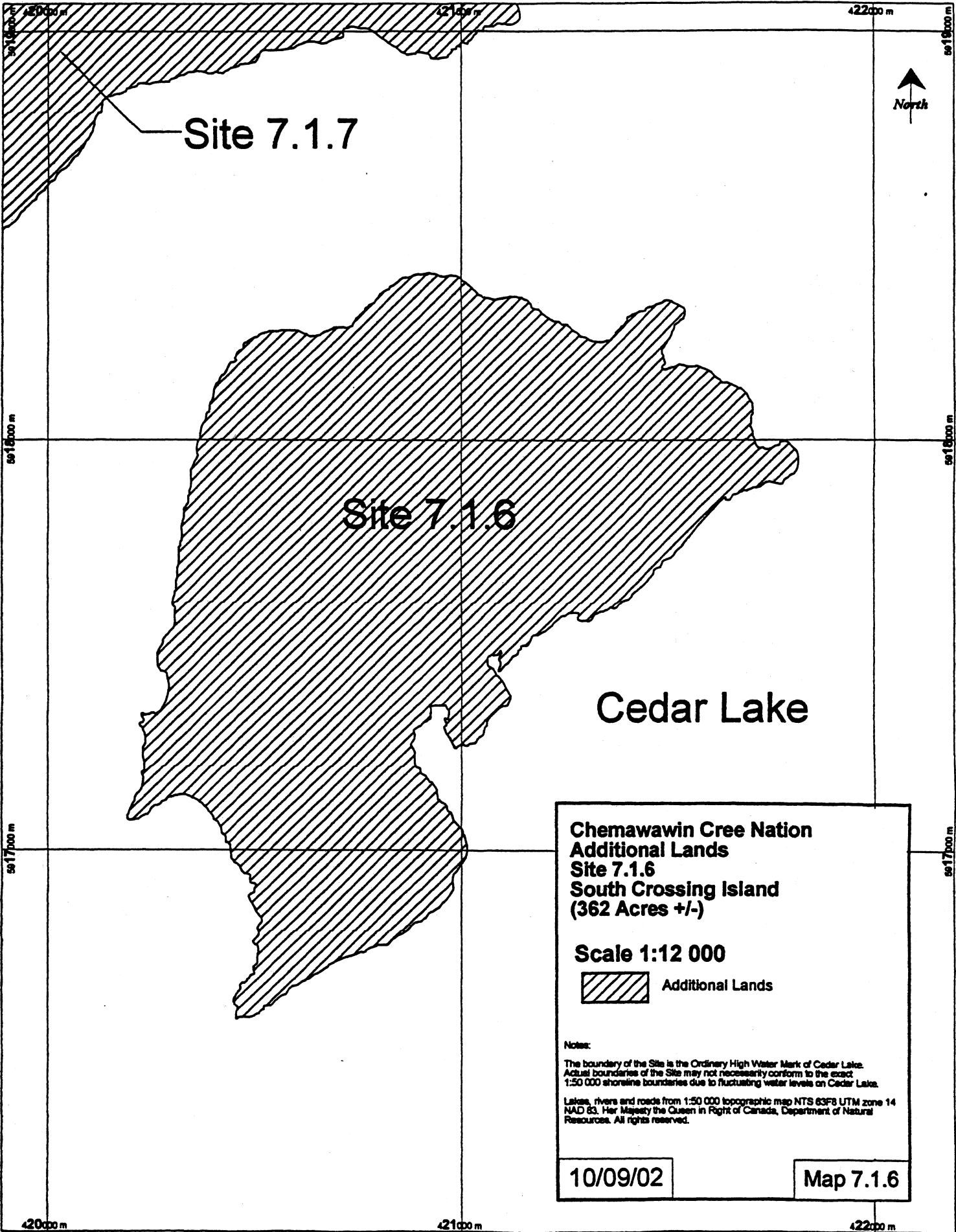
**Scale 1:70 000**

-  Additional Lands
-  Returned Project Lands

**Notes:**  
 Mining Claim general locations obtained from Manitoba Industry, Trade and Mines.  
 The boundary of the Site is the Ordinary High Water Mark of Cedar Lake.  
 Actual boundaries of the Site may not conform to the exact 1:50 000 shoreline due to fluctuating water levels on Cedar Lake.  
 Lakes, rivers and roads from 1:50 000 topographic map NTS 63F8 UTM zone 14 NAD 83. Her Majesty the Queen in Right of Canada, Department of Natural Resources. All rights reserved.

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Map 7.1.5




Site 7.1.7

Site 7.1.6

Cedar Lake

**Chemawawin Cree Nation  
Additional Lands  
Site 7.1.6  
South Crossing Island  
(362 Acres +/-)**

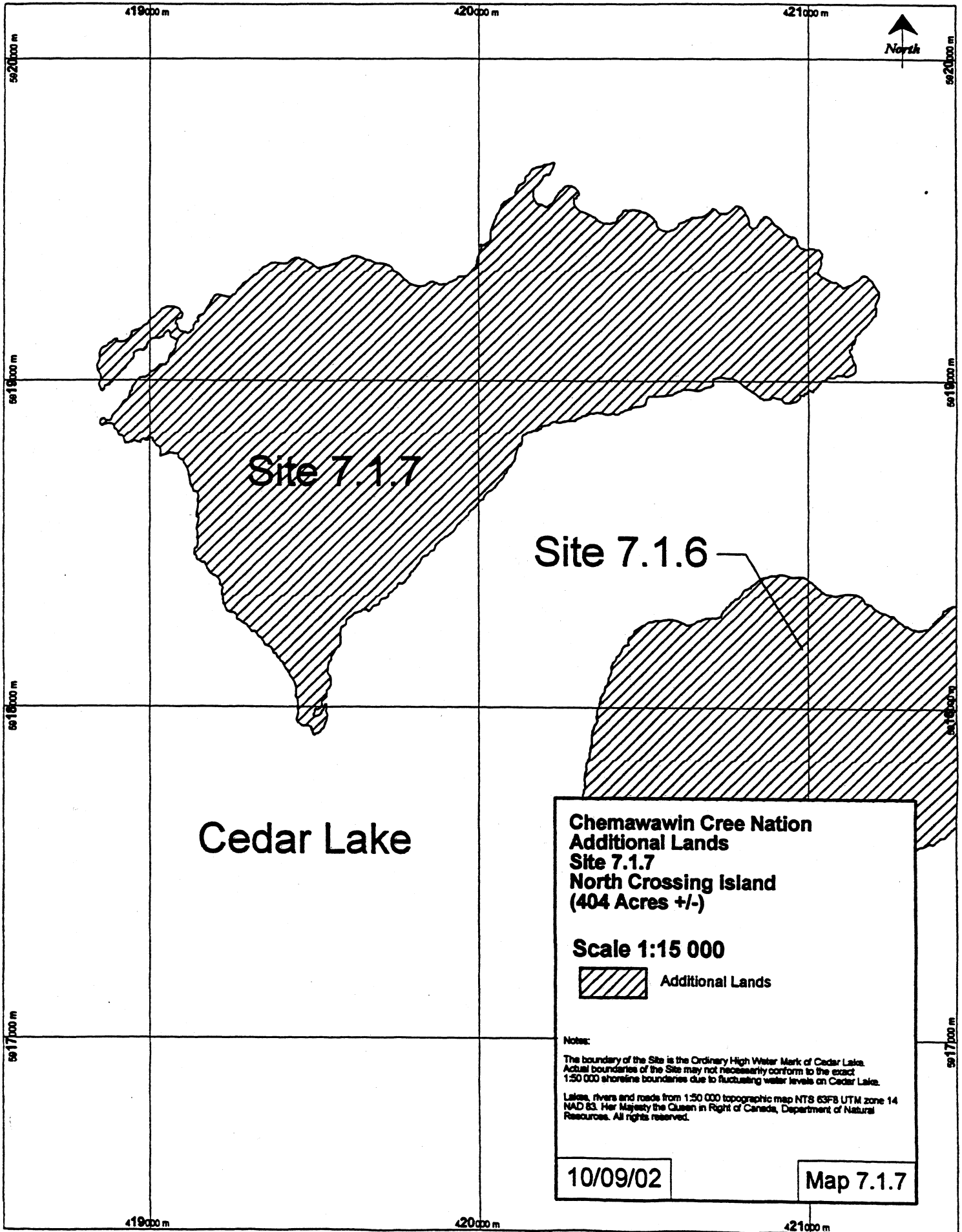
**Scale 1:12 000**

 Additional Lands

**Note:**  
The boundary of the Site is the Ordinary High Water Mark of Cedar Lake. Actual boundaries of the Site may not necessarily conform to the exact 1:50 000 shoreline boundaries due to fluctuating water levels on Cedar Lake.

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**10/09/02** **Map 7.1.6**



419000 m

420000 m

421000 m

5920000 m

5920000 m



5918000 m

5918000 m

Site 7.1.7

Site 7.1.6

5916000 m

5916000 m

Cedar Lake

**Chemawawin Cree Nation  
Additional Lands  
Site 7.1.7  
North Crossing Island  
(404 Acres +/-)**

**Scale 1:15 000**



Additional Lands

**Notes:**

The boundary of the Site is the Ordinary High Water Mark of Cedar Lake. Actual boundaries of the Site may not necessarily conform to the exact 1:50 000 shoreline boundaries due to fluctuating water levels on Cedar Lake.

Lakes, rivers and roads from 1:50 000 topographic map NTS 63F8 UTM zone 14 NAD 83. Her Majesty the Queen in Right of Canada, Department of Natural Resources. All rights reserved.

10/09/02

Map 7.1.7

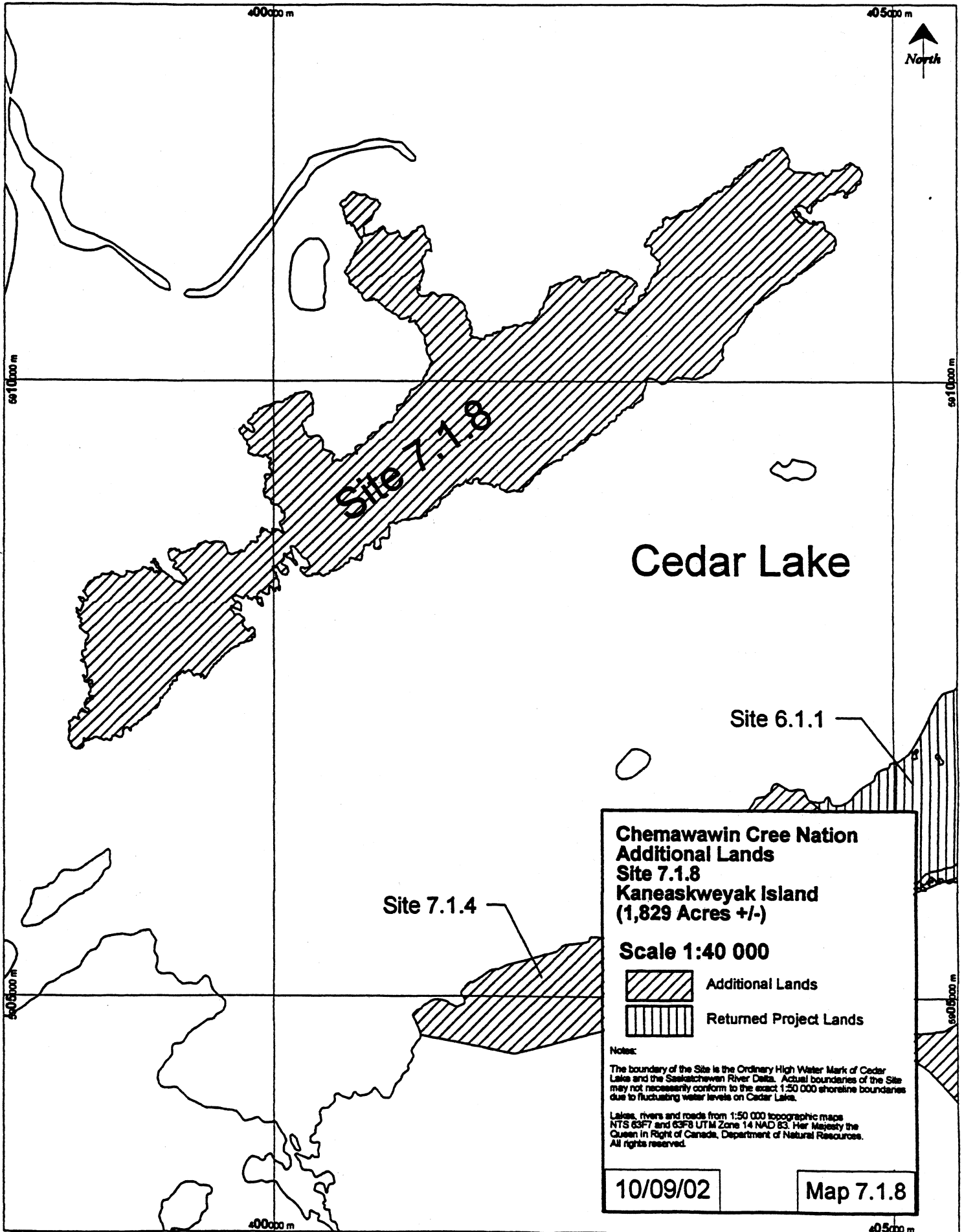
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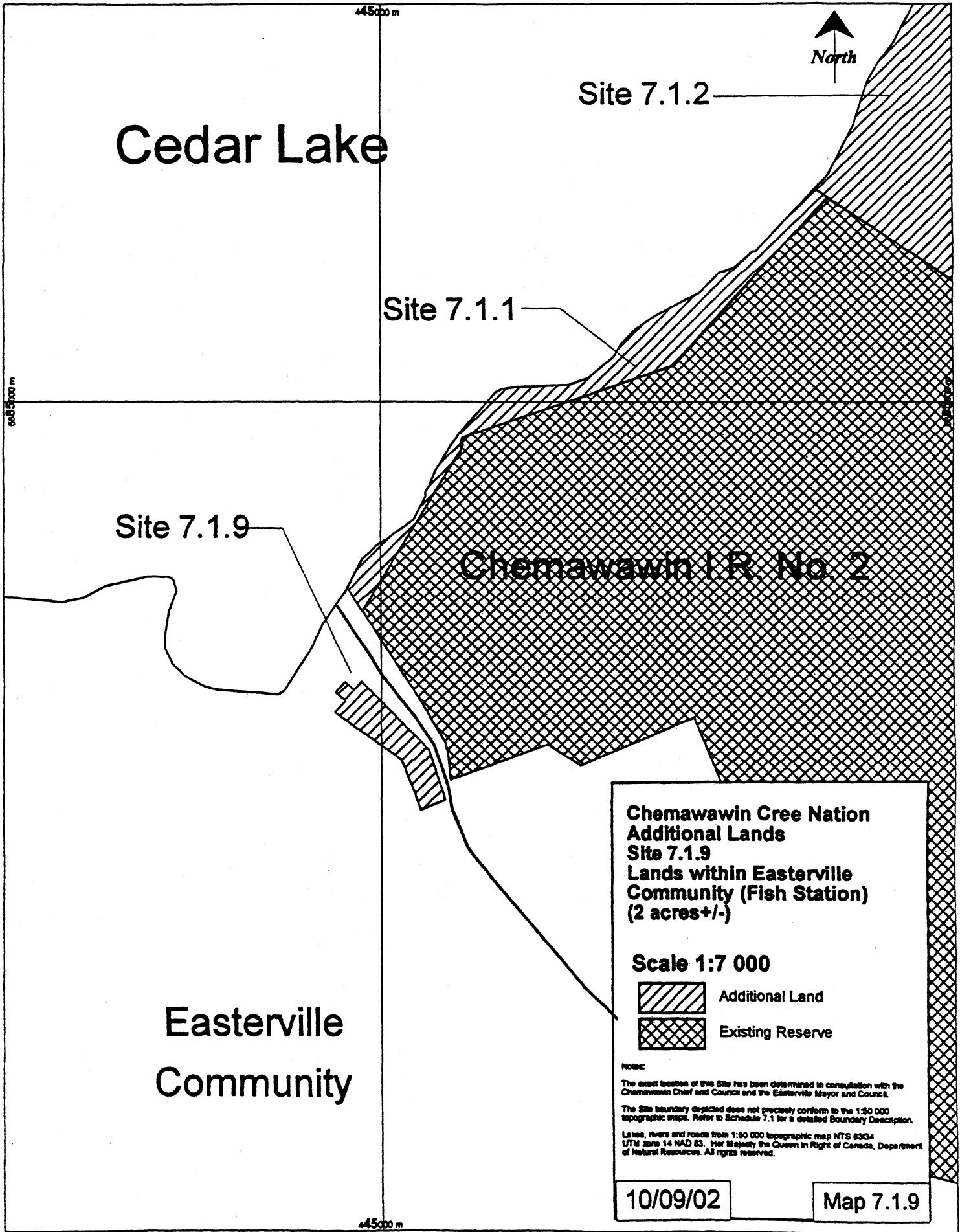
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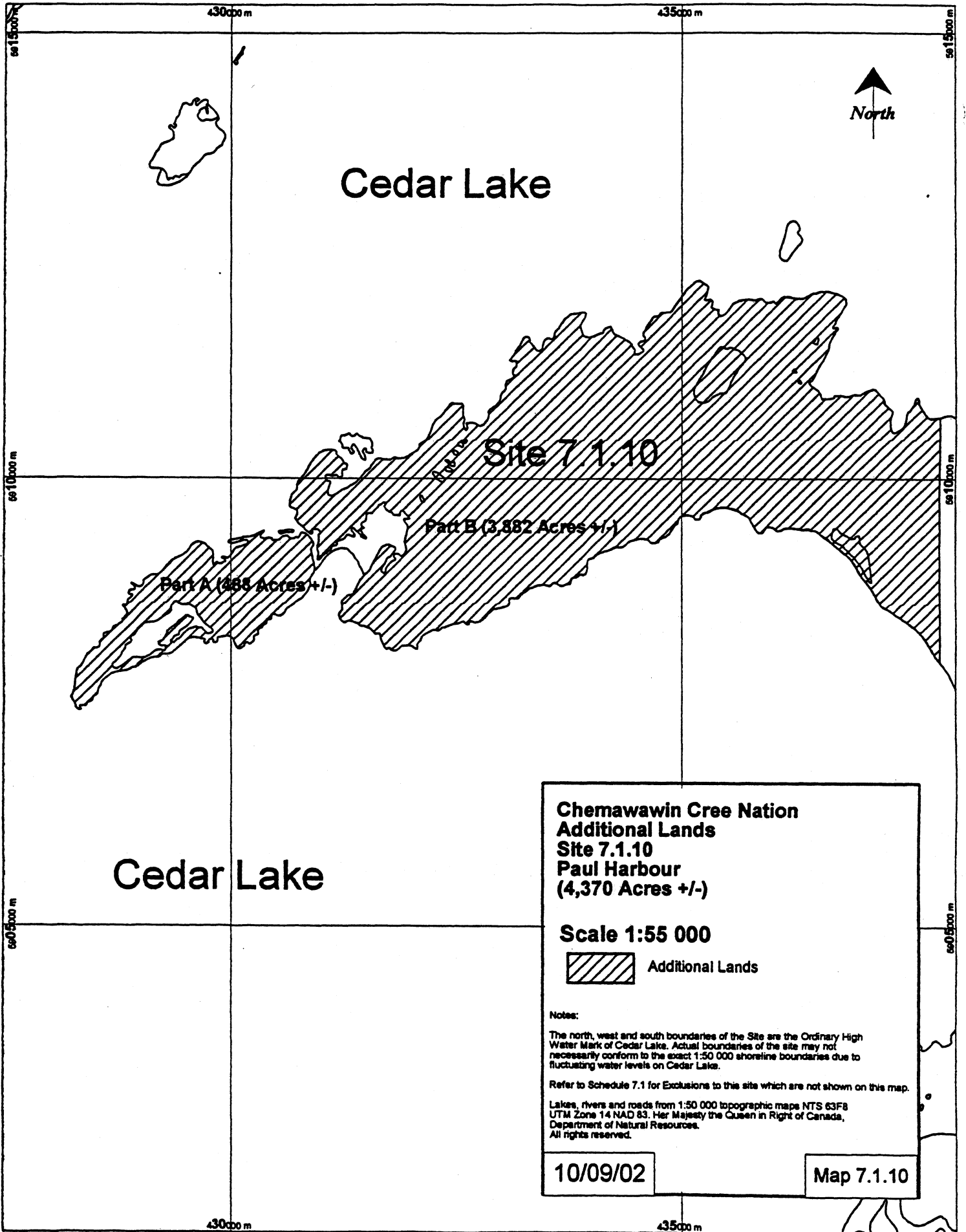
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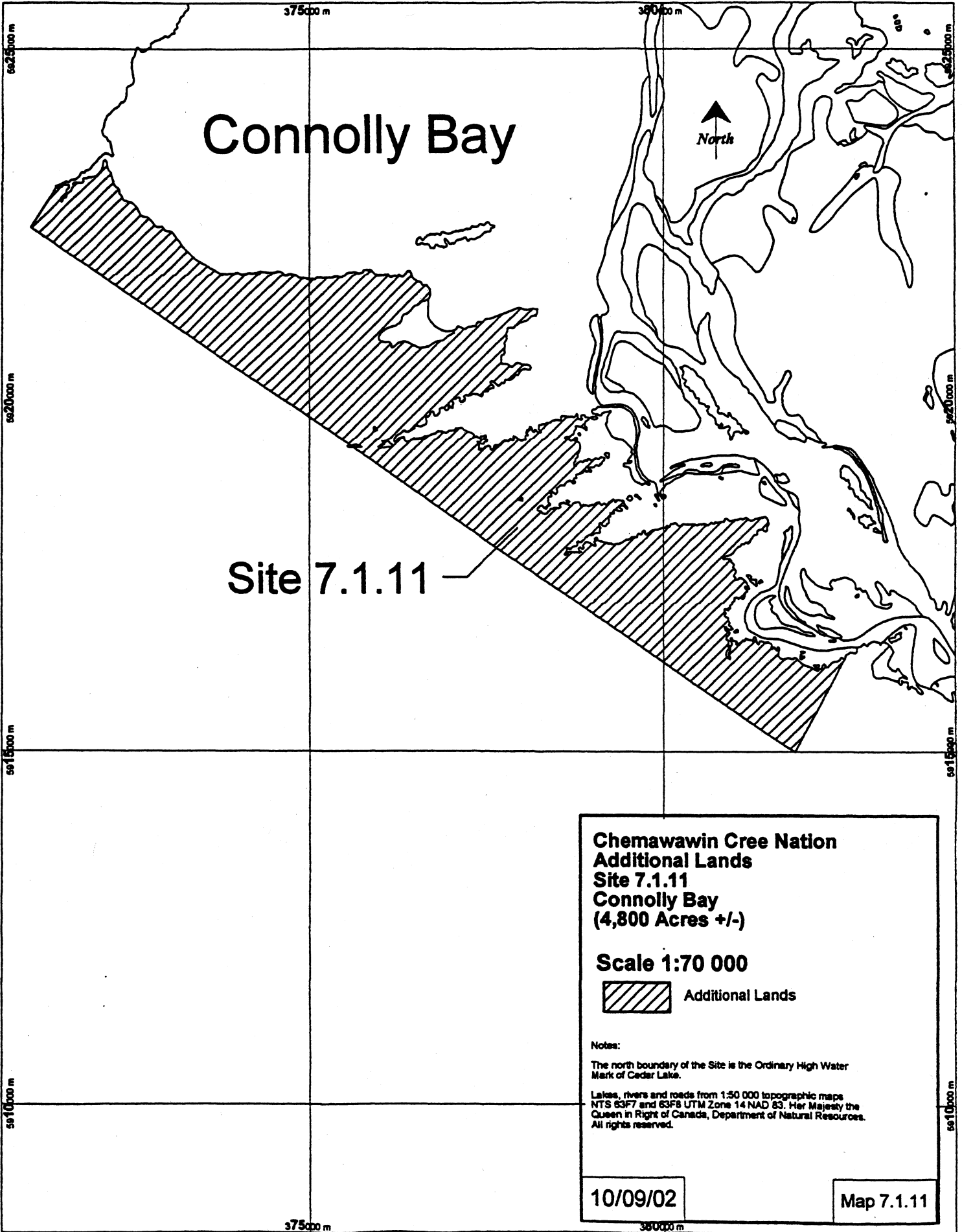
5917000 m

5917000 m










# Connolly Bay

Site 7.1.11

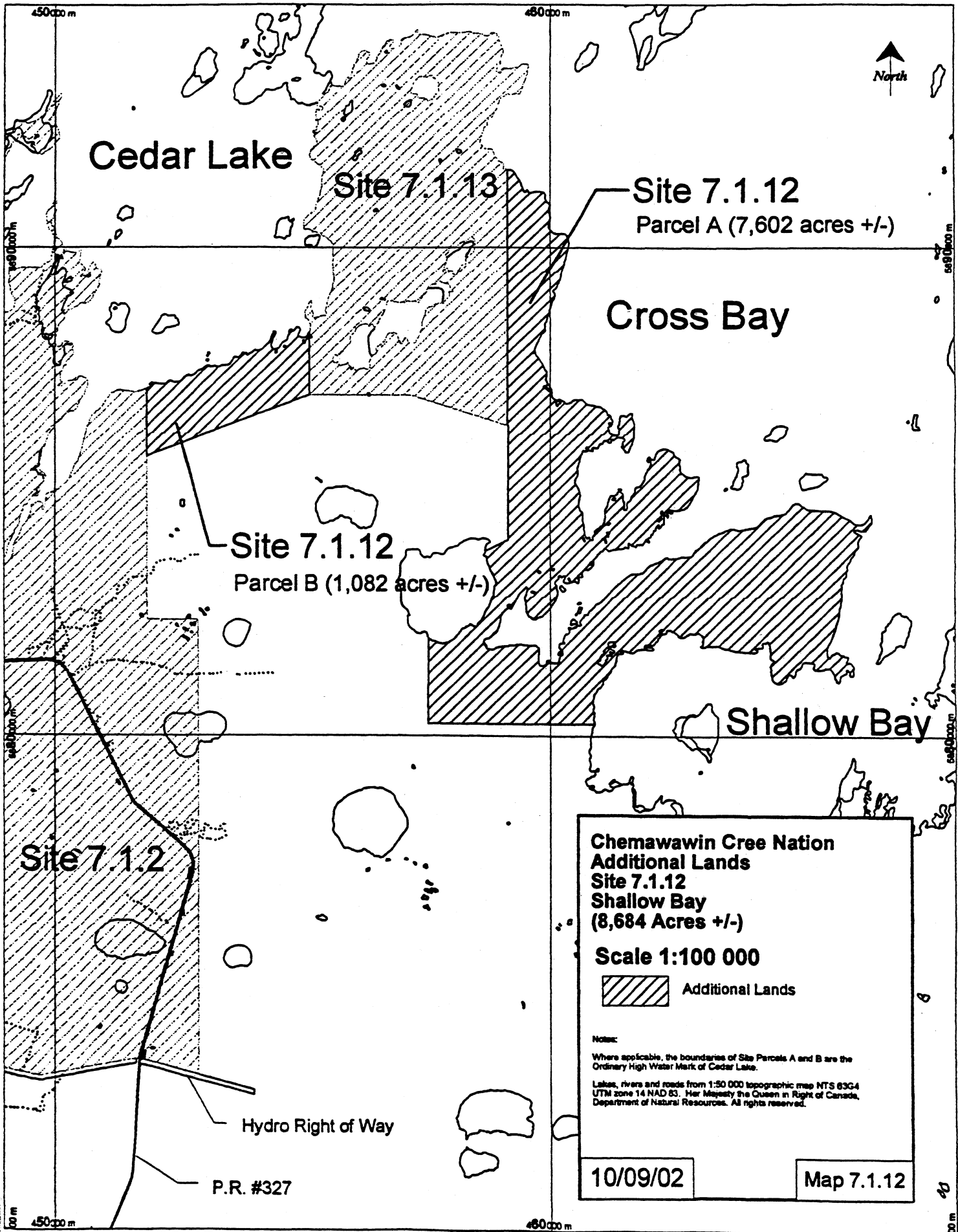
**Chemawawin Cree Nation  
Additional Lands  
Site 7.1.11  
Connolly Bay  
(4,800 Acres +/-)**

**Scale 1:70 000**

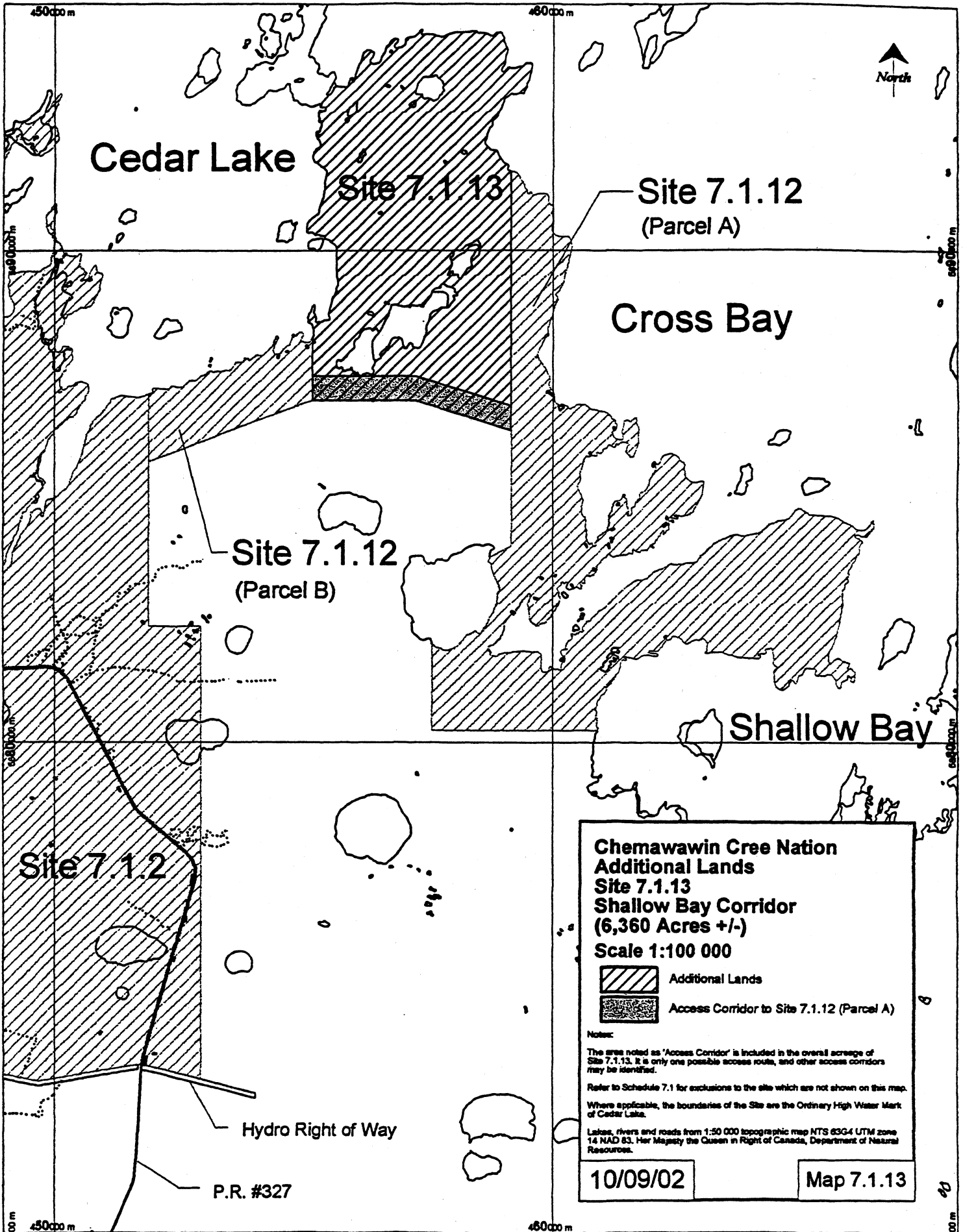
 Additional Lands

**Notes:**  
The north boundary of the Site is the Ordinary High Water Mark of Cedar Lake.  
Lakes, rivers and roads from 1:50 000 topographic maps NTS 63F7 and 63F8 UTM Zone 14 NAD 83. Her Majesty the Queen in Right of Canada, Department of Natural Resources. All rights reserved.

10/09/02 Map 7.1.11







Cedar Lake

Site 7.1.13

Site 7.1.12  
(Parcel A)

Cross Bay

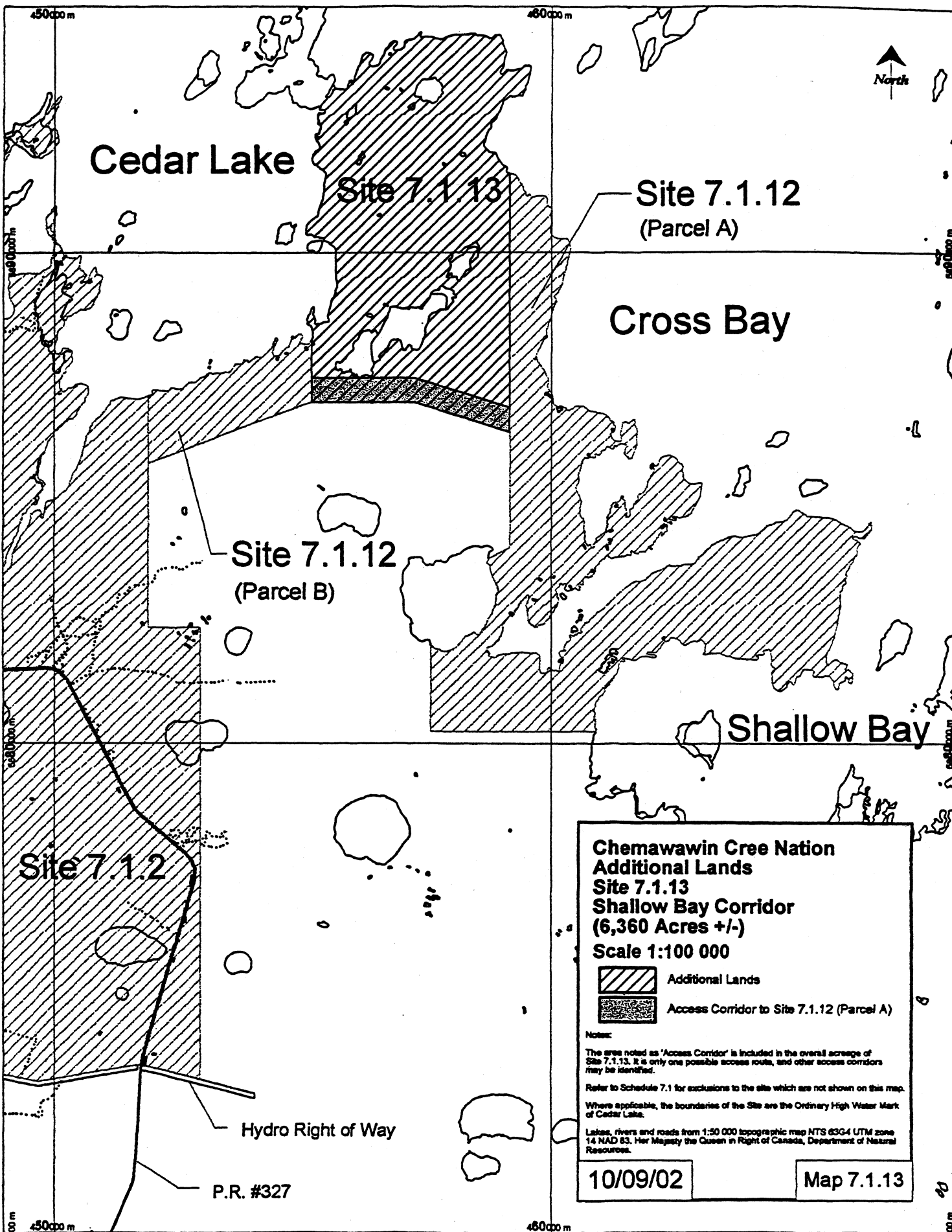
Site 7.1.12  
(Parcel B)

Shallow Bay

Site 7.1.2

Hydro Right of Way

P.R. #327



**SCHEDULE 7.2 – FORM OF COUNCIL RESOLUTION  
(Request for Transfer to Canada – Additional Lands)**

**CHEMAWAWIN CREE NATION**

**COUNCIL RESOLUTION**

---

First Nation:           CHEMAWAWIN CREE NATION

Address:                Box 9  
                              Easterville, Manitoba  
                              R0C 0V0

Date:                    \_\_\_\_\_, 200\_\_

- A.     In 1962, Her Majesty the Queen in right of Manitoba ("Manitoba") and The Manitoba Hydro-Electric Board ("Manitoba Hydro") made certain commitments to the Chemawawin Cree Nation ("Chemawawin") arising from anticipated effects of the development and operation of the Grand Rapids Hydro-Electric Project (the "Project") and the acquisition and use of certain Chemawawin lands for water storage, which commitments were more particularly set out in a letter dated June 7, 1962 sent to Chemawawin by the Grand Rapids Forebay Administration Committee, on behalf of Manitoba and Manitoba Hydro and subsequent arrangements (collectively, the "1962 Arrangements");
- B.     On \_\_\_\_\_, 200\_\_, Chemawawin, Manitoba, and Manitoba Hydro entered into an agreement (the "Comprehensive Forebay Agreement") to resolve the issues between and among those parties in relation to and arising out of the Project and the 1962 Arrangements;
- C.     The Comprehensive Forebay Agreement provides, among other things, that Manitoba will provide to or for the benefit of Chemawawin certain parcels of Crown (Manitoba) land described in Schedule "A" hereto;
- D.     With respect to parcels described in Schedule "A" hereto impacted by the Project, Manitoba Hydro and Manitoba require the limited rights and privileges to regulate the flow of and to inundate and store water on or over portions of such parcels sufficient to accommodate a maximum wind eliminated water level of 842 feet A.S.L. immediately upstream of the Grand Rapids Hydro-Electric Generating Station, and to affect from time to time, such parcels to a level at or about 848 feet A.S.L., for purposes of the Project;
- E.     Chemawawin has agreed that this right be protected by way of an easement (the "Project Easement") in favour of Manitoba Hydro and Manitoba on the terms set out in the Comprehensive Forebay Agreement;
- F.     The Comprehensive Forebay Agreement provides, among other things, that Manitoba will, upon the request of Chemawawin by Council Resolution, and upon receiving certain written assurances from Her Majesty the Queen in right of Canada ("Canada"), transfer

to Canada administration and control of the Crown (Manitoba) lands described in Schedule "A" in order that these parcels be set apart as reserve for the use and benefit of Chemawawin, subject to any required Project Easements; and

- G. Canada has provided written assurances that it will accept administration and control of the parcels, that it will grant, where applicable, a Project Easement to Manitoba and Manitoba Hydro, and that it will set each parcel apart as reserve for Chemawawin subject to a Project Easement, where applicable.

**Therefore, be it resolved that:**

1. Chemawawin hereby requests that Manitoba transfer to Canada administration and control of the Crown (Manitoba) lands described in Schedule "A" to be set apart as reserve subject to any required Project Easements;
2. Chemawawin hereby requests that Manitoba take such further and other steps as may be required to effect the foregoing in accordance with the provisions of the Comprehensive Forebay Agreement, including, without limitation, the completion of legal surveys of the boundaries of the lands; and
3. The Chief of Chemawawin is hereby authorized and directed to deliver a copy of this resolution to Manitoba and to execute all documents and do all things necessary to give effect to this resolution.

**Schedule A**

**Description of Additional Lands**

(insert parcel descriptions from Schedule 7.1.)

**SCHEDULE 7.3 – FORM OF COUNCIL RESOLUTION**  
**(Request for Transfer to Land Corporation – Additional Lands)**

**CHEMAWAWIN CREE NATION**

**COUNCIL RESOLUTION**

---

First Nation: CHEMAWAWIN CREE NATION

Address: Box 9  
Easterville, Manitoba  
R0C 0V0

Date: \_\_\_\_\_, 200\_\_

- A. In 1962, Her Majesty the Queen in right of Manitoba ("Manitoba") and The Manitoba Hydro-Electric Board ("Manitoba Hydro") made certain commitments to the Chemawawin Cree Nation ("Chemawawin") arising from anticipated effects of the development and operation of the Grand Rapids Hydro-Electric Project (the "Project") and the acquisition and use of certain Chemawawin lands for water storage, which commitments were more particularly set out in a letter dated June 7, 1962 sent to Chemawawin by the Grand Rapids Forebay Administration Committee, on behalf of Manitoba and Manitoba Hydro and subsequent arrangements (collectively, the "1962 Arrangements");
- B. On \_\_\_\_\_, 200\_\_, Chemawawin, Manitoba, and Manitoba Hydro entered into an agreement (the "Comprehensive Forebay Agreement") to resolve the issues between and among those parties in relation to and arising out of the Project and the 1962 Arrangements;
- C. The Comprehensive Forebay Agreement provides, among other things, that Manitoba will provide to or for the benefit of Chemawawin certain parcels of Crown (Manitoba) land described in Schedule "A" hereto;
- D. With respect to parcels described in Schedule "A" hereto impacted by the Project, Manitoba Hydro and Manitoba require the limited rights and privileges to regulate the flow of and to inundate and store water on or over portions of such parcels sufficient to accommodate a maximum wind eliminated water level of 842 feet A.S.L. immediately upstream of the Grand Rapids Hydro-Electric Generating Station, and to affect from time to time, such parcels to a level at or about 848 feet A.S.L., for purposes of the Project;
- E. Chemawawin has agreed that this right be protected by way of an easement (the "Project Easement") in favour of Manitoba Hydro and Manitoba on the terms set out in the Comprehensive Forebay Agreement;
- F. Chemawawin has incorporated a company under the name "Chemawawin Land Corporation" (the "Land Corporation") to hold, on behalf of Chemawawin, its interest in those lands to be provided by Manitoba in fee simple title under the Comprehensive Forebay Agreement; and

- G. The Comprehensive Forebay Agreement provides, among other things, that Chemawawin will, upon receipt of the Order in Council attached as Schedule "B", request, by Council Resolution, that Canada accept administration and control of the lands described in Schedule "A", grant, where applicable, a Project Easement on each parcel to Manitoba and Manitoba Hydro and set the lands apart as reserve subject to the Project Easement, where applicable, and that Chemawawin then provide a copy of such Council Resolution to Canada and Manitoba.

**Therefore, be it resolved that:**

1. Chemawawin hereby requests that Canada accept administration and control of the lands described in Schedule "A", which lands have been transferred to Canada pursuant to Manitoba Order in Council No. \_\_\_\_\_ dated \_\_\_\_\_, 200\_, a copy of which is attached hereto as Schedule "B", grant, where applicable, the Project Easements over the lands to Manitoba and Manitoba Hydro and set such lands apart as reserve subject to the Project Easements, where applicable;
2. Chemawawin hereby requests that Canada take such further and other steps as may be required to effect the foregoing; and
3. The Chief of Chemawawin is hereby authorized and directed to deliver a copy of this resolution to Canada and Manitoba and to execute all documents and do all things necessary to give effect to this resolution.

**Schedule A**

**Description of Additional Lands**

(insert parcel descriptions from Schedule 7.1)

**SCHEDULE 7.4 – FORM OF COUNCIL RESOLUTION  
(Confirmation by Chemawawin – Additional Lands)**

**CHEMAWAWIN CREE NATION**

**COUNCIL RESOLUTION**

---

First Nation: CHEMAWAWIN CREE NATION

Address: Box 9  
Easterville, Manitoba  
R0C 0V0

Date: \_\_\_\_\_, 200\_\_

- A. In 1962, Her Majesty the Queen in right of Manitoba ("Manitoba") and The Manitoba Hydro-Electric Board ("Manitoba Hydro") made certain commitments to the Chemawawin Cree Nation ("Chemawawin") arising from anticipated effects of the development and operation of the Grand Rapids Hydro-Electric Project (the "Project") and the acquisition and use of certain Chemawawin lands for water storage, which commitments were more particularly set out in a letter dated June 7, 1962 sent to Chemawawin by the Grand Rapids Forebay Administration Committee, on behalf of Manitoba and Manitoba Hydro and subsequent arrangements (collectively, the "1962 Arrangements");
- B. On \_\_\_\_\_, 200\_\_, Chemawawin, Manitoba, and Manitoba Hydro entered into an agreement (the "Comprehensive Forebay Agreement") to resolve the issues between and among those parties in relation to and arising out of the Project and the 1962 Arrangements;
- C. The Comprehensive Forebay Agreement provides, among other things, that Manitoba is to transfer to Her Majesty the Queen in right of Canada ("Canada") administration and control of the parcels of Crown (Manitoba) lands described in Schedule "A" in order that these parcels be set apart as reserve for the use and benefit of Chemawawin;
- D. With respect to parcels described in Schedule "A" hereto impacted by the Project, Manitoba Hydro and Manitoba require the limited rights and privileges to regulate the flow of and to inundate and store water on or over portions of such parcels sufficient to accommodate a maximum wind eliminated water level of 842 feet A.S.L. immediately upstream of the Grand Rapids Hydro-Electric Generating Station, and to affect from time to time, such parcels to a level at or about 848 feet A.S.L., for purposes of the Project;
- E. Chemawawin has agreed that this right be protected by way of an easement (the "Project Easement") in favour of Manitoba Hydro and Manitoba, as set out in the Comprehensive Forebay Agreement;
- F. The Comprehensive Forebay Agreement provides, among other things, that Manitoba is to complete legal surveys of the boundaries of the lands described in Schedule "A" and provide to Chemawawin plans of the boundaries of each parcel, the legal description of



such parcel and the legal description of any portion of such parcel to be subject to a Project Easement;

- G. Manitoba has completed such surveys and has provided to Chemawawin the plans and legal descriptions referred to in paragraph F; and
- H. The Comprehensive Forebay Agreement provides, among other things, that upon receipt of such plans and legal descriptions, Chemawawin will, by Council Resolution, confirm in relation to each parcel of such lands certain matters as hereinafter specified.

**Therefore, be it resolved that:**

1. Chemawawin hereby confirms in relation to each of the parcels of land described in Schedule "A" hereto, that, as of the date hereof:
  - (a) the parcel is properly described as "Additional Lands" as defined in the Comprehensive Forebay Agreement;
  - (b) no condition, which does not meet acceptable environmental standards as contemplated in the Comprehensive Forebay Agreement has been discovered by Chemawawin in relation to such parcel;
  - (c) the parcel has not been rejected by Chemawawin under section 11.3 of the Comprehensive Forebay Agreement;
  - (d) there has been no fundamental change in respect of the parcel of the nature contemplated in section 11.4 of the Comprehensive Forebay Agreement;
  - (e) any portion of the parcel to be subject to a Project Easement is properly described; and
  - (f) the parcel is accepted by Chemawawin as "Additional Lands", as defined in the Comprehensive Forebay Agreement, subject to any Project Easements required for that parcel; and
2. The Chief of Chemawawin is hereby authorized and directed to deliver a copy of this resolution to Manitoba and to execute all documents and do all things necessary to give effect to this resolution.

## Schedule A

### Legal Description of lands to be transferred

(description will be completed after survey and will include all mines and minerals, both precious and base, rights in Crown timber and all other estates, rights and interests impliedly reserved to the Crown under *The Crown Lands Act* (Manitoba))

**SCHEDULE 7.5 - FORM OF MANITOBA ORDER IN COUNCIL**

**(Transfer of Additional Lands)**

See attached.



No. ....

SCHEDULE 7.5

(FORM OF) ORDER IN COUNCIL

ORDER

1. The administration and control of Crown (Manitoba) lands described in Schedule "A" is transferred to Her Majesty the Queen in right of Canada.
2. The Minister is authorized to execute all documents and to do all things necessary to give effect to this Order.

BACKGROUND

- A. In 1962, Her Majesty the Queen in right of Manitoba ("Manitoba") and The Manitoba Hydro-Electric Board ("Manitoba Hydro") made certain commitments to the Chemawawin Cree Nation ("Chemawawin") arising from anticipated effects of the development and operation of the Grand Rapids Hydro-Electric Project (the "Project"), including the need for acquisition and use of certain Chemawawin lands for water storage, more particularly set out in a letter dated June 7, 1962 sent to Chemawawin by the Grand Rapids Forebay Administration Committee, on behalf of Manitoba and Manitoba Hydro and subsequent arrangements (collectively, the "1962 Arrangements");
- B. On \_\_\_\_\_, 200\_\_, Chemawawin, Manitoba, and Manitoba Hydro entered into an agreement (the "Comprehensive Forebay Agreement") to fully and finally resolve the issues between and among those parties in relation to and arising out of the Project and the 1962 Arrangements;
- C. The Comprehensive Forebay Agreement provides, among other things, that Manitoba is to transfer to Her Majesty the Queen in right of Canada ("Canada") administration and control of the parcels of Crown (Manitoba) lands described in Schedule "A" in order that these parcels be set apart as reserve for Chemawawin;
- D. With respect to parcels described in Schedule "A" herelo impacted by the Project, Manitoba Hydro and Manitoba require the limited rights and privileges to regulate the flow of and to inundate and store water on or over portions of such parcels sufficient to accommodate a maximum wind eliminated water level of 842 feet A.S.L. immediately upstream of the Grand Rapids Hydro-Electric Generating Station, and to affect from time to time, such parcels to a level at or about 848 feet A.S.L., for purposes of the Project;
- E. Chemawawin has agreed that this right be protected by way of an easement (the "Project Easement") in favour of Manitoba Hydro and Manitoba, as set out in the Comprehensive Forebay Agreement; and
- F. Canada has provided written assurances that it will accept administration and control of the parcels, that it will grant, where applicable, a Project Easement to Manitoba Hydro and Manitoba on the same terms and conditions as agreed to between Chemawawin, Manitoba and Manitoba Hydro in the Comprehensive Forebay Agreement, and that it will set each parcel apart as reserve for Chemawawin subject to a Project Easement, where applicable.

\_\_\_\_\_

Initiating Department/Agency

\_\_\_\_\_

Authorized Officer

APPROVED BY:

\_\_\_\_\_

Civil Service Commission

\_\_\_\_\_

Finance

APPROVED AS TO FORM BY:

\_\_\_\_\_

Name

Civil Legal Services or Initials  
Legislative Counsel Office

---

RECOMMENDED:

\_\_\_\_\_

Minister of Conservation  
APPROVED BY EXECUTIVE COUNCIL:

\_\_\_\_\_

Presiding Member

ORDERED:

\_\_\_\_\_

Lieutenant Governor

\_\_\_\_\_

Date



No. ....

**Schedule A**

**Legal Description of Lands to be Transferred**

(description will be completed after survey and will include all mines and minerals, both precious and base, rights in Crown timber and all other estates, rights and interests impliedly reserved to the Crown under *The Crown Lands Act* (Manitoba))

**SCHEDULE 7.6 – FORM OF COUNCIL RESOLUTION  
(Request for Reserve Status – Additional Lands)**

**CHEMAWAWIN CREE NATION**

**COUNCIL RESOLUTION**

---

First Nation: CHEMAWAWIN CREE NATION

Address: Box 9  
Easterville, Manitoba  
R0C 0V0

Date: \_\_\_\_\_, 200\_\_

- A. In 1962, Her Majesty the Queen in right of Manitoba ("Manitoba") and The Manitoba Hydro-Electric Board ("Manitoba Hydro") made certain commitments to the Chemawawin Cree Nation ("Chemawawin") arising from anticipated effects of the development and operation of the Grand Rapids Hydro-Electric Project (the "Project") and the acquisition and use of certain Chemawawin lands for water storage, which commitments were more particularly set out in a letter dated June 7, 1962 sent to Chemawawin by the Grand Rapids Forebay Administration Committee, on behalf of Manitoba and Manitoba Hydro and subsequent arrangements (collectively, the "1962 Arrangements");
- B. On \_\_\_\_\_, 200\_\_, Chemawawin, Manitoba, and Manitoba Hydro entered into an agreement (the "Comprehensive Forebay Agreement") to resolve the issues between and among those parties in relation to and arising out of the Project and the 1962 Arrangements;
- C. The Comprehensive Forebay Agreement provides, among other things, that Manitoba is to transfer to Her Majesty the Queen in right of Canada ("Canada") administration and control of the parcels of Crown (Manitoba) lands described in Schedule "A" in order that these parcels be set apart as reserve for the use and benefit of Chemawawin;
- D. With respect to parcels described in Schedule "A" hereto impacted by the Project, Manitoba Hydro and Manitoba require the limited rights and privileges to regulate the flow of and to inundate and store water on or over portions of such parcels sufficient to accommodate a maximum wind eliminated water level of 842 feet A.S.L. immediately upstream of the Grand Rapids Hydro-Electric Generating Station, and to affect from time to time, such parcels to a level at or about 848 feet A.S.L., for purposes of the Project;
- E. Chemawawin has agreed that this right be protected by way of an easement (the "Project Easement") in favour of Manitoba Hydro and Manitoba, as set out in the Comprehensive Forebay Agreement;
- F. By Manitoba Order in Council No. \_\_\_\_\_, dated \_\_\_\_\_, 200\_\_, a copy of which is attached hereto as Schedule "B", Manitoba has transferred to Canada administration and control of the lands described in Schedule "A"; and

- G. The Comprehensive Forebay Agreement provides, among other things, that Manitoba will, upon the request of Chemawawin by Council Resolution, transfer to the Land Corporation in fee simple the lands described in Schedule "A", subject to any required Project Easement.

**Therefore, be it resolved that:**

1. Chemawawin hereby requests that Manitoba transfer to the Land Corporation fee simple title to the lands described in Schedule "A", subject to any required Project Easements;
2. Chemawawin hereby requests that Manitoba take such further and other steps as may be required to effect the foregoing in accordance with the provisions of the Comprehensive Forebay Agreement, including, without limitation, the completion of legal surveys of the boundaries of the lands; and
3. The Chief of Chemawawin is hereby authorized and directed to deliver a copy of this resolution to Manitoba and to execute all documents and do all things necessary to give effect to this resolution.

## Schedule A

### Legal Description of lands to be transferred

(description will be completed after survey and will include all mines and minerals, both precious and base, rights in Crown timber and all other estates, rights and interests impliedly reserved to the Crown under *The Crown Lands Act* (Manitoba))



**Schedule B**

(attach copy of Manitoba Order in Council)

ARTICLE 8

Permit and Fee Simple Lands

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Schedule 8.4            **Form of Council Resolution (Confirmation by Chemawawin – Permit  
and Fee Simple Lands)**

## ARTICLE 8

### 8.0 PERMIT AND FEE SIMPLE LANDS

#### 8.1 INTRODUCTION

##### 8.1.1 Introduction.

Article 8 provides for the issuance of **Land Use Permits** for parcels of **Permit and Fee Simple Lands** and the transfer of those parcels in fee simple to the **Land Corporation**, where requested by **Chemawawin**.

### 8.2 PERMIT AND FEE SIMPLE LANDS

#### 8.2.1 Identification of Permit and Fee Simple Lands.

The **Permit and Fee Simple Lands** consist of:

- (a) those parcels that have been agreed upon by **Chemawawin** and **Manitoba** and are identified in Schedule 8.1; and
- (b) those parcels which are no longer considered to be **Returned Project Lands** and which are considered to be **Permit and Fee Simple Lands** pursuant to subsection 6.3.5.

#### 8.2.2 Land Bordering Actual Shoreline.

**Manitoba:**

- (a) confirms that **Chemawawin** has the right of free access over the Crown (Manitoba) land situated between the actual water's edge of Cedar Lake and the lower boundary of each parcel of **Permit and Fee Simple Lands**; and
- (b) agrees that no person other than **Hydro**, **Manitoba** or **Chemawawin** can construct on or in any way alter the Crown (Manitoba) land situated between the actual water's edge of Cedar Lake and the lower boundary of each parcel of **Permit and Fee Simple Lands**.

#### 8.2.3 Not Reserve.

The **Permit and Fee Simple Lands** will not, without the written permission of **Manitoba**, be set apart as **Reserve**, or be proposed to be set apart as **Reserve** by **Chemawawin**, and it is

the intention of the Parties that section 36 of the *Indian Act* (Canada) will have no application to the **Permit and Fee Simple Lands**.

### 8.3 LAND USE PERMITS

#### 8.3.1 Issuance of Land Use Permits.

**Manitoba** will issue a **Land Use Permit** to the **Land Corporation** for each parcel of **Permit and Fee Simple Lands**, substantially in the form attached as Schedule 8.2:

- (a) as soon as reasonably practicable following the **Date of this Agreement**, with respect to each parcel of **Permit and Fee Simple Lands** identified in Schedule 8.1; and
- (b) as soon as reasonably practicable following a determination under subsection 6.3.5 that a parcel is no longer considered to be **Returned Project Lands** and is considered to be **Permit and Fee Simple Lands**, with respect to each parcel referred to in paragraph 8.2.1(b).

#### 8.3.2 Waiver of Fees and Charges.

**Manitoba** will waive any fees or charges for the issuance and renewal of **Land Use Permits** under Article 8.

### 8.4 SURVEY OF EASEMENT LINES AND PARCELS

#### 8.4.1 Request for Survey of Easement Line.

Where, prior to a request for transfer of a parcel of **Permit and Fee Simple Lands** pursuant to subsection 8.4.4, **Chemawawin** proposes developing that parcel, **Chemawawin** may request in writing that **Manitoba** determine the **Easement Line** for that parcel in accordance with Article 10.

#### 8.4.2 Field Survey of Easement Line.

Upon receipt of a request under subsection 8.4.1, **Manitoba** will:

- (a) determine whether the proposed development is in an area of the parcel adjacent to an **Easement Line** determined in accordance with Article 10; and
- (b) where **Manitoba** has determined that the proposed development is in an area of the parcel adjacent to an **Easement Line**, **Manitoba** will, subject to subsection

8.4.3, cause the **Easement Line** to be demarcated on the land by field survey methods within twelve (12) months of a request by **Chemawawin** pursuant to subsection 8.4.1.

8.4.3 Delay in Surveying.

Where the field survey referred to in subsection 8.4.2 is delayed due to:

- (a) weather or other conditions outside the control of **Manitoba**;
- (b) a change in survey instructions under subsection 10.3.6; or
- (c) any dispute which may arise in relation to a proposed change in survey instructions for a parcel;

**Manitoba** will cause the **Easement Line** to be demarcated on the land by field survey methods as soon thereafter as may be reasonably practicable.

8.4.4 Request for Transfer in Fee Simple.

**Chemawawin** may, by **Council Resolution** substantially in the form attached as Schedule 8.3, request that any parcel of the **Permit and Fee Simple Lands** be transferred to the **Land Corporation** in fee simple.

8.4.5 Surveys.

Upon the receipt of a request under subsection 8.4.4, **Manitoba** will:

- (a) provide for the determination of any required **Easement Lines**, in which case Article 10 will apply with necessary modifications;
- (b) advise **Chemawawin** and the **Directors** of the date on which legal surveys of the boundaries of the relevant parcel of the **Permit and Fee Simple Lands** will commence; and
- (c) cause legal surveys of the boundaries of the relevant parcel of **Permit and Fee Simple Lands** to be completed based on the survey instructions set out in Schedule 10.1 within such reasonable time period as may be determined, taking into account the then current volume of survey work being done by **Manitoba** and whether **Chemawawin** has proposed developing the parcel.

#### 8.4.6 Water Boundary of Parcels.

The water boundary of a parcel of **Permit Fee and Simple Lands** will be the **Ordinary High Water Mark** as it prevails after the **Project**, subject to subsections 8.4.7 and 8.4.8.

#### 8.4.7 Water Boundary of Lands subject to Project Easement.

Where the parcel of **Permit and Fee Simple Lands** is adjacent to a water body that is affected by the **Project**, the parcel will be subject to a **Project Easement** in accordance with Article 10.

#### 8.4.8 Water Boundary of Lands not subject to Project Easement.

Where the parcel is not adjacent to a water body that is affected by the **Project**, the parcel will be subject to the condition that neither **Manitoba** nor **Hydro** will be liable for the effects of raising or lowering water levels adjacent to that parcel, and section 13.1 of *The Crown Lands Act* (Manitoba) will apply with necessary modifications.

#### 8.4.9 Non-Application to Parcels Determined to be entirely below Easement Line.

Sections 8.4, 8.5 and 8.6 (with the exception of subsection 8.6.3, which will apply) will not apply to the **Permit and Fee Simple Lands** referred to in paragraph 8.2.1(b).

### 8.5 TRANSFER IN FEE SIMPLE

#### 8.5.1 Registration of Transfer of Title.

Subject to subsections 8.5.2 and 8.5.3, upon:

- (a) completion of the legal survey of the relevant parcel of **Permit and Fee Simple Lands**; and
- (b) confirmation by **Chemawawin**, by **Council Resolution** substantially in the form attached as Schedule 8.4, that such parcel is the parcel to be transferred pursuant to this **Agreement**;

**Manitoba** will register, in the appropriate Land Titles Office, a transfer to the **Land Corporation** of fee simple title in relation to that parcel.

#### 8.5.2 Reservations to Manitoba.

**Manitoba** will reserve out of each parcel of **Permit and Fee Simple Lands** those reservations contained in clauses 4(1)(b), (c), (d), (e) and (f) of *The Crown Lands Act*

(Manitoba). The reservation contained in clause 4(1)(a) of *The Crown Lands Act* (Manitoba) will not be reserved to **Manitoba**.

### 8.5.3 Project Easement for Sites 8.1.5 and 8.1.7.

Without limiting the application of subsection 8.4.7, titles for the parcels described as Site 8.1.5 E. Mossy Portage at Cedar Lake and Site 8.1.7 Saskatchewan River Delta, which parcels are depicted on Map 8.1.5 and Map 8.1.7, respectively, will be subject to **Project Easements**. The transfer of fee simple title to such parcels by **Manitoba** to the **Land Corporation** pursuant to subsection 8.5.1 will not be registered until the **Land Corporation** has executed and delivered the **Project Easement Agreements** in the form set out in Schedule 10.3. Caveats with respect to the **Project Easement Agreements** will be registered by **Manitoba** in series with the transfers of the parcels.

## 8.6 GENERAL CONDITIONS

### 8.6.1 Costs of Surveys and Transfers.

Subject to subsection 8.6.2, **Manitoba** will complete all surveys, transfers and registrations of title for each parcel of **Permit and Fee Simple Lands** that is to be transferred in fee simple to the **Land Corporation** under this **Agreement**, at no cost to **Chemawawin** or the **Land Corporation**, and **Manitoba** will pay any land transfer tax which may otherwise be payable.

### 8.6.2 Costs Chargeable.

Should the **Land Corporation** decline to accept fee simple title of any parcel of **Permit and Fee Simple Lands** after the commencement of the legal survey for such parcel, the cost of the survey and registration of title, if incurred, plus other reasonable costs, will be paid by **Chemawawin** to **Manitoba** on demand.

### 8.6.3 Relief from Assessment and Taxation.

If the **Permit and Fee Simple Lands**, including any buildings or improvements on the land, are, or become, subject to assessment and taxation by **Manitoba** or entities which derive their taxing authority under a law of Manitoba, **Manitoba** will:

- (a) take any steps within its control in order to exempt such lands from assessment and taxation;

- (b) provide for a remission order in respect of such taxes; or
- (c) provide a grant equal to the amount of such taxes.

#### 8.6.4 Expropriation.

If any portion of the **Permit and Fee Simple Lands** held by or under the control of **Chemawawin** is expropriated under the legislative authority of **Manitoba**, **Manitoba** will provide due compensation to the **Land Corporation** in accordance with *The Expropriation Act* (Manitoba).

#### 8.6.5 Replacement Land.

As all or part of the compensation for an expropriation referred to in subsection 8.6.4, the **Land Corporation** may elect to receive replacement land in accordance with subsection 8.6.6.

#### 8.6.6 Identification of Replacement Land.

Where the **Land Corporation** elects to receive replacement land under subsection 8.6.5:

- (a) **Manitoba** and **Chemawawin** will negotiate to identify replacement land from unoccupied and unencumbered Crown (Manitoba) land within the **Cedar Lake Resource Management Area**;
- (b) **Manitoba** will transfer an agreed interest in the replacement land to the **Land Corporation**; and
- (c) the expropriation may proceed notwithstanding that **Manitoba** and **Chemawawin** have not reached an agreement on the identification of replacement land.

#### 8.6.7 Permits to Third Parties.

Subject to Article 13, nothing in Article 8 affects the right of any person to acquire, or the right of **Manitoba** to issue, land use permits to third parties for any lands within the **Cedar Lake Resource Management Area** which have not been selected as **Additional Lands** or **Permit and Fee Simple Lands**.



## SCHEDULE 8.1 – PERMIT AND FEE SIMPLE LANDS

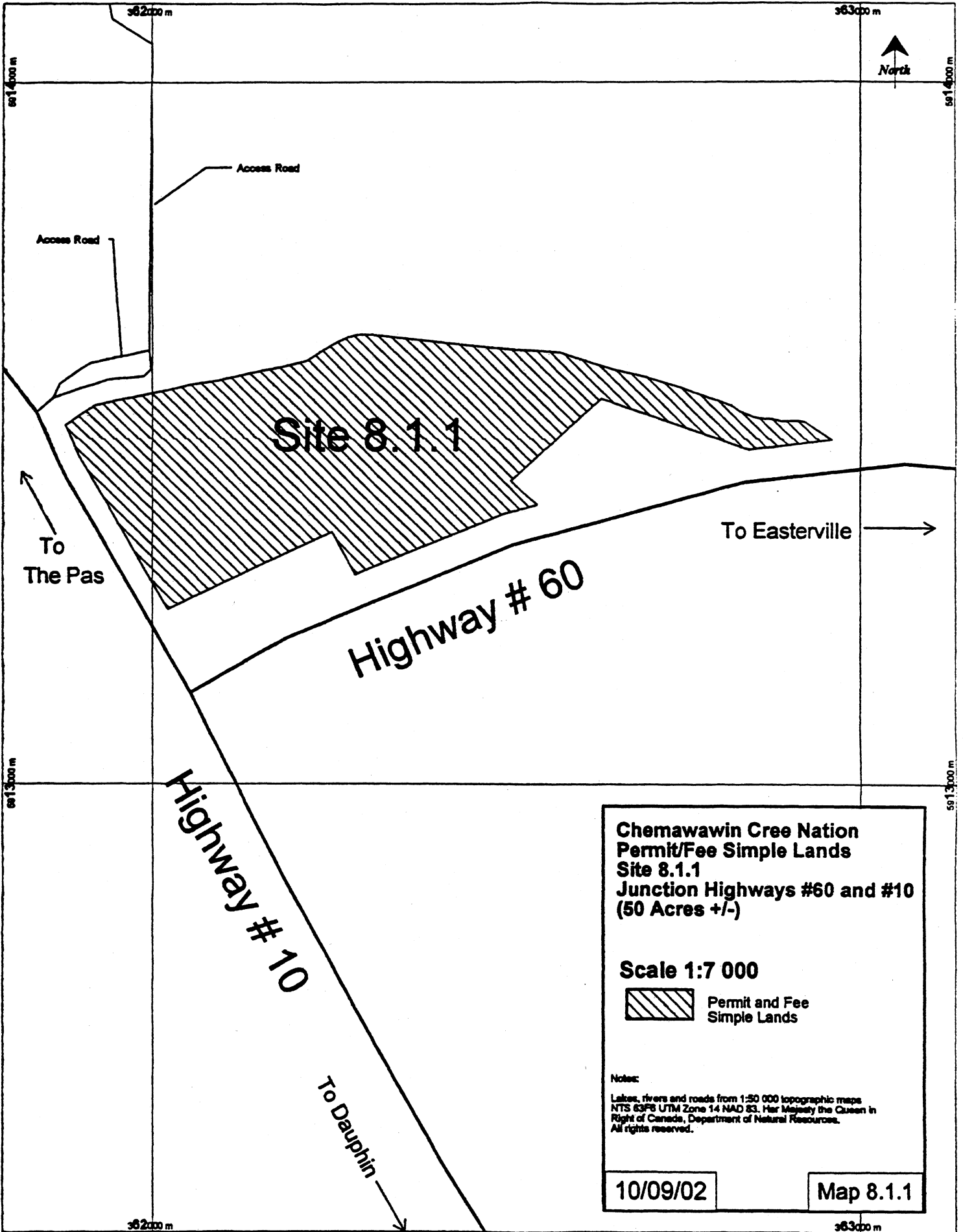
<u>Site</u>	<u>Location</u>	<u>Area</u>
Site 8.1.1	Jct. Hwys #60 and #10	50 acres +/-
Site 8.1.2	Jct. Hwys #60 and #6	50 acres +/-
Site 8.1.3	Oscar Point	200 acres +/-
Site 8.1.4	E. Mossy Portage at Lake Winnipegosis	150 acres +/-
Site 8.1.5	E. Mossy Portage at Cedar Lake	150 acres +/-
Site 8.1.6	Norris Lake	100 acres +/-
Site 8.1.7	Saskatchewan River Delta	241 acres +/-

In the event that a legal survey for a parcel of **Returned Project Lands** determines that the parcel is entirely below the **Easement Line** and the parcel is not adjacent to any parcel that is **Reserve** or is intended to become **Reserve** under this **Agreement**, under subsection 6.3.5 that parcel will no longer be considered to be **Returned Project Lands** and will be considered to be **Permit and Fee Simple Lands** but, under subsection 8.4.9, the parcel will not be eligible for transfer in fee simple.

Exclusions – Sites 8.1.1, 8.1.2, 8.1.3 and 8.1.4


For public purposes – Rights-of-Way for Highways 6, 10 and 60 to be widened to a total width of 140 metres (459.32 feet) centered on the centre line of the highway.

For public purposes – Corridors required to accommodate existing Hydro transmission lines as shown on Plan Numbers 2368, 5354, 6323 and 6681 PLTO.



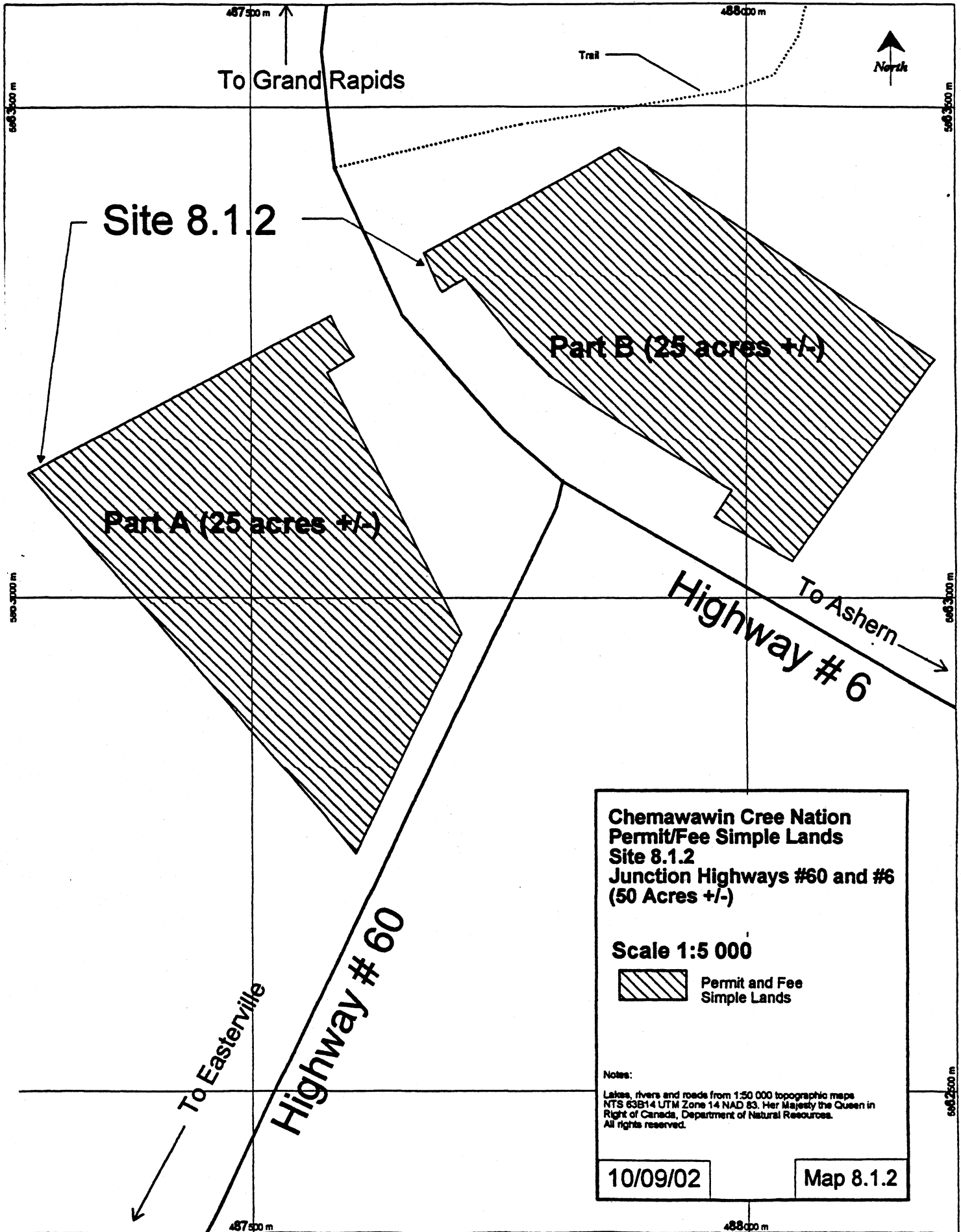
**Chemawawin Cree Nation  
Permit/Fee Simple Lands  
Site 8.1.1  
Junction Highways #60 and #10  
(50 Acres +/-)**

**Scale 1:7 000**

 Permit and Fee Simple Lands


**Notes:**  
Lakes, rivers and roads from 1:50 000 topographic maps  
NTS 63F6 UTM Zone 14 NAD 83, Her Majesty the Queen in  
Right of Canada, Department of Natural Resources.  
All rights reserved.

10/09/02 Map 8.1.1



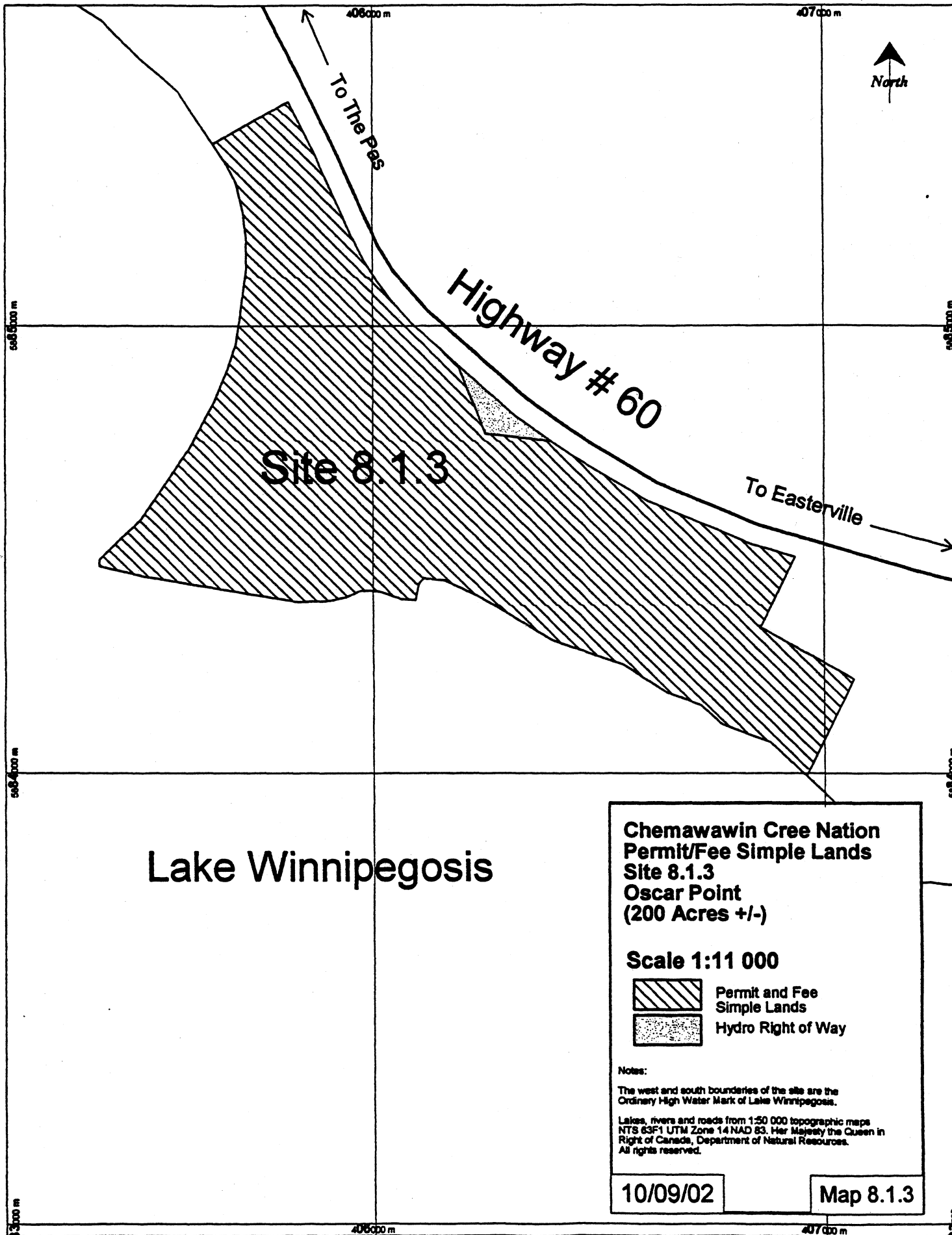
**Chemawawin Cree Nation  
Permit/Fee Simple Lands  
Site 8.1.2  
Junction Highways #60 and #6  
(50 Acres +/-)**

**Scale 1:5 000**

 Permit and Fee Simple Lands

**Notes:**  
Lakes, rivers and roads from 1:50 000 topographic maps  
NTS 63B14 UTM Zone 14 NAD 83. Her Majesty the Queen in  
Right of Canada, Department of Natural Resources.  
All rights reserved.



10/09/02      Map 8.1.2



Lake Winnipegosis

**Chemawawin Cree Nation  
Permit/Fee Simple Lands  
Site 8.1.3  
Oscar Point  
(200 Acres +/-)**

**Scale 1:11 000**

-  Permit and Fee Simple Lands
-  Hydro Right of Way

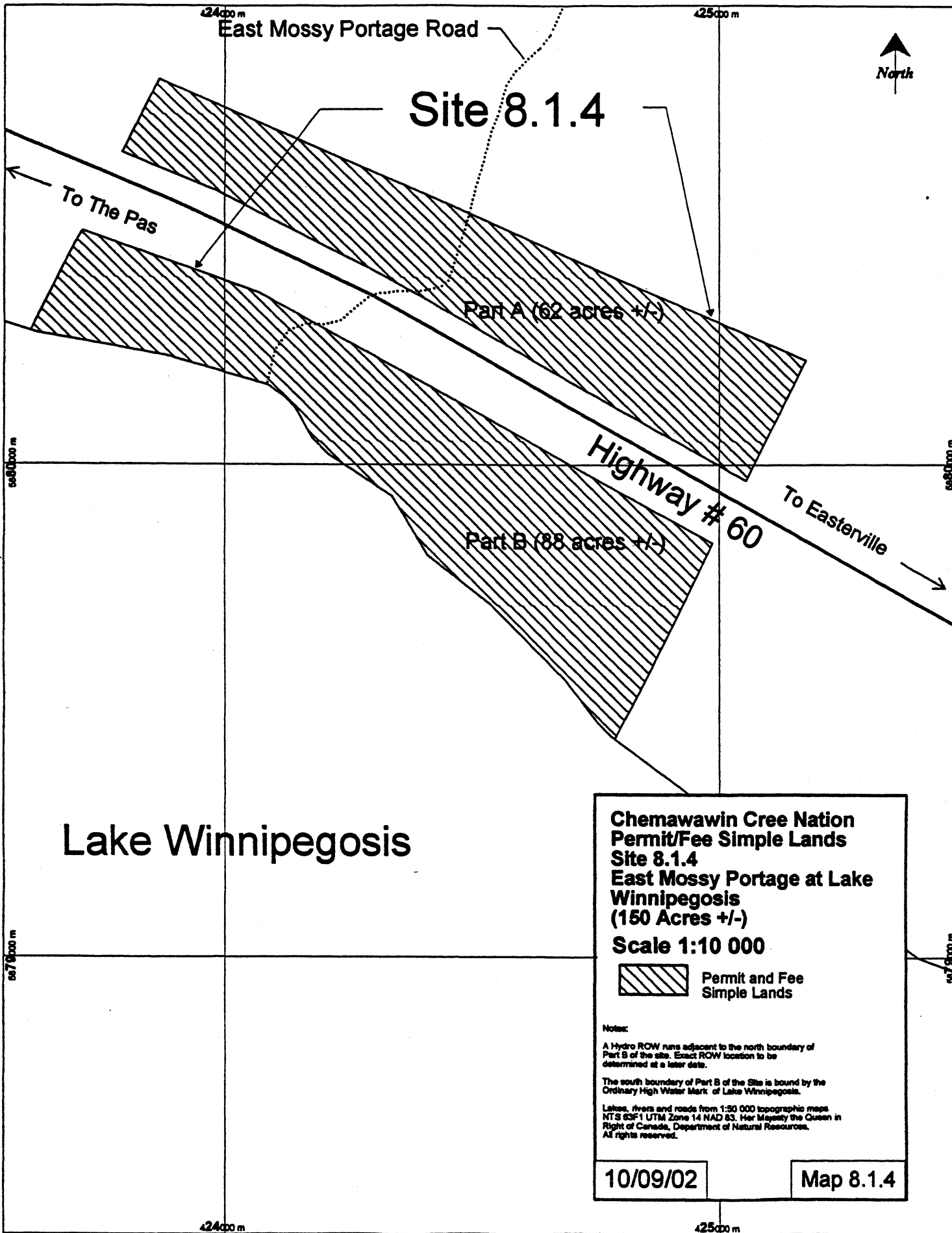
**Notes:**

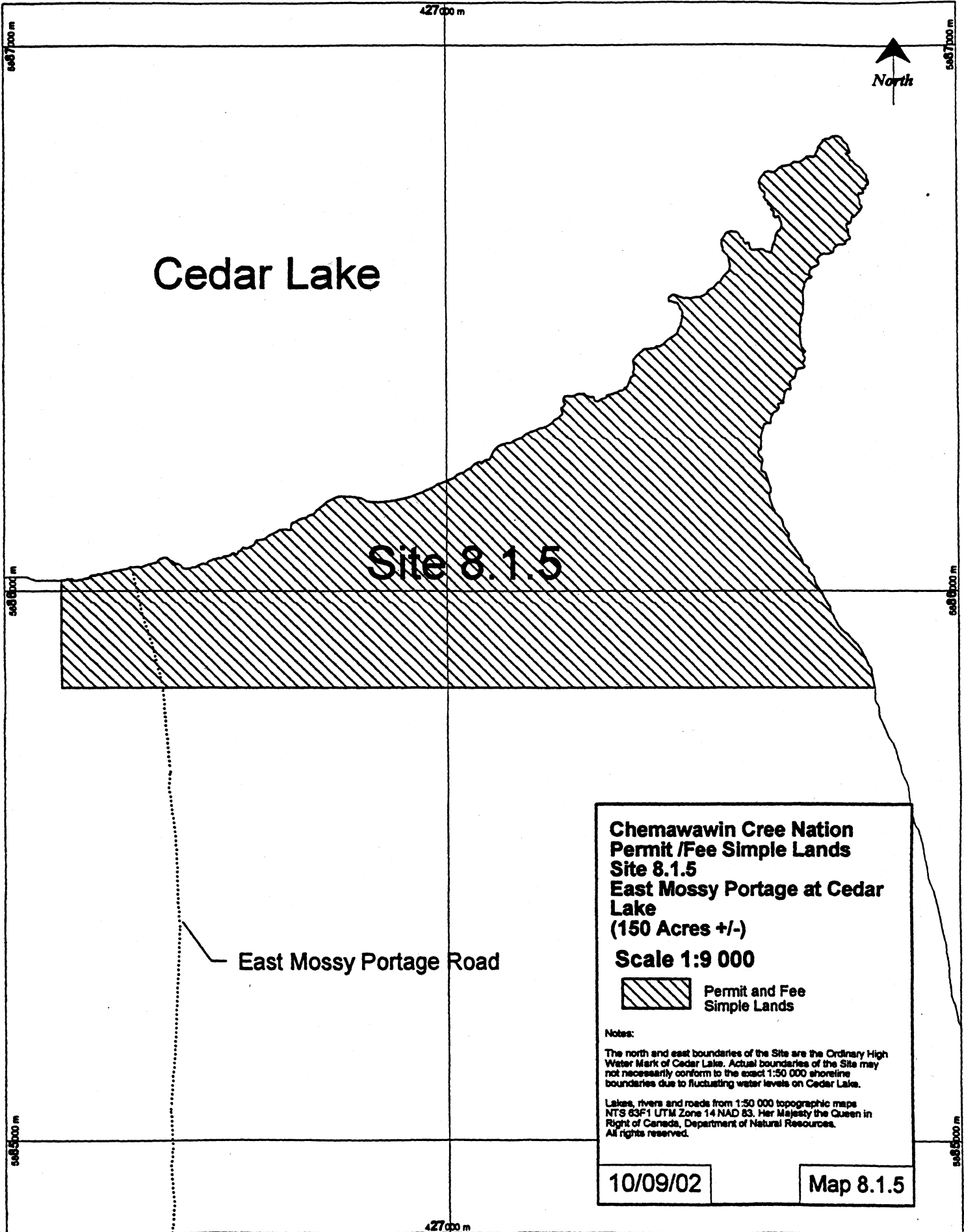
The west and south boundaries of the site are the Ordinary High Water Mark of Lake Winnipegosis.

Lakes, rivers and roads from 1:50 000 topographic maps NTS 63F1 UTM Zone 14 NAD 83. Her Majesty the Queen in Right of Canada, Department of Natural Resources. All rights reserved.

10/09/02

Map 8.1.3





Cedar Lake

Site 8.1.5

East Mossy Portage Road

**Chemawawin Cree Nation  
Permit /Fee Simple Lands  
Site 8.1.5  
East Mossy Portage at Cedar  
Lake  
(150 Acres +/-)**

**Scale 1:9 000**

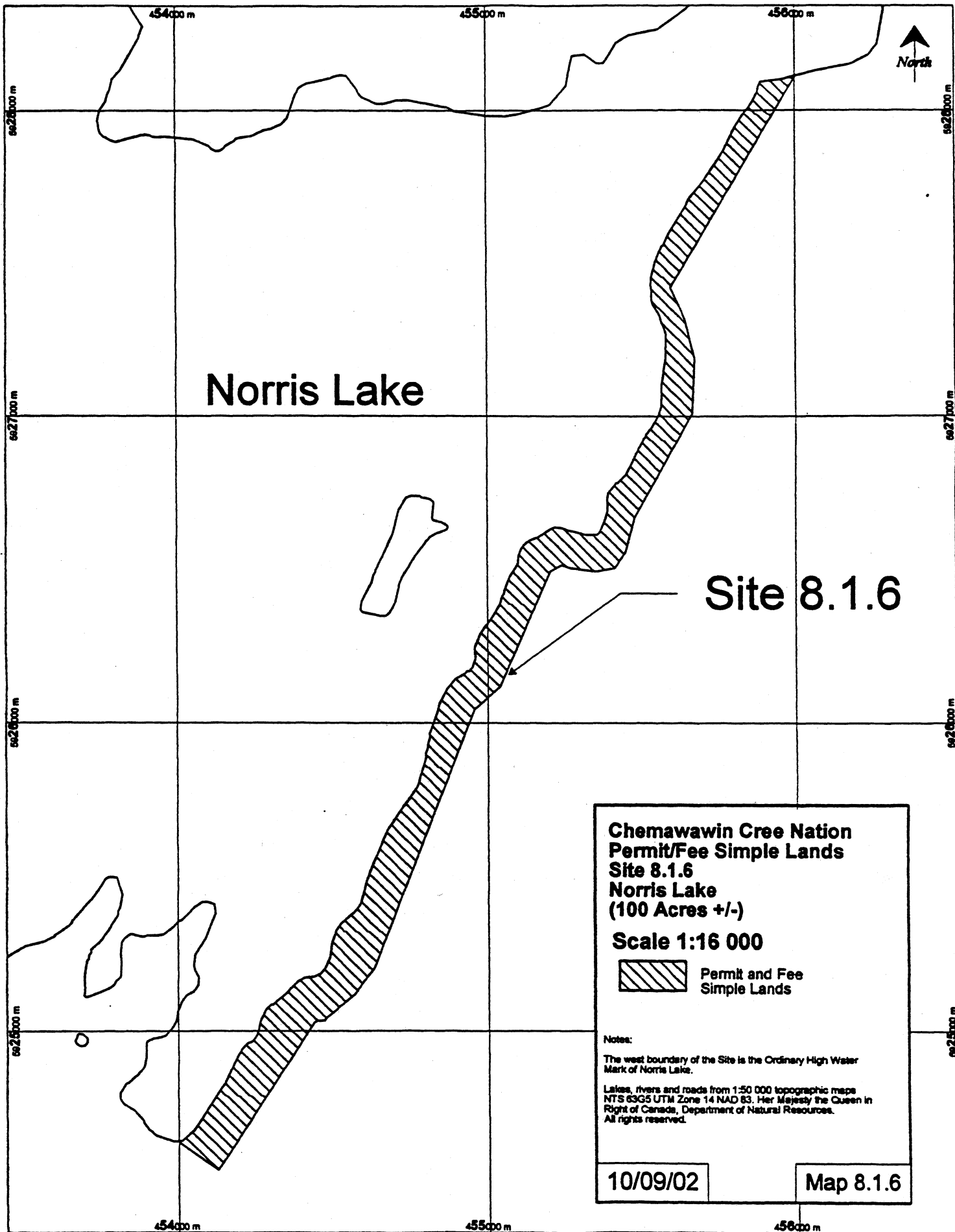
 Permit and Fee Simple Lands

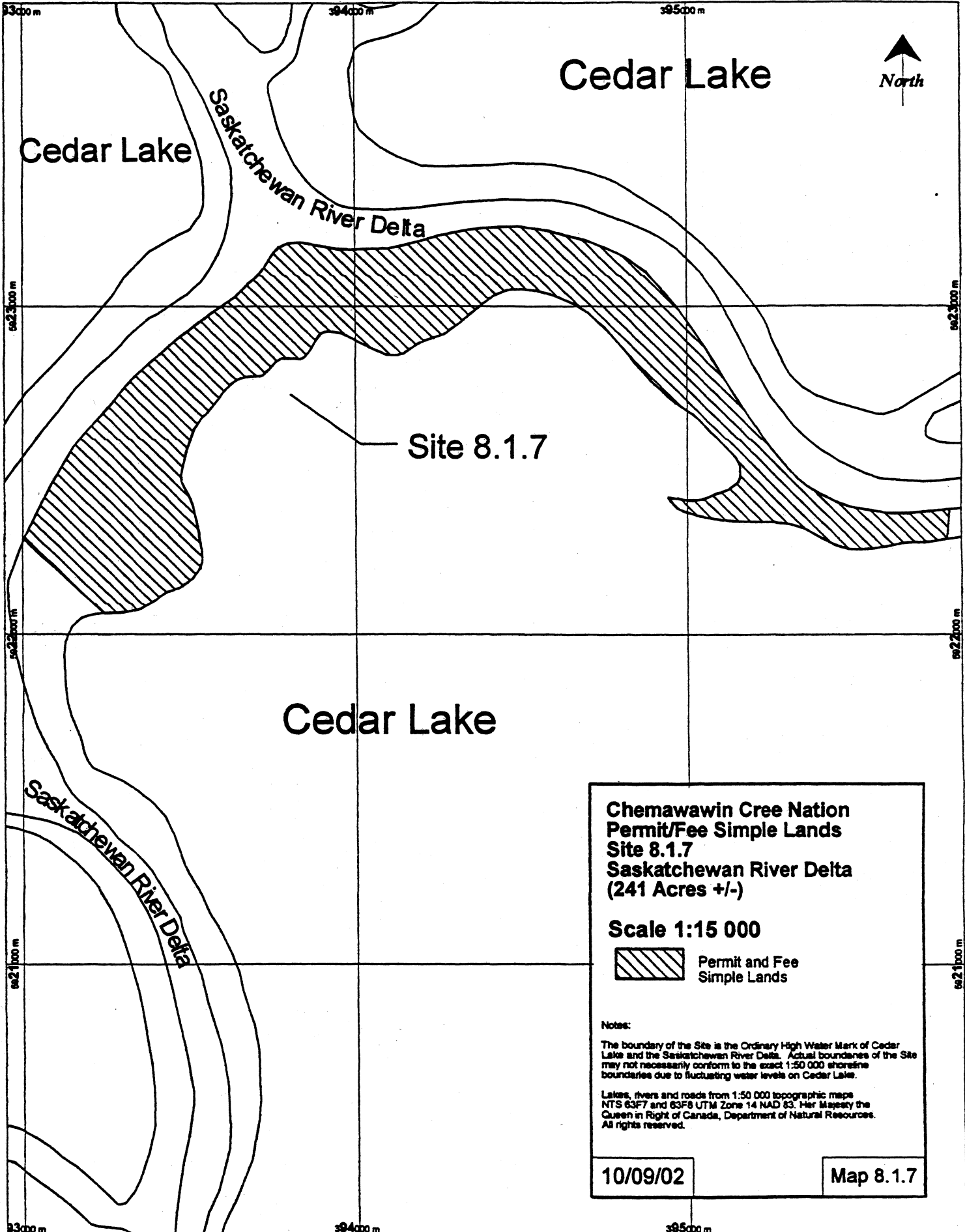
**Notes:**  
The north and east boundaries of the Site are the Ordinary High Water Mark of Cedar Lake. Actual boundaries of the Site may not necessarily conform to the exact 1:50 000 shoreline boundaries due to fluctuating water levels on Cedar Lake.

Lakes, rivers and roads from 1:50 000 topographic maps NTS 63F1 UTM Zone 14 NAD 83. Her Majesty the Queen in Right of Canada, Department of Natural Resources. All rights reserved.

10/09/02

Map 8.1.5





Cedar Lake



Cedar Lake

Saskatchewan River Delta


Site 8.1.7

Cedar Lake

Saskatchewan River Delta

**Chemawawin Cree Nation  
Permit/Fee Simple Lands  
Site 8.1.7  
Saskatchewan River Delta  
(241 Acres +/-)**

**Scale 1:15 000**

 Permit and Fee Simple Lands

**Notes:**  
The boundary of the Site is the Ordinary High Water Mark of Cedar Lake and the Saskatchewan River Delta. Actual boundaries of the Site may not necessarily conform to the exact 1:50 000 shoreline boundaries due to fluctuating water levels on Cedar Lake.

Lakes, rivers and roads from 1:50 000 topographic maps NTS 63F7 and 63F8 UTM Zone 14 NAD 83. Her Majesty the Queen in Right of Canada, Department of Natural Resources. All rights reserved.

10/09/02 Map 8.1.7



**SCHEDULE 8.2 – FORM OF LAND USE PERMIT**

Permit No. \_\_\_\_\_

This Crown Land Use Permit issued pursuant to clause 7(1)(b) of *The Crown Lands Act*, C.C.S.M. c. C340 as of the \*\*\* day of \*\*\*, 200\*.

**BETWEEN:**

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF MANITOBA  
as represented by The Minister of Conservation,  
(called "Manitoba"),

OF THE FIRST PART,

- and -

CHEMAWAWIN LAND CORPORATION  
(called the "Land Corporation"),

OF THE SECOND PART.

**WHEREAS:**

1. On the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, Chemawawin Cree Nation ("Chemawawin"), Manitoba and The Manitoba Hydro-Electric Board ("Hydro") entered into an agreement (the "Comprehensive Forebay Agreement"); and
2. Chemawawin incorporated the Land Corporation to hold interests in lands provided by Manitoba pursuant to the Comprehensive Forebay Agreement, for the benefit of Chemawawin.

NOW THEREFORE, Manitoba issues this Crown Land Use Permit ("Permit") to the Land Corporation in accordance with Article 8 of the Comprehensive Forebay Agreement, on the terms and conditions set out in this Permit:

**SECTION 1.00 – DEFINITIONS AND STATUTORY REFERENCES**

- 1.01 The following Acts are referred to in this Permit, and when described by the title set out in this subsection, they shall be interpreted to mean the Act including all regulations made in accordance with that Act and any amendment, reenactment or replacement from time to time of that Act:

*The Buildings and Mobile Homes Act*, C.C.S.M. c. B93  
*The Crown Lands Act*, C.C.S.M. c. C340  
*The Forest Act*, C.C.S.M. c. F150  
*The Highways and Transportation Act*, C.C.S.M. c. H40  
*The Highways Protection Act*, C.C.S.M. c. H50  
*The Mines and Minerals Act*, C.C.S.M. c. M162

*Constitution Act, 1982*, being Schedule B to the *Canada Act, 1982 (U.K.)*, 1982, c. 11.

## SECTION 2.00 – PERMIT LAND

2.01 The Permit Land consists of the Manitoba Crown land identified on the Map attached as Schedule "A" located within Section \_\_\_\_\_, Township \_\_\_\_\_, Range \_\_\_\_\_, without reserving to the Crown a strip of land one and one-half chains (99 feet) in width from the ordinary high water mark as ordinarily reserved to the Crown under clause 4(1)(a) of *The Crown Lands Act*, but reserving to the Crown all other reservations contained in subsection 4(1) of *The Crown Lands Act*.

## SECTION 3.00 – RIGHT OF EXCLUSIVE USE

3.01 Manitoba hereby provides to the Land Corporation the exclusive right to use and occupy the Permit Land free and clear of all encumbrances, reservations, caveats, estates, rights and interests, in favour of any person, subject to:

- a. the other interests set out in section 4.00; and
- b. the conditions set out in section 5.00.

3.02 No person, other than a Member of Chemawawin or person authorized by Chemawawin may use, occupy or otherwise enter onto the Permit Land, except as provided in this Permit.

## SECTION 4.00 – OTHER EXISTING INTERESTS

4.01 The exclusive right to use and occupy the Permit Land set out in section 3.00 is provided by Manitoba to the Land Corporation subject to the following existing third party interests:

*Include a description of all third party interests, including any mining interests. Insert "NIL" if no third party interests are identified in the Comprehensive Forebay Agreement.*

### ***[Include subsections 4.02, 4.03 and 4.04 for Permit Land on Developed Waterway]***

4.02 The exclusive right to use and occupy the Permit Land set out in section 3.00 is provided by Manitoba to the Land Corporation, subject to the requirement of *The Water Power Act* and the right and privilege of Manitoba and Hydro in perpetuity, without charge or cost of any kind whatsoever, to Manitoba or Hydro, to regulate the flow of, and to inundate and store water on or over, and to affect from time to time, the Permit Land consistent with Hydro's operation of the Grand Rapids Hydro-Electric Generating Station at an elevation not to exceed 842 feet A.S.L. measured immediately upstream of the Grand Rapids Hydro-Electric Generating Station, without obstruction, hindrance, molestation or interruption on the part of the Land Corporation or any person claiming by, through or under the Land Corporation.

- 4.03 The Land Corporation may provide notice in writing to Manitoba requesting that Manitoba identify elevation and set back requirements for development or construction on the Permit Land.
- 4.04 Manitoba will, as soon as practicable after receiving notice under subsection 4.03, and after consultation with Hydro, advise the Land Corporation in writing of the elevation and set back requirements for development and construction, with those requirements designed to take into account the effects of flooding, wind setup, wave uprush, erosion and ice conditions.

## SECTION 5.00 - CONDITIONS

- 5.01 The exclusive right to use and occupy the Permit Land set out in section 3.00 is provided by Manitoba to the Land Corporation, subject to the following conditions:
- a. **Compliance with Laws** – The Land Corporation shall, at its own expense, promptly observe, perform, execute and comply with all municipal, provincial or federal laws, orders and regulations that have application to the Land Corporation and the Permit Land, and without limiting the generality of the foregoing:
    - i. **Construction** – Any structure constructed on the Permit Land by the Land Corporation shall be constructed in accordance with The Manitoba Building Code established pursuant to *The Buildings and Mobile Homes Act*, applicable municipal by-laws and regulations,
    - ii. **Highway Protection** – The Land Corporation shall not erect, build, or place or cause to be erected, built or placed, a structure or fixture on, under, or above the surface of the ground, within 125 feet of a departmental road outside a city, town or village or such further distance as determined by The Highway Traffic Board in accordance with *The Highways Protection Act*, or plant or place or cause to be planted or placed, any tree, shrub or hedge upon or within 50 feet of a departmental road outside a city, town, village or unincorporated village district, in accordance with *The Highways and Transportation Act*,
    - iii. **Environmental Laws** – The Land Corporation shall comply with all laws and guidelines respecting environmental matters, and in the event that the Land Corporation contributes to any detrimental biophysical environmental change to the Permit Land, contrary to such laws or guidelines, the Land Corporation will remedy such damage, at its own expense,
    - iv. **Timber** – The Land Corporation shall not cut or remove timber from the Permit Land without a licence or permit from the Forestry Branch of Manitoba pursuant to *The Forest Act*, and
    - v. **Sand and Gravel** – The Land Corporation shall not remove, explore for, mine or produce quarry minerals, including sand, gravel and clay from the Permit Land without obtaining a quarry permit or quarry lease from the Director of Mines for Manitoba pursuant to *The Mines and Minerals Act*;

- b. **Other Natural Resources** - The Land Corporation shall not remove soil or any other natural resources from the Permit Land without the prior written permission of Manitoba;
- c. **Waste** – The Land Corporation shall not commit or permit the commission of any voluntary waste, spoilage or destruction, nor dump any rubbish or any other matter of an offensive nature anywhere on the Permit Land, except in a designated dump area or as directed by Manitoba;
- d. **Access to Permit Land** – Manitoba and any employee, officer or agent of Manitoba, including the Royal Canadian Mounted Police, shall be entitled to enter onto the Permit Land as required to enforce the conditions of this Permit and municipal, provincial or federal laws, orders and regulations;
- e. **Control Survey Monuments** – The Land Corporation will ensure that all legal or control survey monuments are protected and not disturbed, damaged or destroyed, and will replace, at its expense, any monuments that are disturbed, damaged or destroyed, by a duly qualified Land Surveyor, to the satisfaction of Canada, and shall not interfere with the survey work conducted by Canada;
- f. **Indemnification** – The Land Corporation shall at all times save harmless and indemnify and keep Manitoba indemnified against and be responsible for all claims, demands, actions, suits and other legal proceedings brought against Manitoba by reason or arising out of:
  - i. any exercise by the Land Corporation of its rights pursuant to this Permit, including any use of and development on the Permit Land, or
  - ii. any act or omission on the part of the Land Corporation in respect of or in relation to the carrying on of any activities permitted by this Permit;
- g. **Liability in Respect of Mining Operations** – Manitoba shall not be liable in any way for injury or damage that is caused to the surface of the Permit Land as a result of mining operations on the Permit Land or adjacent land;
- h. **Conduct of Mining Operations** - Any third party with an interest in mines and minerals may exercise its rights in mines and minerals in accordance with *The Mines and Minerals Act*;
- i. **Services** – The issuing of this Permit does not imply that Manitoba shall provide any services;
- j. **Assignment** – The Land Corporation may, with the written permission of Manitoba, assign this Permit to a successor corporation;
- k. **Notice** – Notice affecting the Land Corporation or Manitoba will be sufficiently served, if mailed by regular mail to the applicable address for that party, as follows:

To: Land Corporation  
Box 9  
Easterville, Manitoba  
R0C 0V0

To: Manitoba  
Manitoba Conservation Lands Branch  
Box 20 000  
123 Main Street  
Neepawa, Manitoba R0J 1H0  
Attn: Director of Lands

#### **SECTION 6.00 - TERM OF PERMIT**

- 6.01 This Permit comes into effect on its execution and will remain in effect for one year or until transfer of the Permit Land in fee simple to the Land Corporation whichever shall first occur.
- 6.02 Subject to subsection 6.01, this Permit will be automatically renewed by Manitoba at the expiry of the one year term on the same terms and conditions.

#### **SECTION 7.00 - AMENDMENT**

- 7.01 This Permit may be varied only by written agreement of both parties.
- 7.02 Where any amendment not contemplated by this Permit is enacted to the *Constitution Act, 1982*, or to any federal or provincial legislation, the result of which amendment is inconsistent with the legal rights or obligations of the parties to this Permit and which, in turn, materially affects the operation or effect of this Permit, the parties agree to enter into good faith negotiations designed to determine and implement any necessary amendments to this Permit required to remedy or alleviate the effect of such constitutional or legislative changes.

**SECTION 8.00 - NOT RESERVE**

8.01 Notwithstanding the issuance of this Permit to the Land Corporation, the Permit Land shall not be deemed to be Reserve.

IN WITNESS WHEREOF Manitoba has executed this Permit this \_\_\_\_\_ day of \_\_\_\_\_, 200\_ and the Land Corporation has executed this Permit this \_\_\_\_\_ day of \_\_\_\_\_, 200\_, by their respective officers.

HER MAJESTY THE QUEEN IN RIGHT OF  
MANITOBA

Per: \_\_\_\_\_  
Minister of Conservation

CHEMAWAWIN LAND  
CORPORATION

Per: \_\_\_\_\_

Per: \_\_\_\_\_

**SCHEDULE 8.3 – FORM OF COUNCIL RESOLUTION**

**(Request for Transfer in Fee Simple)**

**CHEMAWAWIN CREE NATION**

**COUNCIL RESOLUTION**

---

First Nation: CHEMAWAWIN CREE NATION

Address: Box 9  
Easterville, Manitoba  
R0C 0V0

Date: \_\_\_\_\_, 200\_\_

- A. In 1962, Her Majesty the Queen in right of Manitoba ("Manitoba") and The Manitoba Hydro-Electric Board ("Manitoba Hydro") made certain commitments to the Chemawawin Cree Nation ("Chemawawin") arising from anticipated effects of the development and operation of the Grand Rapids Hydro-Electric Project (the "Project") and the acquisition and use of certain Chemawawin lands for water storage, which commitments were more particularly set out in a letter dated June 7, 1962 sent to Chemawawin by the Grand Rapids Forebay Administration Committee, on behalf of Manitoba and Manitoba Hydro and subsequent arrangements (collectively, the "1962 Arrangements");
- B. On \_\_\_\_\_, 200\_\_, Chemawawin, Manitoba, and Manitoba Hydro entered into an agreement (the "Comprehensive Forebay Agreement") to resolve the issues between and among those parties in relation to and arising out of the Project and the 1962 Arrangements;
- C. The Comprehensive Forebay Agreement provides, among other things, that Manitoba will provide to or for the benefit of Chemawawin certain parcels of Crown (Manitoba) land described in Schedule "A" hereto;
- D. With respect to parcels described in Schedule "A" hereto impacted by the Project, Manitoba Hydro and Manitoba require the limited rights and privileges to regulate the flow of and to inundate and store water on or over portions of such parcels sufficient to accommodate a maximum wind eliminated water level of 842 feet A.S.L. immediately upstream of the Grand Rapids Hydro-Electric Generating Station, and to affect from time to time, such parcels to a level at or about 848 feet A.S.L., for purposes of the Project;
- E. Chemawawin has agreed that this right be protected by way of an easement (the "Project Easement") in favour of Manitoba Hydro and Manitoba on the terms set out in the Comprehensive Forebay Agreement;
- F. Chemawawin has incorporated a company under the name "Chemawawin Land Corporation" (the "Land Corporation") to hold, on behalf of Chemawawin, its interests in lands to be provided by Manitoba under the Comprehensive Forebay Agreement; and

- G. The Comprehensive Forebay Agreement provides, among other things, that Manitoba will, upon the request of Chemawawin by Council Resolution, transfer to the Land Corporation in fee simple the lands described in Schedule "A", subject to any required Project Easement.

**Therefore, be it resolved that:**

1. Chemawawin hereby requests that Manitoba transfer to the Land Corporation fee simple title to the lands described in Schedule "A", subject to any required Project Easements;
2. Chemawawin hereby requests that Manitoba take such further and other steps as may be required to effect the foregoing in accordance with the provisions of the Comprehensive Forebay Agreement, including, without limitation, the completion of legal surveys of the boundaries of the lands; and
3. The Chief of Chemawawin is hereby authorized and directed to deliver a copy of this resolution to Manitoba and to execute all documents and do all things necessary to give effect to this resolution.



**Schedule A**

**Description of Permit and Fee Simple Lands**

(Insert description of parcel and description of easement area)

**SCHEDULE 8.4 – FORM OF COUNCIL RESOLUTION**  
**(Confirmation by Chemawawin – Permit and Fee Simple Lands)**

**CHEMAWAWIN CREE NATION**

**COUNCIL RESOLUTION**

---

First Nation: CHEMAWAWIN CREE NATION

Address: Box 9  
Easterville, Manitoba  
R0C 0V0

Date: \_\_\_\_\_, 200\_\_

- A. In 1962, Her Majesty the Queen in right of Manitoba ("Manitoba") and The Manitoba Hydro-Electric Board ("Manitoba Hydro") made certain commitments to the Chemawawin Cree Nation ("Chemawawin") arising from anticipated effects of the development and operation of the Grand Rapids Hydro-Electric Project (the "Project") and the acquisition and use of certain Chemawawin lands for water storage, which commitments were more particularly set out in a letter dated June 7, 1962 sent to Chemawawin by the Grand Rapids Forebay Administration Committee, on behalf of Manitoba and Manitoba Hydro and subsequent arrangements (collectively, the "1962 Arrangements");
- B. On \_\_\_\_\_, 200\_\_, Chemawawin, Manitoba, and Manitoba Hydro entered into an agreement (the "Comprehensive Forebay Agreement") to resolve the issues between and among those parties in relation to and arising out of the Project and the 1962 Arrangements;
- C. The Comprehensive Forebay Agreement provides, among other things, that Manitoba will provide to or for the benefit of Chemawawin certain parcels of Crown (Manitoba) land described in Schedule "A" hereto;
- D. With respect to parcels described in Schedule "A" hereto impacted by the Project,, Manitoba Hydro and Manitoba require the limited rights and privileges to regulate the flow of and to inundate and store water on or over portions of such parcels sufficient to accommodate a maximum wind eliminated water level of 842 feet A.S.L. immediately upstream of the Grand Rapids Hydro-Electric Generating Station, and to affect from time to time, such parcels to a level at or about 848 feet A.S.L., for purposes of the Project;
- E. Chemawawin has agreed that this right be protected by way of an easement (the "Project Easement") in favour of Manitoba Hydro and Manitoba as set out in the Comprehensive Forebay Agreement;
- F. Chemawawin has incorporated a company under the name "Chemawawin Land Corporation" (the "Land Corporation") to hold, on behalf of Chemawawin, its interest in those lands to be provided by Manitoba under the Comprehensive Forebay Agreement;

- G. The Comprehensive Forebay Agreement provides, among other things, that Manitoba will, upon the request of Chemawawin by Council Resolution, transfer to the Land Corporation in fee simple the lands described in Schedule "A", subject to any required Project Easements;
- H. The Comprehensive Forebay Agreement provides, among other things, that Manitoba is to complete legal surveys of the boundaries of the lands described in Schedule "A" and provide to Chemawawin plans of the boundaries of each parcel, the legal description of such parcel and the legal description of any portion of such parcel to be subject to a Project Easement;
- I. Manitoba has completed such surveys and has provided to Chemawawin the plans and legal descriptions referred to in paragraph H hereof; and
- J. The Comprehensive Forebay Agreement provides, among other things, that upon receipt of such plans and legal descriptions, Chemawawin will, by Council Resolution, confirm in relation to each parcel certain matters as hereinafter specified.

**Therefore, be it resolved that:**

- 1. Chemawawin hereby confirms in relation to each of the parcels of land described in Schedule "A" hereto, that:
  - (a) such parcel is properly described in Schedule "A" hereto;
  - (b) the portion of the parcel to be subject to a Project Easement, if any, is properly described; and
  - (c) fee simple title to the parcel is to be transferred to the Land Corporation pursuant to the Agreement as "Permit and Fee Simple Lands", subject to the Project Easement, if any, described in Schedule "A"; and
- 2. The Chief of Chemawawin is hereby authorized and directed to deliver a copy of this resolution to Manitoba and to execute all documents and do all things necessary to give effect to this resolution.

**Schedule A**

**Legal Description of lands to be transferred**

(legal descriptions to be inserted once survey completed)

# PART V: INTERIM AND ALTERNATE ARRANGEMENTS

## ARTICLE 9

### Interim and Alternate Arrangements

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## PART V: INTERIM AND ALTERNATE ARRANGEMENTS

### ARTICLE 9

#### 9.0 INTERIM AND ALTERNATE ARRANGEMENTS

#### 9.1 INTRODUCTION

##### 9.1.1 Introduction.

With respect to parcels of **Returned Project Lands** and **Additional Lands**, Article 9 provides for:

- (a) the issuance of **Land Use Permits** for those parcels prior to the transfer to **Canada** of administration and control; and
- (b) the transfer of those parcels in fee simple to the **Land Corporation** in certain circumstances.

#### 9.2 INTERIM AND ALTERNATE ARRANGEMENTS

##### 9.2.1 Withholding of Land from Disposition.

**Manitoba** has, in anticipation of the conclusion of this **Agreement**, withheld the **Returned Project Lands** and the **Additional Lands** from disposition to third parties.

##### 9.2.2 Land Use Permits.

As soon as reasonably practicable after the **Date of this Agreement**, **Manitoba** will issue **Land Use Permits** to the **Land Corporation** for the **Returned Project Lands** and **Additional Lands** substantially in the form set out in Schedule 9.1.

##### 9.2.3 Authority of Manitoba to Issue Land Use Permits after Transfer of Administration and Control.

The **Parties** recognize that where **Manitoba** has transferred administration and control of a parcel to **Canada** but where **Canada** has not accepted administration and control of the parcel:

- (a) **Land Use Permits** issued by **Manitoba** for that parcel remain effective; and
- (b) **Manitoba** retains the authority to issue or renew **Land Use Permits** for that parcel

until **Canada** accepts administration and control of that parcel.

9.2.4 Waiver of Fees and Charges.

**Manitoba** will waive any fees or charges for the issuance and renewal of **Land Use Permits** under section 9.2.

9.2.5 Not Reserve.

Notwithstanding the issuance of a **Land Use Permit** under section 9.2, the **Returned Project Lands** and **Additional Lands** will not be **Reserve** lands unless set apart as **Reserve** as contemplated in this **Agreement**.

9.2.6 Land Use Permits subject to Lawful Use by Hydro.

All **Land Use Permits** issued by **Manitoba** under section 9.2 will be subject to a condition that **Hydro** will have the right to use the lands for **Project** purposes in accordance with its **Water Power Licence**.

9.2.7 Termination of Land Use Permit.

**Land Use Permits** issued by **Manitoba** under section 9.2 will terminate upon:

- (a) the acceptance of administration and control of the lands by **Canada**; or
- (b) the transfer of the lands in fee simple to the **Land Corporation** in accordance with section 9.2.

9.2.8 Transfer in Fee Simple.

**Manitoba** will, upon the written request of **Chemawawin**, complete surveys of and transfer in fee simple to the **Land Corporation** such parcels of the **Returned Project Lands** or **Additional Lands** held under a **Land Use Permit** issued under section 9.2 as may be identified by **Chemawawin**.

9.2.9 Transfer Free from Encumbrances.

Lands transferred to the **Land Corporation** in fee simple pursuant to section 9.2 will be transferred free and clear of all encumbrances, reservations, estates, rights and interests in favour of any person, other than **Canada** or any person whose interest is claimed through **Canada**, except any **Project Easements** in accordance with subsection 10.5.2, and for greater certainty:

- (a) no reservations to **Manitoba** under subsection 4(1) of *The Crown Lands Act* (Manitoba) will apply; and
- (b) rights in mines and minerals, both precious and base, rights in Crown timber and all other estates, rights and interests will be transferred by **Manitoba** to the **Land Corporation**.

#### 9.2.10 Future Reserve Status.

Following a transfer of land in fee simple to the **Land Corporation** under subsection 9.2.8, **Manitoba** will, upon the written request of **Chemawawin** and the **Land Corporation**, cooperate to facilitate a transfer of these lands to **Canada** for the purpose of setting these lands apart as **Reserve**.

#### 9.2.11 Relief from Assessment and Taxation.

If the **Returned Project Lands** or **Additional Lands**, including any buildings or improvements on the land, are, or become subject to assessment and taxation by **Manitoba**, or entities which derive their taxing authority under a law of Manitoba, prior to those lands becoming **Reserve**, **Manitoba** will:

- (a) take any steps within its control in order to exempt such lands from assessment and taxation;
- (b) provide for a remission order in respect of such taxes; or
- (c) provide a grant equal to the amount of such taxes.



**SCHEDULE 9.1 - FORM OF LAND USE PERMIT**

Permit No. \_\_\_\_\_

This Crown Land Use Permit issued pursuant to clause 7(1)(b) of *The Crown Lands Act* C.C.S.M. c. C340 as of the \*\*\* day of \*\*\*, 200\*.

**BETWEEN:**

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF MANITOBA  
as represented by the Minister of Conservation,  
(called "Manitoba"),

OF THE FIRST PART,

- and -

CHEMAWAWIN LAND CORPORATION  
(called "Land Corporation"),

OF THE SECOND PART.

**WHEREAS:**

1. On the \_\_\_\_\_ day of \_\_\_\_\_, 200\_, Chemawawin Cree Nation ("Chemawawin"), Manitoba and The Manitoba Hydro-Electric Board ("Hydro") entered into an agreement (the "Comprehensive Forebay Agreement"); and
2. Chemawawin incorporated the Land Corporation to hold interests in lands provided by Manitoba pursuant to the Comprehensive Forebay Agreement, for the benefit of Chemawawin.

NOW THEREFORE, Manitoba issues this Crown Land Use Permit ("Permit") to the Land Corporation in accordance with Article 9 of the Comprehensive Forebay Agreement, on the terms and conditions set out in this Permit:

**SECTION 1.00 – DEFINITIONS AND STATUTORY REFERENCES**

- 1.01 The following Acts are referred to in this Permit, and when described by the title set out in this subsection, they shall be interpreted to mean the Act including all regulations made in accordance with that Act and any amendment, reenactment or replacement from time to time of that Act:

*The Buildings and Mobile Homes Act, C.C.S.M. c. B93*  
*The Crown Lands Act, C.C.S.M. c. C340*  
*The Forest Act, C.C.S.M. c. F150*  
*The Highways and Transportation Act, C.C.S.M. c. H40*  
*The Highways Protection Act, C.C.S.M. c. H50*  
*The Mines and Minerals Act, C.C.S.M. c. M162*

*Constitution Act, 1982, being Schedule B to the Canada Act, 1982 (U.K.), 1982, c. 11.*

## **SECTION 2.00 – PERMIT LAND**

- 2.01 The Permit Land consists of the Manitoba Crown land identified on the Map attached as Schedule "A" located within Section \_\_\_\_\_, Township \_\_\_\_\_, Range \_\_\_\_\_, without reserving to the Crown a strip of land one and one-half chains (99 feet) in width from the ordinary high water mark as ordinarily reserved to the Crown under clause 4(1)(a) of *The Crown Lands Act*, but reserving to the Crown all other reservations contained in subsection 4(1) of *The Crown Lands Act*.

## **SECTION 3.00 – RIGHT OF EXCLUSIVE USE**

- 3.01 Manitoba hereby provides to the Land Corporation the exclusive right to use and occupy the Permit Land free and clear of all encumbrances, reservations, caveats, estates, rights and interests, in favour of any person, subject to:
- a. the other interests set out in section 4.00; and
  - b. the conditions set out in section 5.00.
- 3.02 No person, other than a Member of Chemawawin or person authorized by Chemawawin, may use, occupy or otherwise enter onto the Permit Land, except as provided in this Permit.

## **SECTION 4.00 – OTHER INTERESTS**

- 4.01 The exclusive right to use and occupy the Permit Land set out in section 3.00 is provided by Manitoba to the Land Corporation, subject to the following existing third party interests:

*Include a description of all third party interests, including any mining interests. Insert "NIL" if no third party interests are identified in the Comprehensive Forebay Agreement.*

***[Include subsections 4.02, 4.03 and 4.04 for Permit Land on Developed Waterway]***

- 4.02 The exclusive right to use and occupy the Permit Land set out in section 3.00 is provided by Manitoba to the Land Corporation, subject to the requirements of *The Water Power Act* and the right and privilege of Manitoba and Hydro in perpetuity, without charge or cost of any kind whatsoever, to Manitoba or Hydro, to regulate the flow of, and to inundate and store water on or over, and to affect from time to time, the Permit Land consistent with Hydro's operation of the Grand Rapids Hydro-Electric Generating Station at an elevation not to exceed 842 feet A.S.L. measured immediately upstream of the Grand Rapids Hydro-Electric Generating Station, without obstruction, hindrance, molestation or interruption on the part of the Land Corporation or any person claiming by, through or under the Land Corporation.

- 4.03 The Land Corporation may provide notice in writing to Manitoba requesting that Manitoba identify elevation and set back requirements for development or construction on the Permit Land.
- 4.04 Manitoba will, as soon as practicable after receiving notice under subsection 4.03, and after consultation with Hydro, advise the Land Corporation in writing of the elevation and set back requirements for development and construction, with those requirements designed to take into account the effects of flooding, wind setup, wave uprush, erosion and ice conditions.

## SECTION 5.00 - CONDITIONS

- 5.01 The exclusive right to use and occupy the Permit Land set out in section 3.00 is provided by Manitoba to the Land Corporation, subject to the following conditions:
- a. **Compliance with Laws** – The Land Corporation shall, at its own expense, promptly observe, perform, execute and comply with all municipal, provincial or federal laws, orders and regulations that have application to the Land Corporation and the Permit Land, and without limiting the generality of the foregoing:
    - i. **Construction** – Any structure constructed on the Permit Land by the Land Corporation shall be constructed in accordance with The Manitoba Building Code established pursuant to *The Buildings and Mobile Homes Act*, applicable municipal by-laws and regulations,
    - ii. **Highway Protection** – The Land Corporation shall not erect, build, or place or cause to be erected, built or placed, a structure or fixture on, under, or above the surface of the ground, within 125 feet of a departmental road outside a city, town or village or such further distance as determined by The Highway Traffic Board in accordance with *The Highways Protection Act*, or plant or place or cause to be planted or placed, any tree, shrub or hedge upon or within 50 feet of a departmental road outside a city, town, village or unincorporated village district, in accordance with *The Highways and Transportation Act*,
    - iii. **Environmental Laws** – The Land Corporation shall comply with all laws and guidelines respecting environmental matters, and in the event that the Land Corporation contributes to any detrimental biophysical environmental change to the Permit Land, contrary to such laws or guidelines, the Land Corporation will remedy such damage, at its own expense,
    - iv. **Timber** – The Land Corporation shall not cut or remove timber from the Permit Land without a licence or permit from the Forestry Branch of Manitoba pursuant to *The Forest Act*, and
    - v. **Sand and Gravel** – The Land Corporation shall not remove, explore for, mine or produce quarry minerals, including sand, gravel and clay from the Permit Land without obtaining a quarry permit or quarry lease from the Director of Mines for Manitoba pursuant to *The Mines and Minerals Act*,

- b. **Other Natural Resources** - The Land Corporation shall not remove soil or any other natural resources from the Permit Land without the prior written permission of Manitoba;
- c. **Waste** – The Land Corporation shall not commit or permit the commission of any voluntary waste, spoilage or destruction, nor dump any rubbish or any other matter of an offensive nature anywhere on the Permit Land, except in a designated dump area or as directed by Manitoba;
- d. **Access to Permit Land** – Manitoba and any employee, officer or agent of Manitoba, including the Royal Canadian Mounted Police, shall be entitled to enter onto the Permit Land as required to enforce the conditions of this Permit and municipal, provincial or federal laws, orders and regulations;
- e. **Control Survey Monuments** – The Land Corporation will ensure that all legal or control survey monuments are protected and not disturbed, damaged or destroyed, and will replace, at its expense, any monuments that are disturbed, damaged or destroyed, by a duly qualified Land Surveyor, to the satisfaction of Canada, and shall not interfere with the survey work conducted by Canada;
- f. **Indemnification** – The Land Corporation shall at all times save harmless and indemnify and keep Manitoba indemnified against and be responsible for all claims, demands, actions, suits and other legal proceedings brought against Manitoba by reason or arising out of:
  - i. any exercise by the Land Corporation of its rights pursuant to this Permit, including any use of and development on the Permit Land, or
  - ii. any act or omission on the part of the Land Corporation in respect of or in relation to the carrying on of any activities permitted by this Permit.
- g. **Liability in Respect of Mining Operations** – Manitoba shall not be liable in any way for injury or damage that is caused to the surface of the Permit Land as a result of mining operations on the Permit Land or adjacent land;
- h. **Conduct of Mining Operations** – Any third party with an interest in mines and minerals may exercise its rights in mines and minerals in accordance with *The Mines and Minerals Act*;
- i. **Services** – The issuing of this Permit does not imply that Manitoba will provide any services;
- j. **Assignment** – The Land Corporation may, with the written permission of Manitoba, assign this Permit to a successor corporation;
- k. **Notice** – Notice affecting the Land Corporation or Manitoba will be sufficiently served, if mailed by regular mail to the applicable address for that party, as follows:

To: Land Corporation  
Box 9  
Easterville, Manitoba  
R0C 0V0

To: Manitoba  
Manitoba Conservation Lands Branch  
Box 20 000  
123 Main Street  
Neepawa, Manitoba R0J 1H0  
Attn: Director of Lands

## SECTION 6.00 – TERM OF PERMIT

- 6.01 This Permit comes into effect on its execution and will remain in effect for one year or until:
- a. the acceptance of administration and control of the Permit Land by Canada; or
  - b. transfer of the Permit Land in fee simple to the Land Corporation;
- whichever shall first occur.
- 6.02 Subject to subsection 6.01, this Permit will be automatically renewed by Manitoba at the expiry of the one year term on the same terms and conditions.

## SECTION 7.00 – AMENDMENT

- 7.01 This Permit may be varied only by written agreement of both parties.
- 7.02 Where any amendment not contemplated by this Permit is enacted to the *Constitution Act, 1982*, or to any federal or provincial legislation, the result of which amendment is inconsistent with the legal rights or obligations of the parties to this Permit and which, in turn, materially affects the operation or effect of this Permit, the parties agree to enter into good faith negotiations designed to determine and implement any necessary amendments to this Permit required to remedy or alleviate the effect of such constitutional or legislative changes.

**SECTION 8.00 - NOT RESERVE**

8.01 Notwithstanding the issuance of this Permit to the Land Corporation, the Permit Land shall not be deemed to be Reserve.

IN WITNESS WHEREOF Manitoba has executed this Permit this \_\_\_\_\_ day of \_\_\_\_\_, 200\_ and the Land Corporation has executed this Permit this \_\_\_\_\_ day of \_\_\_\_\_, 200\_, by their respective officers.

HER MAJESTY THE QUEEN IN RIGHT OF  
MANITOBA

Per: \_\_\_\_\_  
Minister of Conservation

CHEMAWAWIN LAND  
CORPORATION

Per: \_\_\_\_\_

Per: \_\_\_\_\_

# PART VI: EASEMENT LINES AND PROJECT EASEMENTS

## ARTICLE 10

### Easement Lines and Project Easements

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## PART VI: EASEMENT LINES AND PROJECT EASEMENTS

### ARTICLE 10

#### 10.0 EASEMENT LINES AND PROJECT EASEMENTS

#### 10.1 INTRODUCTION

##### 10.1.1 Introduction.

Article 10 provides for the process and methodology for the establishment of **Easement Lines** and **Project Easements** on portions of certain lands that are located within the area of the **Water Power Licence** or that are, or may be, lawfully impacted by the **Project**.

#### 10.2 EASEMENT LINES

##### 10.2.1 Establishment of Easement Lines.

**Manitoba**, in consultation with **Hydro** and **Chemawawin**, will, in accordance with subsection 10.2.2, determine **Easement Lines** at or about elevation 848 feet A.S.L. on each parcel of land that is, or will be, held by or on behalf of **Chemawawin**:

- (a) as **Reserve**; or
- (b) in fee simple;

and that:

- (c) is located within the area of the **Water Power Licence**; or
- (d) is, or may be, lawfully impacted by the **Project**.

##### 10.2.2 Methodology.

**Easement Lines** will be determined in accordance with a process and methodology that:

- (a) consider the potential effects of the **Project** on the lands, including the effects of flooding, wind setup, wave uprush, erosion and ice conditions;
- (b) are based on a combination of flood and wind events having a probability of occurrence of once every 100 years;



- (c) apply recognized hydraulic engineering methodology in calculating wind setup and wave uprush values; and
- (d) include estimates of erosion based on geotechnical considerations to provide sufficient shoreline offset to accommodate long-term erosion.

### 10.3 SURVEYS

#### 10.3.1 Explanatory Plan of Easement Lines.

As soon as reasonably practicable after the determination of an **Easement Line** in accordance with section 10.2, **Manitoba** will:

- (a) undertake, or cause to be undertaken, a survey of the **Easement Line** by photogrammetric methods;
- (b) produce, or cause to be produced, explanatory plans of the **Easement Line** of a nature referred to in section 31 of the *Canada Lands Surveys Act* (Canada);
- (c) provide copies of the explanatory plans to **Chemawawin, Hydro** and, if requested, **Canada**; and
- (d) provide a description of the lands which will be subject to a **Project Easement** to **Chemawawin, Hydro** and, if requested, **Canada**.

#### 10.3.2 Confirmation by Chemawawin and Hydro.

**Chemawawin** and **Hydro** will each, as soon as reasonably practicable after receipt of an explanatory plan referred to in subsection 10.3.1, advise **Manitoba** in writing:

- (a) whether or not the explanatory plan accurately describes the **Easement Line**; and
- (b) whether or not that **Party** approves the description of the land to be subject to the **Project Easement**.

#### 10.3.3 Accuracy of Explanatory Plan.

If, after the consultation under subsection 10.3.2, **Chemawawin** or **Hydro** advises **Manitoba** that:

- (a) the **Easement Line** has not been properly determined in accordance with the process and methodology established under subsection 10.2.2;
- (b) the explanatory plan does not accurately describe the **Easement Line**; or
- (c) it does not approve the description of the land to be subject to the **Project Easement**;

and the matter cannot be resolved based on good faith discussions among the **Parties**, any **Party** may, by providing a "Notice of Arbitration" in writing to the other **Parties**, refer the matter to be determined by arbitration in accordance with section 10.4.

#### 10.3.4 Field Surveys.

Subject to subsection 10.3.5, where an **Easement Line** is located in an area that is developed by **Chemawawin** or in an area proposed to be developed by **Chemawawin**, **Manitoba** will cause the **Easement Line** to be demarcated on the land by field survey methods in accordance with the survey instructions set out in Schedule 10.1:

- (a) within 12 months of the determination of the **Easement Line** if the area adjacent to the **Easement Line** is developed at the time the **Easement Line** is determined; and
- (b) within 12 months of notice in writing from **Chemawawin** that the area adjacent to the **Easement Line** is proposed to be developed by **Chemawawin**.

#### 10.3.5 Delay in Surveying.

Where the field survey referred to in subsection 10.3.4 is delayed due to:

- (a) weather or other conditions outside the control of **Manitoba**;
- (b) a change in survey instructions under subsection 10.3.6; or
- (c) any dispute which may arise in relation to a proposed change in survey instructions for a parcel;

**Manitoba** will cause the **Easement Line** to be demarcated on the land by field survey methods as soon thereafter as may be reasonably practicable.

### 10.3.6 Change in Survey Instructions.

Survey instructions, as set out in Schedule 10.1, may only be changed for any parcel of land with the approval of each of **Chemawawin, Manitoba** and **Hydro**.

## 10.4 ARBITRATION

### 10.4.1 Arbitration.

Subject to subsections 10.4.2 and 10.4.3, where a matter is referred to arbitration under subsection 10.3.3, section 11.7 will apply to the arbitration with necessary modifications.

### 10.4.2 Sole Arbitrator.

Where a matter is referred to arbitration under subsection 10.3.3, the matter will be referred to a sole arbitrator who will be a professional engineer approved by all of the **Parties**. If the **Parties** cannot agree upon the identity of the sole arbitrator within fourteen (14) days of receiving a Notice of Arbitration under subsection 10.3.3, then the sole arbitrator will be a professional engineer appointed by the President of the Association of Professional Engineers and Geoscientists of the Province of Manitoba. If the President of the Association of Professional Engineers and Geoscientists of the Province of Manitoba does not appoint a professional engineer within a reasonable time, the arbitrator will be appointed in accordance with *The Arbitration Act* (Manitoba).

### 10.4.3 Cost of Arbitration.

Where a matter is referred to arbitration pursuant to subsection 10.3.3:

- (a) **Hydro** will be responsible for paying its costs of participation in the arbitration proceedings; and
- (b) the costs of the arbitration will be addressed in accordance with subsections 11.7.15 and 11.7.16 except that, as between **Manitoba** and **Hydro**, **Hydro** will be responsible for paying an appropriate share of the reasonable costs of the arbitral tribunal and an appropriate share of the reasonable costs of **Chemawawin**.

## 10.5 PROJECT EASEMENTS

### 10.5.1 Form of Project Easement Agreement on Lands to be Transferred to Canada.

Each parcel of land for which an **Easement Line** is determined in accordance with section 10.2 and that is to be transferred to **Canada** to be set apart as **Reserve**, will be subject

to a **Project Easement** in favour of **Manitoba** and **Hydro**, over that portion of that parcel lying below the applicable **Easement Line**. The **Project Easement Agreement** will be substantially in the form set out in Schedule 10.2 subject to such changes as may reasonably be required by **Canada** and agreed to by the **Parties**.

#### **10.5.2 Form of Project Easement Agreement on Lands to be Transferred to the Land Corporation.**

Each parcel of land for which an **Easement Line** is determined in accordance with section 10.2 that is to be transferred by **Manitoba** to the **Land Corporation** in fee simple will be conveyed subject to a **Project Easement** in favour of **Manitoba** and **Hydro** over that portion of the parcel lying below the applicable **Easement Line**. The **Project Easement Agreement** will be in the form set out in Schedule 10.3.

#### **10.5.3 Alternative Method of Granting Project Easements.**

Notwithstanding any other provision of this **Agreement**, in order to facilitate the transfer of any parcel of land for which a **Project Easement** is required, **Manitoba** may with the agreement of **Chemawawin**, **Hydro** and, where applicable, **Canada**, reserve a **Project Easement** to itself out of the transfer of the parcel and grant a **Project Easement** to **Hydro**.

## SCHEDULE 10.1 - SURVEY INSTRUCTIONS

### A. LEGAL SURVEYS OF PARCEL BOUNDARIES AND EXCLUSIONS

#### 1. General:

- (a) To conduct surveys as required, prepare plans and survey reports of lands in accordance with Land Titles Office guidelines and these survey instructions;
- (b) Prepare Parcel Plans of areas at a suitable scale not less than 1:20,000;
- (c) Prepare Plans of **Easement Lines** at a suitable scale not less than 1:20,000;
- (d) Prepare Plans of Easements at a suitable scale not less than 1:20,000.

#### 2. Surveys of Parcel Boundaries and Exclusions:

##### (a) Datum:

UTM grid line values referred to in parcel descriptions are referenced to North American Datum 1983.

##### (b) Bearings:

Bearings will be derived from the control and referenced to the Central Meridian of U.T.M. Zone 14. Bearings, not angles, will show on all surveyed boundaries.

##### (c) Monuments:

Monuments along surveyed boundaries will be inter-visible and the maximum distance between each will be 1 km. The monuments will be 0.025 m x 0.025 m x 0.914 m iron posts set a minimum of 0.8 m in overburden or short iron rock posts which will be cemented into place. Ties will be shown to all permanent water bodies.

##### (d) Ancillary Monumentation:

Mark the monument with ancillary monumentation at intervals of approximately 1 km, at a principal corner, or where the perimeter of a parcel is less than 1 km or

the parcel is an island, mark at least one monument. Ancillary monumentation may be a T-iron marker post, a wooden reference post (being a minimum 1.2 m in length above ground, 10 cm square and beveled at the top), or a minimum of two durable bearing trees (properly blazed, marked and located within 20 m of the monument).

(e) Cut Lines:

The inland boundary will be surveyed on true line and line cut to ensure a visible skyline.

(f) Enclosed Parcels:

Enclosed parcels will be identified by letter with areas of each shown.

(g) Control:

Global Positioning System (G.P.S.) control will be extended along as required to accommodate plotting the **OHWM** and to provide additional coordinate control, all to be referenced to the closest available Control Monument. These monuments and values will be shown on the Plan. The G.P.S. process will exceed third order accuracies.

(h) OHWM Boundaries:

All pertinent **OHWM** boundaries may be plotted from aerial photography in accordance with Land Titles Office guidelines.

(i) Road Allowances:

All projected or surveyed road allowances contained within the bounds of lands described in this **Agreement** will form part of the said lands.

(j) Water Beds:

The beds of all water bodies located fully within the bounds of lands described in this **Agreement** will form part of said lands excepting those water bodies which

are specifically excluded herein. The beds of all water bodies which may be determined to intersect the boundaries of said lands will be excluded therefrom.

(k) Bench Marks:

Bench Marks will be identified in the Plan Notes with supporting Bench Marks placed at suitable locations and shown on the Plan.

(l) Survey Reports:

Written survey reports will be compiled by the surveyor-in-charge for each survey completed. These reports will speak to experiences and occurrences encountered during the course of the field survey such as those cited in the Manitoba Regional Surveyor's Directive No. 13 entitled DIRECTIVE FOR STANDARDS OF REPORT WRITING, dated June 1987. The report will be part of the survey returns and recorded in the Canada Lands Surveys Records and at the option of **Manitoba**, filed in a provincial registry.

(m) Exclusions:

Excluded lands for public purposes will be surveyed with all boundary lines to be line cut to ensure a visible skyline. The Plan will show bearings and distances along these boundaries of the excluded lands.

## B. SURVEYS OF EASEMENT LINES

(a) Explanatory Plan(s) of Easement Lines:

The location of **Easement Lines**, as shown on Explanatory Plan(s) of **Easement Lines**, has been based on the process and methodology for geotechnical studies pursuant to the Canada-Manitoba Northlands Agreement.

(b) Reference to Parcel Boundaries:

**Easement Lines** as shown on Explanatory Plan(s) of **Easement Lines** will be referenced on Plan(s) of Easement to monuments placed at the intersection of **Easement Lines** with Parcel Boundaries or a single monument where the Parcel

is an island in accordance with requirements for Monuments and Ancillary Monumentation described in this Schedule.

(c) On-the-Ground Surveys:

Where field surveys defining all or part of the **Easement Lines** are required under this **Agreement**, final field location of the survey monuments will be determined by the Surveyor-in-Charge carrying out the survey, in consultation with representatives of **Hydro** and **Chemawawin**.

Where this consultation results in an adjustment to an **Easement Line** from the location shown on the Explanatory Plan of **Easement Lines**, the Surveyor-in-Charge will note in the surveyor's report, the technical reason for which the adjustment was made.



**SCHEDULE 10.2 - FORM OF PROJECT EASEMENT AGREEMENT (RESERVE LANDS)**

See Attached Easement Agreement

THIS AGREEMENT made as of the \_\_\_\_\_ day of \_\_\_\_\_, 200\*.  
AMONG:

HER MAJESTY THE QUEEN  
IN RIGHT OF CANADA,  
as represented by the Minister of Indian Affairs  
and Northern Development,

OF THE FIRST PART,

HER MAJESTY THE QUEEN  
IN RIGHT OF THE PROVINCE OF MANITOBA,  
as represented by the Minister of Conservation,

OF THE SECOND PART,

CHEMAWAWIN CREE NATION,  
as represented by Chief and Council,

OF THE THIRD PART,

THE MANITOBA HYDRO-ELECTRIC BOARD,

OF THE FOURTH PART.

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**EASEMENT AGREEMENT**  
**(RESERVE LANDS)**

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**EASEMENT AGREEMENT**

**(RESERVE LANDS)**

THIS AGREEMENT made as of the \_\_\_\_\_ day of \_\_\_\_\_, 200\*.  
AMONG:

HER MAJESTY THE QUEEN  
IN RIGHT OF CANADA,  
as represented by the Minister of Indian Affairs  
and Northern Development,

(hereinafter referred to as "Canada"),

OF THE FIRST PART,

HER MAJESTY THE QUEEN  
IN RIGHT OF THE PROVINCE OF MANITOBA,  
as represented by the Minister of Conservation,

(hereinafter referred to as "Manitoba")

OF THE SECOND PART,

CHEMAWAWIN CREE NATION,  
as represented by Chief and Council,

(hereinafter referred to as "Chemawawin")

OF THE THIRD PART,

THE MANITOBA HYDRO-ELECTRIC BOARD,

(hereinafter referred to as "Hydro")

OF THE FOURTH PART,

**WHEREAS:**

A. Chemawawin has, by resolution of Chief and Council, approved the grant of an easement on and over certain Reserve lands as herein described, upon the terms and conditions set out in this Easement Agreement;

B. The Minister of Indian Affairs and Northern Development (Canada) has been authorized to enter into this Easement Agreement on behalf of Canada;

C. The Minister of Conservation (Manitoba) has been authorized to enter into this Easement Agreement on behalf of Manitoba;

D. The appropriate officers of Hydro have been authorized to enter into this Easement Agreement on behalf of Hydro;

NOW THEREFORE, in consideration of the mutual terms and conditions in this Easement Agreement, the parties hereby covenant and agree as follows:

## ARTICLE 1 - DEFINITIONS

### 1.1 Definitions

In this Easement Agreement, unless otherwise specifically provided, the following words and phrases when capitalized, whether in the plural, the singular or the possessive, will have the following meanings:

- (a) "ASL" means above sea level;
- (b) "Chief and Council" means the Council of Chemawawin in office at the relevant time;
- (c) "Easement" means the interest in land created by this Easement Agreement;
- (d) "Easement Agreement" means this agreement;
- (e) "Easement Land" means the lands described in section 2.1;
- (f) "Easement Line" means the line establishing the upper boundaries of the Easement Land, which line has been established based upon certain processes and methodologies to reflect the margin of the effects of flooding, erosion, ice conditions, wind set-up and wave up-rush on the Easement Land, and which has been approved by each of the Parties hereto;
- (g) "Project" means the undertaking commonly known as the Grand Rapids Hydro-Electric Generating Station and all related and ancillary works, including, without limiting the generality of the foregoing, the works and operations as described in the Final Licence for the Development of Water Power, Grand Rapids Site, Saskatchewan River, issued May 30, 1975 and amendments thereto;

- (h) "Reserve" has the same meaning as in the *Indian Act* (Canada), but is restricted to those reserves set apart for the use and benefit of Chemawawin.
- (i) "Selected Land" means the parcel of land of which the Easement Land forms part, which land is described as follows:

***[insert description of Selected Land]***

- (j) "Wind Eliminated Water Levels" means water levels which have had the effects of wind removed by using a seven day moving mean of the daily average water levels.

## ARTICLE 2 - EASEMENT LAND

### 2.1 Grant of Easement

Canada hereby:

- (a) grants to Hydro the right, liberty, privilege and easement in accordance with the terms and conditions in this Easement Agreement; and
- (b) transfers to Manitoba such administration and control as is required to assure to Manitoba the right, liberty, privilege and easement in accordance with the terms and conditions in this Easement Agreement;

with respect to all the land described as:

**[INSERT LEGAL DESCRIPTION OF LANDS BETWEEN THE  
EASEMENT LINE AND THE WATER BOUNDARY OF THE SELECTED LAND]**

together with all land that may, through the process of accretion, become part of the Selected Lands lying below the Easement Line.

### 2.2 Easement Granted for the Benefit of Project Structures

The Easement granted to Hydro and Manitoba under section 2.1 is for the benefit of the lands on which the structures comprising the Project are located, which constitute the "Dominant Tenement" of the Easement.

### 2.3 Easement under clause 111(1)(a.1) of *The Real Property Act*

The Easement granted to Hydro and Manitoba under section 2.1 is an interest in land and also constitutes a "right for the inundation or storage of water" within the meaning of clause 111(1)(a.1) of *The Real Property Act* (Manitoba).

## ARTICLE 3 - SCOPE OF EASEMENT

### 3.1 Rights and Privileges

Hydro and Manitoba will have the right and privilege during the currency of this Easement Agreement to regulate the flow of, to inundate and store water on or over, and to affect from time to time, the Easement Land in accordance with, and subject to, the provisions of this Easement Agreement; and will and may peaceably hold and enjoy the rights, privileges and easements hereby granted without obstruction, hindrance, molestation or interruption on the part of Canada or Chemawawin.

### 3.2 Purposes of Easement

The Easement granted in this Easement Agreement, to regulate the flow of, to inundate and store water on or over, and to affect from time to time, the Easement Land, is solely for the purposes related and ancillary to the Project, in accordance with the provisions of this Easement Agreement.

### 3.3 Limitations

This Easement Agreement does not grant to Hydro or Manitoba any rights to, or to the use of, the Easement Land, other than as expressly set forth in this Easement Agreement; and Chemawawin may use or continue to use the Easement Land in any manner not contrary to the provisions of this Easement Agreement.

### 3.4 Jurisdiction

Except to the extent that partial administration and control is transferred to Manitoba by virtue of express provisions in this Easement Agreement, the Easement Land will remain as Chemawawin Reserve land within the constitutional jurisdiction of the Parliament and Government of Canada. The uses of the Easement Land by Hydro, Manitoba, or any successor entity, will be restricted to those expressly authorized in this Easement Agreement, notwithstanding the provisions of any law of Manitoba that may purport to authorize uses other than those set forth in this Easement Agreement.

### 3.5 Exclusions from Grant of Easement

Nothing in this Easement Agreement will be deemed to vest in Hydro:

- (a) any title to the casual revenues of the federal Crown;
- (b) any title to the mines, ores, metals, coal, slate, oil, gas, hydrocarbons, aggregate or other minerals in or under the land comprising the Easement Land;
- (c) any right to prevent the exploitation of such minerals by or with the permission of Chemawawin in accordance with the *Indian Act* (Canada) subject to Hydro's rights and privileges pursuant to this Easement Agreement.

## ARTICLE 4 - ASSUMPTION OF RIGHTS AND OBLIGATIONS BY MANITOBA

### 4.1 Assumption by Manitoba

In the event that Hydro ceases to:

- (a) be an agent of Manitoba; or
- (b) have effective legal authority and control over the operation of the Project;

and written notice thereof is given to Chemawawin, then Manitoba will, effective on the date notice is given, assume all of the rights and obligations of Hydro under this Easement Agreement; but in any such event, the assumption by Manitoba of Hydro's rights and obligations under this Easement Agreement will not relieve Hydro of its obligations under this Easement Agreement.

### 4.2 Dispute

If a dispute should arise between Manitoba and Hydro with respect to their respective obligations to Chemawawin under section 4.1, Manitoba will ensure such obligations to Chemawawin are met.

## ARTICLE 5 - BANK AND EASEMENT LINE PROTECTION, MAINTENANCE AND RELATED MATTERS

### 5.1 Inspection, Protection and Maintenance by Hydro and Chemawawin

Hydro and Chemawawin will each have the right to inspect, protect and maintain, at their own expense, the banks and shorelines forming part of the Easement Land.



## 5.2 Inspection, Protection and Maintenance by Hydro

Subject to Article 6, Hydro will periodically inspect, protect and maintain the banks and shorelines within the Easement Land, to ensure that Reserve lands above the Easement Line, and not forming part of the Easement Land, are not damaged or impaired by erosion, slumping or other adverse impacts due to the use of the Easement Land for the purposes of the Project.

## 5.3 Standards

All bank protection, shoreline or maintenance work on Easement Land, performed under this Easement Agreement, will be done in a workmanlike fashion in accordance with applicable engineering standards and in accordance with all applicable laws.

## 5.4 Storage of Vehicles, Equipment and Other Chattels

Except while work permitted under this Easement Agreement is in progress, Hydro, its agents, employees, contractors and sub-contractors will not leave, park or store any vehicles, equipment or other chattels on the Easement Land.

## 5.5 Damage caused by Chemawawin

Where damage is caused to bank protection put in place by Hydro, or like works constructed or placed by Hydro on the Easement Land, due to the negligence or deliberate act of Chemawawin, Chemawawin will, at its expense, restore such works to the reasonable satisfaction of Hydro.

## 5.6 Removal of Timber

Hydro, its employees, agents, contractors and sub-contractors may fell, cut, trim, or remove any trees or parts thereof, on or from the Easement Land below an elevation of 842 ft. (265.64m) ASL (GDC, 1929 Adjustment). Above that level, Hydro may request the permission of Canada and Chemawawin to cut or remove trees or timber, pursuant to the provisions of the *Indian Act* (Canada) and the *Indian Timber Regulations* or any successor legislation; and such consent on the part of Chemawawin and Canada will not be unreasonably withheld.

## 5.7 Waste

Hydro, its agents, employees, contractors and sub-contractors will not commit or permit the commission of any waste, spoilage or destruction, anywhere on the Reserve, including the Easement Land. Any waste, spoilage or destruction on the Easement Land as a result of the regulation of the flow of, the inundation and storage of water on or over, and the affecting from

time to time, of the Easement Land permitted under this Easement Agreement will not be a contravention of section 5.7.

#### 5.8 Removal of Debris or Waste Material

Hydro will promptly remove debris or waste material placed or caused to be placed on the Easement Land by Hydro works or operations (other than the deposit of debris and waste as a result of the regulation of the flow of, the inundation and storage of water on or over, and the affecting from time to time, of the Easement Land permitted under this Easement Agreement); and in any event not later than seven (7) days after receipt of a written request to do so from Chemawawin.

#### 5.9 Disposal of Material

Hydro will dispose of any material excavated or removed from the Easement Land in connection with any work permitted under this Easement Agreement or any work otherwise approved in writing by Chemawawin on the Reserve at a location and in a manner as may reasonably be directed by Chemawawin. If Chemawawin has not provided such direction within fourteen (14) days of a request by Hydro for such direction, or in the event of an emergency, Hydro may dispose of any material excavated or removed from the Easement Land at a location off the Reserve. Any such disposal will be in compliance with all applicable laws and regulations.

#### 5.10 Location and Restoration of Easement Line

In order that construction or other activities within the Easement Land or near the Easement Line can be appropriately located, Hydro will, if requested and reasonably required by Chemawawin or Canada:

- (a) locate or restore the Easement Line;
- (b) establish or restore cut lines associated with the Easement Line; and
- (c) place, check or replace survey monuments

to the satisfaction of the Surveyor General of Canada.

#### 5.11 Restoration of Survey Monuments by Hydro

Hydro will ensure that all legal or control survey monuments are protected and not disturbed, damaged or destroyed in the course of any of its activities pursuant to this Easement

Agreement. Where any monuments have been or are disturbed, damaged or destroyed as a result of Hydro activities or works related to the Project, including Project operations, Hydro will at its expense have such monuments replaced by a qualified Land Surveyor to the satisfaction of the Surveyor General of Canada. Section 5.11 does not apply to legal or control survey monuments which have been lawfully inundated as of the date of this Easement Agreement.

#### 5.12 Restoration of Survey Monuments by Chemawawin or Canada

Where survey monuments are disturbed as a result of deliberate or negligent actions of Chemawawin or Canada, it will be the responsibility of that party to restore or replace such monuments in a manner satisfactory to the Surveyor General of Canada.

#### 5.13 Non-Interference by Hydro

Hydro will, insofar as it is reasonably practical to do so, conduct all work so as not to interfere with the ordinary use or uses of the Easement Land, or Reserve lands adjacent to the Easement Land.

#### 5.14 Approvals

Any activities of Hydro or Chemawawin permitted or required under Article 5 will be:

- (a) undertaken by Hydro or Chemawawin, as the case may be, in accordance with all applicable laws; and
- (b) subject to and conditional upon Hydro or Chemawawin, as the case may be, obtaining all necessary approvals, licenses and permits from all governmental authorities required in connection with such activities.

#### 5.15 Force Majeure

Whenever and to the extent that any party shall be unable to fulfill, or shall be delayed or restricted in the fulfillment of, any obligation under Article 5 in respect of the doing of any work by reason of such party being unable to obtain the material, goods, equipment, service, utility or labour required to enable it to fulfill such obligation or by reason of any statute, law or Order-In-Council or any regulation or order passed or made pursuant thereto or by reason of the order or direction of any administrator, controller or board, or any governmental department or officer or other authority or by reason of not being able to obtain any permission or authority required thereby, or by reason of any other cause beyond its reasonable control whether of the foregoing

character or not, such party shall be entitled to extend the time for fulfillment of such obligation by a time equal to the duration of such delay or restriction, and the other parties shall not be entitled to compensation for any inconvenience, nuisance or discomfort thereby occasioned.

## ARTICLE 6 - ACCESS TO EASEMENT LAND

### 6.1 Grant of Licence for Access

Subject to the terms hereinafter set forth, Canada and Chemawawin grant to Hydro, a licence, without charge, for access to and from the Easement Land, over and upon the Reserve, and over and upon any other lands now or hereafter forming part of the Reserve, or otherwise owned or controlled by Chemawawin, contiguous to the Easement Land, with or without vehicles, machinery and equipment, for such inspections, bank protection, maintenance and other purposes authorized by this Easement Agreement, as Hydro at any time deems necessary or expedient.

### 6.2 Notice for Access

Notice requirements for access will be as follows:

- (a) except in the case of an emergency, Hydro will give Chemawawin not less than thirty (30) days written notice of the nature of bank protection, maintenance or other work to be performed on the Easement Land, and not less than ten (10) days written notice of inspections on Easement Land, or such other periods of notice as may be agreed upon by Hydro and Chemawawin in writing; and
- (b) in the event of an emergency, Hydro will, as soon as possible after the need is identified, give Chemawawin notice by telephone and facsimile of the nature of the work to be performed on the Easement Land.

### 6.3 Other Means of Access

Where, in the opinion of Hydro, it is impossible or impractical to enter upon or exit from the Easement Land for purposes authorized under this Easement Agreement, except across the Reserve, the notice under section 6.2 will include:

- (a) the proposed route across the Reserve land which will be by means of Reserve roads, except where demonstrably impractical;

- (b) the nature, number, dimensions and gross weight of any vehicles, equipment or materials to be transported to or on the Easement Land;
- (c) the reasons why other means of entry or exit are impossible or impractical in the circumstances;
- (d) the approximate number of persons involved;
- (e) the earliest contemplated entry date; and
- (f) the estimated exit date.

#### 6.4 Objection by Chemawawin to Proposed Means of Access

Chemawawin may, within seven (7) days of receipt of a notice under section 6.3, object to the proposed access across the Reserve by notifying Hydro in writing of its objections. Promptly after Hydro's receipt of such a notice by Chemawawin, Chemawawin and Hydro will use their best efforts to resolve their differences in the interests of both Chemawawin and Hydro. In the event those differences cannot, in the opinion of either Chemawawin or Hydro, be resolved within a reasonable time, either party may refer the matter to arbitration in accordance with Article 14. Except in the event of an emergency, Hydro will refrain from use of the proposed access until the application or action is conclusively disposed of by arbitration.

#### 6.5 Non-Interference by Chemawawin

Chemawawin covenants that it will take all reasonable steps to ensure that Hydro is able to exercise its rights of entry and exit as provided for in this Easement Agreement, without hindrance or interference.

### **ARTICLE 7 - PERMANENT WORKS, BUILDINGS, STRUCTURES AND IMPROVEMENTS ON EASEMENT LAND**

#### 7.1 Limitation on Construction by Hydro

Hydro will not construct any permanent work, building, structure or improvement on the Easement Land, other than works in the nature of bank protection and shoreline maintenance or related work, without the prior written consent of Chemawawin and of Canada.

## 7.2 Construction by Chemawawin

Subject to the provisions of Article 7, Chemawawin may permit the construction of any permanent work, building, structure or improvement upon the Easement Land, which is or is not inundated.

## 7.3 Notice of Construction by Chemawawin

Chemawawin will give Hydro not less than thirty (30) days written notice prior to considering any proposal related to the construction of any permanent work, building, structure or improvement on the Easement Land. Such notice will include:

- (a) a description of the nature of the proposed permanent work, building, structure or improvement and its proposed location; and
- (b) the date, time and place of any meeting of Chief and Council at which the proposal is to be considered;

and Hydro will have, and is hereby granted, the right to appear at that Council meeting and to make such representations to Chemawawin as it considers appropriate.

## 7.4 Limitation on Construction by Chemawawin

Chemawawin will only approve a proposal for the construction of any permanent work, building, structure or improvement on the Easement Land where:

- (a) the permanent work, building, structure or improvement is, in its judgment, necessary for the economic and social well-being of Chemawawin; and
- (b) the permanent work, building, structure or improvement can reasonably be expected not to interfere materially with or adversely affect Hydro's rights under this Easement Agreement, including Hydro's right to:
  - (i) regulate the flow of, to inundate and store water on or over, and to affect from time to time, the Easement Land as provided for in this Easement Agreement,
  - (ii) access the Easement Land in accordance with the entry and exit provisions of this Easement Agreement, or

- (iii) carry out bank protection, shoreline maintenance and related works on the Easement Land, necessary for Hydro operations in accordance with the provisions of this Easement Agreement.

#### 7.5 Objection by Hydro

Where it appears to Hydro that a permanent work, building, structure or improvement on the Easement Land, which was constructed or approved by Chemawawin for construction after the date of this Easement Agreement, is interfering or is likely to interfere materially with or adversely affect Hydro's rights under this Easement Agreement as set out in section 7.4, Hydro will notify Chemawawin in writing that it:

- (a) objects to such permanent work, building, structure or improvement being constructed; or
- (b) proposes that such permanent work, building, structure or improvement be altered or removed, in which case Hydro will set forth details of such proposal, including details related to the cost of the removal or alteration.

#### 7.6 Disputes

Chemawawin may, within fourteen (14) days of receipt of a notice under section 7.5, provide written notice to Hydro that it objects to the course of action proposed by Hydro, including the reasons for its objection. Promptly after receipt of any such notice, Chemawawin and Hydro will use their best efforts to resolve their differences in the interests of both Chemawawin and Hydro. In the event those differences cannot, in the opinion of either Chemawawin or Hydro, be resolved within a reasonable time, either party may refer the matter to arbitration in accordance with Article 14. Any action taken by Hydro to remove or alter any permanent work, building, structure or improvement will be at Hydro's risk, and any action taken by Chemawawin to proceed with the construction of such structure will be at Chemawawin's risk, until the dispute has been conclusively disposed of by arbitration in accordance with Article 14.

### **ARTICLE 8 - ADDITIONAL EASEMENT TERMS**

#### 8.1 Conditions of Grant

The granting of the Easement by Canada is subject to the condition that Hydro will, to the extent it is possible to do so and to the extent it is within the control and authority of Hydro,

control the flow of water on the regulated waterways so as to ensure that Wind Eliminated Water Levels do not exceed 842 feet A.S.L. measured immediately upstream of the Grand Rapids Hydro-Electric Generating Station.

## ARTICLE 9 – ASSIGNMENT

### 9.1 Assignment or Encumbrance by Hydro

Subject to Article 4, Hydro may assign or encumber its rights under this Easement Agreement. Promptly upon any such assignment, Hydro will give written notice to each of Canada and Chemawawin. Hydro will remain liable for the performance of all of Hydro's covenants in the event of such assignment or encumbrance.

### 9.2 Assignment or Encumbrance by Manitoba

Manitoba may assign or encumber its rights or assign its obligations, under this Easement Agreement. Promptly upon any such assignment or encumbrance, Manitoba will give written notice to each of Canada and Chemawawin. Manitoba will remain liable for the performance of all of Manitoba's covenants in the event of such assignment or encumbrance, including those obligations of Hydro it may be required to assume pursuant to this Easement Agreement.

### 9.3 Assignment by Canada or Chemawawin

Neither Canada nor Chemawawin will dispose of or alienate their respective interests in the Easement Land, except subject to this Easement Agreement. No alienation of the Easement Land will be permitted unless there are reservations in favour of Manitoba and Hydro of all of the rights and privileges to which Manitoba and Hydro are entitled under this Easement Agreement, including this provision in a form which binds assignees and successors in interest.

## ARTICLE 10 - TAXES, LEVIES AND CHARGES

### 10.1 No Taxes, Levies or Charges

The Easement hereby granted will be exercisable by Hydro without charge, rate, levy, assessment, licence, fee or tax exigible by or payable to Canada or Chemawawin in respect thereof, including taxes, levies or charges levied, or purported to be levied, by means of by-laws pursuant to the *Indian Act* (Canada), or any successor legislation; and section 10.1 will be a full and sufficient exemption from any such charges.



#### 10.2 Federal and Provincial Taxes Excepted

Section 10.1 is not intended to exempt Hydro from any applicable federal or provincial tax.

#### 10.3 Indemnity of Hydro re: Levies, Taxes and Charges

Hydro will be responsible for, and will indemnify Canada and Chemawawin with respect to, any levies, taxes or charges assessed against the interest of Hydro in the Easement Land, or related to the use of the Easement Land by Hydro, its agents, employees, contractors and sub-contractors, where any such levies, taxes or charges are assessed pursuant to the laws of the Province of Manitoba, or are not within the scope of section 10.1.

### ARTICLE 11 - WARRANTIES OF POWER AND AUTHORITY

#### 11.1 Warranty of Canada

Canada hereby warrants that it has the full power and authority to grant to Hydro and Manitoba the rights, privileges and easements granted in this Easement Agreement, and to be bound by this Easement Agreement.

#### 11.2 Warranty of Hydro

Hydro warrants that it has full power and authority to enter into and be bound by this Easement Agreement, and that it is in compliance with all statutory requirements and Hydro by-laws in connection with the execution of this Easement Agreement.

#### 11.3 Warranty of Manitoba

Manitoba warrants that it has full power and authority to enter into and be bound by this Easement Agreement.

#### 11.4 Warranty of Chemawawin

Chemawawin warrants that it has full power and authority to enter into and be bound by this Easement Agreement.

#### 11.5 Limitation on Warranty of Canada

It is expressly understood by Hydro and Manitoba that Canada does not in any way warrant, control, guarantee or assume any liability, of any kind whatsoever, with respect to any actions of Chemawawin in connection with this Easement Agreement.

#### 11.6 Warranty of Chemawawin re: Independent Legal Advice

Chemawawin warrants that it has been independently advised by legal and technical counsel and advisors of its choice in entering into this Easement Agreement.

### ARTICLE 12 - WAIVER AND CORRECTION OF BREACH

#### 12.1 Waiver by Canada

No waiver of any breach, by or on behalf of Canada, will take place or be binding unless the same be expressed in writing over the signature of the Minister responsible under the laws of Canada, or his Deputy Minister or Assistant Deputy Minister, and any waiver so expressed will extend only to the particular breach to which such waiver specifically relates, and will not be deemed to be a general waiver, or to limit or affect the rights of Canada with respect to any future or other breach.

#### 12.2 Waiver by Chemawawin

No waiver of any breach, by or on behalf of Chemawawin, will take place or be binding unless the same be expressed in writing by the Chief as authorized in a Council Resolution, and any waiver so expressed will extend only to the particular breach to which such waiver specifically relates, and will not be deemed to be a general waiver, or to limit or affect the rights of Chemawawin with respect to any future or other breach.

#### 12.3 Waiver by Hydro

No waiver of any breach, by or on behalf of Hydro, will take place or be binding unless the same be expressed in writing over the signature of the Chairman, President or Vice President of Hydro, and any waiver so expressed will extend only to the particular breach to which such waiver specifically relates, and will not be deemed to be a general waiver, or to limit or affect the rights of Hydro with respect to any future or other breach.

#### 12.4 Waiver by Manitoba

No waiver of any breach, by or on behalf of Manitoba, will take place or be binding unless the same be expressed in writing over the signature of the Minister of the Government of Manitoba responsible for Hydro or Conservation, and any waiver so expressed will extend only to the particular breach to which such waiver specifically relates, and will not be deemed to be a general waiver, or to limit or affect the rights of Manitoba with respect to any future or other breach.

## ARTICLE 13 - LIABILITIES AND INDEMNIFICATION

### 13.1 Indemnity by Hydro regarding Third Party Claims

Hydro will be responsible for and, at all times hereafter, will indemnify and save harmless Canada and Chemawawin from and against all and any losses, claims, actions, damages, liabilities and expenses in connection with:

- (a) all actions, claims, and demands by third parties that may be made against Canada and Chemawawin by reason of any act or omission by Hydro, in the exercise or purported exercise of the rights granted by this Easement Agreement, or occasioned by or attributable to anything done or omitted to be done by Hydro, its agents, employees, contractors or sub-contractors in the exercise or purported exercise of the rights granted by this Easement Agreement;
- (b) any claims of any kind by third parties for loss, injury or damage to persons or property as a result of the presence or operation of vehicles, equipment or chattels of Hydro, its agents, employees, contractors or sub-contractors, on the Easement Land or access routes thereto;
- (c) any actual or purported liens, encumbrances or charges which may attach to the Easement Land under the laws of Manitoba or of Canada, where such liens, encumbrances or charges arise from the acts or omissions of Hydro, its agents, employees, contractors or sub-contractors.

provided that such indemnity shall not extend to or include any claims by any third party due in whole or in part to Chemawawin granting or purporting to grant any rights in the Easement Land inconsistent with Hydro's rights hereunder.

### 13.2 Limitation on Indemnity by Hydro regarding Third Party Claims

The obligations of Hydro in connection with the indemnities referred to in section 13.1 are conditional upon Chemawawin:

- (a) forthwith, upon becoming aware of such claim, giving notice to Hydro;
- (b) supporting any application by Hydro to be named as a party thereto; and

- (c) first having received from Hydro its consent to the terms of any settlement whether or not such settlement is submitted to a court of competent jurisdiction to be made an order of that Court.

### 13.3 Compensation by Hydro regarding Hydro Acts

Except as provided in section 13.4, Hydro will be liable to compensate Canada and Chemawawin, and any persons claiming through or under Chemawawin or Canada, for any and all damage done on Reserve lands to any property, real or personal, of Chemawawin or Canada, or any person claiming through or under Chemawawin or Canada, caused by Hydro, its agents, employees, contractors or sub-contractors.

### 13.4 Limitation of Hydro's Liability under Section 13.3

Hydro and Manitoba will not be liable to Chemawawin or Canada, or any person claiming through or under Chemawawin or Canada, with respect to any loss, damage, or injury to persons or property, arising out of their respective use of the Easement Land for any purpose authorized by this Easement Agreement, including regulating the flow of, inundating and storing water on or over, or affecting from time to time, the Easement Land, within the terms and conditions prescribed in this Easement Agreement; but nothing herein will exculpate Hydro for any loss, damage or injury to persons or property, arising from the breach of any provision of this Easement Agreement or arising from the negligence or wilful misconduct of Hydro, its agents, employees, contractors and sub-contractors.

## ARTICLE 14 – ARBITRATION

### 14.1 Referral of Matter to Arbitration

Hydro or Chemawawin may refer any matter in dispute between them under Article 6 or Article 7 to arbitration by providing a "Notice of Arbitration" in writing to the other describing the matter in dispute.

### 14.2 Sole Arbitrator

Subject to section 14.4, matters referred to arbitration will be referred to a sole arbitrator.

### 14.3 Appointment of Sole Arbitrator

The sole arbitrator under section 14.2 will be appointed jointly by Chemawawin and Hydro within fourteen (14) days of a party receiving a Notice of Arbitration under section 14.1.

#### 14.4 Arbitration Board

Chemawawin and Hydro may agree, in writing, to have a matter referred to a three (3) member arbitration board to be appointed in accordance with sections 14.5 and 14.6.

#### 14.5 Appointment of Arbitration Board

Where a matter is referred to a three member arbitration board, Chemawawin and Hydro will each appoint one (1) of the three (3) members of the arbitration board within fourteen (14) days of a party receiving a Notice of Arbitration under section 14.1.

#### 14.6 Appointment of Chairperson

Within fourteen (14) days from the date the last member of the arbitration board is appointed under section 14.5, the two members of the arbitration board will appoint the third member of the arbitration board, who will be the chairperson of the arbitration board.

#### 14.7 No Revocation

Subject to section 14.9, neither Chemawawin nor Hydro may revoke the appointment of an arbitrator.

#### 14.8 Independence and Impartiality of Arbitrator(s)

Arbitrators appointed will:

- (a) be independent of the parties;
- (b) act impartially;
- (c) before accepting an appointment as arbitrator, disclose to Chemawawin and Hydro any circumstances of which they are aware that may give rise to a reasonable apprehension of bias; and
- (d) during an arbitration, disclose to Chemawawin and Hydro any circumstances of which they become aware that may give rise to a reasonable apprehension of bias.

#### 14.9 Joint Removal of Arbitrator

Where Chemawawin and Hydro agree in writing that an arbitrator does not meet the requirements set out in section 14.8 and therefore is unable to act or continue to act as an arbitrator, and that arbitrator has not excused himself or herself from the arbitration

proceedings, Chemawawin and Hydro may jointly remove that arbitrator from the arbitral tribunal.

#### 14.10 Removal of Arbitrator by Court

Where either Chemawawin or Hydro has reasonable grounds to believe that an arbitrator does not meet the requirements set out in section 14.8, either may apply to the Court of Queen's Bench to have that arbitrator removed.

#### 14.11 Replacement of Arbitrator

In the event that an arbitrator:

- (a) is unable or unwilling to act; or
- (b) has been removed pursuant to section 14.9 or 14.10;

a substitute arbitrator will be appointed following the procedure that was used in the appointment of the arbitrator being replaced.

#### 14.12 Appointment of Arbitrator by Court

Chemawawin or Hydro may apply to the Court of Queen's Bench to appoint an arbitrator or, where applicable, a replacement arbitrator where:

- (a) under section 14.3, Chemawawin and Hydro are unable to reach agreement upon the identity of a sole arbitrator within the time provided;
- (b) under section 14.5, the other party has not appointed an arbitrator within the time provided;
- (c) under section 14.6, the chairperson has not been appointed within the time provided; or
- (d) the parties fail to appoint a replacement arbitrator under section 14.11 within a reasonable time.

#### 14.13 Jurisdiction of Arbitral Tribunal

From the date upon which the last arbitrator has accepted appointment, the arbitral tribunal (being either a sole arbitrator or a three member arbitration board) will have jurisdiction

over the conduct of proceedings and may make such orders as are necessary to ensure the dispute is dealt with fairly and expeditiously, with regard to the real substance of the dispute.

#### 14.14 Powers of the Arbitral Tribunal

The arbitral tribunal will have the power to make awards that determine the issues that are referred to arbitration under this Easement Agreement so as to resolve any dispute between the parties with respect to such matters, and subject to any rights of appeal or review available at law, Chemawawin and Hydro will give effect to the award of the arbitral tribunal, and without limiting the generality of this power, the arbitral tribunal will have the authority to:

- (a) determine any facts in dispute;
- (b) interpret this Easement Agreement; and
- (c) award costs in accordance with sections 14.15 and 14.16

in a manner consistent with this Easement Agreement.

#### 14.15 Costs of Arbitration

The costs of arbitration proceedings will be addressed as follows:

- (a) Hydro will be responsible for paying its own costs of participation in the arbitration proceedings;
- (b) Hydro will pay the reasonable costs of the arbitral tribunal; and
- (c) the costs of participation by Chemawawin itself in the arbitration proceedings will be addressed in accordance with section 14.16.

#### 14.16 Costs of Chemawawin's Participation in Arbitration

The costs of participation by Chemawawin in arbitration proceedings under Article 14 will be addressed as follows:

- (a) Hydro will pay the reasonable costs of participation by Chemawawin in arbitration proceedings under Article 14 in the following circumstances:
  - (i) where Chemawawin has referred the matter to arbitration and the reference to arbitration by Chemawawin is not unreasonable, and

- (ii) where Hydro has referred the matter to arbitration and the position advanced by Chemawawin leading up to the reference to arbitration has not been unreasonable, and
  - (iii) where the reference to arbitration is made jointly by Hydro and Chemawawin;
- (b) where Hydro does not agree that it is required to pay the reasonable costs of participation by Chemawawin under paragraph (a), Chemawawin may, at the outset of the proceedings, refer that issue to the arbitral tribunal and the arbitral tribunal will:
  - (i) where Chemawawin has referred the matter to arbitration, determine whether the reference to arbitration by Chemawawin is not unreasonable without finally determining the matter in dispute, and where the arbitral tribunal determines that the reference to arbitration by Chemawawin is not unreasonable Hydro will pay the reasonable costs of participation by Chemawawin in the arbitration proceedings, and
  - (ii) where Hydro has referred the matter to arbitration, determine whether the position advanced by Chemawawin leading up to the reference to arbitration has not been unreasonable without finally determining the matter in dispute, and where the arbitral tribunal determines that the position advanced by Chemawawin leading up to the reference to arbitration has not been unreasonable Hydro will pay the reasonable costs of participation by Chemawawin in the arbitration proceedings;
- (c) where Hydro does not agree that it is required to pay the reasonable costs of the participation by Chemawawin under paragraph (a) and the arbitral tribunal does not determine at the outset of the proceedings that the position advanced by Chemawawin is not unreasonable in accordance with paragraph (b), the arbitral tribunal will at the end of the proceedings, in addition to finally determining the matter in dispute:
  - (i) where Chemawawin has referred the matter to arbitration, determine whether the reference to arbitration by Chemawawin was not



unreasonable and where the arbitral tribunal determines that the reference to arbitration by Chemawawin is not unreasonable Hydro will pay the reasonable costs of participation by Chemawawin in the arbitration proceedings, and

(ii) where Hydro has referred the matter to arbitration, determine whether the position advanced by Chemawawin leading up to the reference to arbitration was not unreasonable and where the arbitral tribunal determines that the position advanced by Chemawawin leading up to the reference to arbitration was not unreasonable Hydro will pay the reasonable costs of participation by Chemawawin in the arbitration proceedings;

(d) the arbitral tribunal may determine any issue relating to reasonableness of any costs of participation by Chemawawin in arbitration proceedings under Article 14.

#### 14.17 Location and Date of Hearing

Any arbitration hearing will be held at a location and at a date and time determined by Chemawawin and Hydro, or if they cannot agree, at a location and at a date and time determined by the arbitral tribunal.

#### 14.18 Procedure

The arbitral tribunal may determine the procedure to be followed in any arbitration proceedings, in accordance with *The Arbitration Act* (Manitoba).

#### 14.19 Evidence

The arbitral tribunal is not bound by the rules of evidence and may determine:

- (a) the admissibility, relevance and weight of any evidence; and
- (b) the manner in which evidence is to be admitted.

#### 14.20 Decision of Arbitration Board

Where, under section 14.4 the arbitral tribunal is composed of a panel of three (3) members, the decision of a majority of the arbitration board will be the decision of the arbitral tribunal.

#### 14.21 Timing

The arbitral tribunal will make reasonable efforts to:

- (a) fix the date on which a matter will be considered within twenty-eight (28) days of the date the last appointment was accepted; and
- (b) deliver a written decision within twenty-eight (28) days of the receipt of evidence and final argument.

#### 14.22 Extension of Time Frame

Any of the time frames in sections 14.1 to 14.21 inclusive may be extended by agreement in writing between Hydro and Chemawawin.

#### 14.23 Appeal of Award

Chemawawin or Hydro may, within thirty (30) days after receipt of the arbitral award, appeal the award to the Court of Queen's Bench, but only on a question of law or jurisdiction and costs of the appeal will be dealt with in accordance with sections 14.15 and 14.16, with necessary modifications.

#### 14.24 Third Parties Excluded

Nothing in this Easement Agreement will be interpreted to require Hydro to submit any matter in dispute with any party other than Chemawawin to arbitration.

### ARTICLE 15 - GENERAL PROVISIONS

#### 15.1 Interpretation

The division of this Easement Agreement into articles and sections is for convenience of reference only and will not affect the construction or interpretation of this Easement Agreement. Headings used in this Easement Agreement are for general guidance only and do not have substantive meaning so as to modify the text or the provisions of this Easement Agreement.

#### 15.2 Extended Meanings

Words importing the singular number include the plural and vice versa as the context may require. Words importing persons will include firms, governments and corporations, and vice versa, as the context may require.

### 15.3 References to Agreement

The terms "herein" and any similar expressions refers to this Easement Agreement and not to any particular article, section, paragraph or other portion of this Easement Agreement.

### 15.4 Conflict

Except where the original document, data or measuring device was in Imperial, and subject to any legislative requirement, in the event of a conflict between metric and Imperial measure, metric measure will prevail.

### 15.5 Further Assurances

Each of the parties to this Easement Agreement will, from time to time, at another party's request and expense, and without further consideration, execute and deliver such other instruments of transfer, conveyance and assignment, and take such further action as the other may require, to more effectively complete any matter provided for in this Easement Agreement.

### 15.6 Enurement

This Easement Agreement will enure to the benefit of, and be binding upon, the parties to this Easement Agreement and their respective heirs, successors and assigns.

### 15.7 Prohibited Assignment

No part of this Easement Agreement may be assigned or otherwise transferred except as expressly provided for in this Easement Agreement.

### 15.8 Notice

Whenever in this Easement Agreement it is required or permitted that notice be given by any party to this Easement Agreement to or on any other party to this Easement Agreement, such notice will be given in writing and forwarded by registered mail or transmitted by facsimile confirmed by telephone, addressed as follows:

- (a) To **Canada** at the office of The Regional Director of The Department of Indian Affairs and Northern Development;
- (b) To **Chemawawin** addressed to the Chief at the Band office;
- (c) To **Hydro** at the office of the General Counsel of Manitoba Hydro; and

(d) To **Manitoba** at the office of the Deputy Minister of Conservation.

A party whose address changes will promptly notify each other party of such change.

SIGNED, SEALED AND DELIVERED  
In the presence of:

CHEMAWAWIN CREE NATION

\_\_\_\_\_  
WITNESS AS TO CHIEF  
AND COUNCILLORS

\_\_\_\_\_  
CHIEF

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COUNCILLOR

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COUNCILLOR

HER MAJESTY THE QUEEN IN THE  
RIGHT OF THE PROVINCE OF  
MANITOBA

Per:  
\_\_\_\_\_

THE MANITOBA HYDRO-ELECTRIC  
BOARD

Per:  
\_\_\_\_\_

Per:

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HER MAJESTY THE QUEEN IN THE  
RIGHT OF CANADA

Per:

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**SCHEDULE 10.3 - FORM OF PROJECT EASEMENT AGREEMENT (FEE SIMPLE LANDS)**

See Attached Easement Agreement

THIS AGREEMENT made as of the                      day of                      , 200\*.  
AMONG:

HER MAJESTY THE QUEEN  
IN RIGHT OF THE PROVINCE OF MANITOBA,  
as represented by the Minister of Conservation,

OF THE FIRST PART,

CHEMAWAWIN LAND CORPORATION,

OF THE SECOND PART,

THE MANITOBA HYDRO-ELECTRIC BOARD,

OF THE THIRD PART.

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**EASEMENT AGREEMENT**

**(FEE SIMPLE LANDS)**

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**EASEMENT AGREEMENT  
(FEE SIMPLE LANDS)**

THIS AGREEMENT made as of the \_\_\_\_\_ day of \_\_\_\_\_, 200\*.  
AMONG:

HER MAJESTY THE QUEEN  
IN RIGHT OF THE PROVINCE OF MANITOBA,  
as represented by the Minister of Conservation,

(hereinafter referred to as "Manitoba")

OF THE FIRST PART,

CHEMAWAWIN LAND CORPORATION,

(hereinafter referred to as "Land Corporation")

OF THE SECOND PART,

THE MANITOBA HYDRO-ELECTRIC BOARD,

(hereinafter referred to as "Hydro")

OF THE THIRD PART,

**WHEREAS:**

- A. The Land Corporation has been incorporated to hold, on behalf of Chemawawin, certain interests in lands, including the Easement Land (hereinafter defined);
- B. The appropriate officers of the Land Corporation have been authorized to enter into this Easement Agreement on behalf of the Land Corporation;
- C. The Minister of Conservation (Manitoba) has been authorized to enter into this Easement Agreement on behalf of Manitoba;
- D. The appropriate officers of Hydro have been authorized to enter into this Easement Agreement on behalf of Hydro;

NOW THEREFORE, in consideration of the mutual terms and conditions in this Easement Agreement, the parties hereby covenant and agree as follows:

## ARTICLE 1 - DEFINITIONS

### 1.1 Definitions

In this Easement Agreement, unless otherwise specifically provided, the following words and phrases when capitalized, whether in the plural, the singular or the possessive, will have the following meanings:

- (a) "ASL" means above sea level;
- (b) "Chemawawin" means Chemawawin Cree Nation, a "band" within the meaning of the *Indian Act* (Canada), as represented by the Council of Chemawawin in office at the relevant time;
- (c) "Easement" means the interest in land created by this Easement Agreement;
- (d) "Easement Agreement" means this agreement;
- (e) "Easement Land" means the lands described in section 2.1 of this Easement Agreement;
- (f) "Easement Line" means the line establishing the upper boundaries of the Easement Land, which line has been established based upon certain processes and methodologies to reflect the margin of the effects of flooding, erosion, ice conditions, wind set-up and wave up-rush on the Easement Land, and which has been approved by each of the Parties hereto.
- (g) "Project" means the undertaking commonly known as the Grand Rapids Hydro-Electric Generating Station and all related and ancillary works, including, without limiting the generality of the foregoing, the works and operations as described in the Final Licence for the Development of Water Power, Grand Rapids Site, Saskatchewan River, issued May 30, 1975 and amendments thereto;
- (h) "Selected Land" means the parcel of land of which the Easement Land forms part, which land is described as follows:

***[insert description of Selected Land]***

- (i) "Wind Eliminated Water Levels" means water levels which have had the effects of wind removed by using a seven day moving mean of the daily average water levels.

## **ARTICLE 2 - EASEMENT LAND**

### **2.1 Grant of Easement**

The Land Corporation hereby grants to Hydro and Manitoba the right, liberty, privilege and easement in accordance with the terms and conditions in this Easement Agreement with respect to all the land (the "Easement Land") described as:

**[INSERT LEGAL DESCRIPTION OF LANDS BETWEEN THE  
EASEMENT LINE AND THE WATER BOUNDARY OF THE SELECTED LAND]**

together with all land that may, through the process of accretion, become part of the Selected Land lying below the Easement Line.

### **2.2 Easement Granted for the Benefit of Project Structures**

The Easement granted to Hydro and Manitoba under section 2.1 is for the benefit of the lands on which the structures comprising the Project are located, which constitute the "Dominant Tenement" of the Easement.

### **2.3 Easement under clause 111(1)(a.1) of *The Real Property Act***

The Easement granted to Hydro and Manitoba under section 2.1 is an interest in land and also constitutes a "right for inundation or storage of water" within the meaning of clause 111(1)(a.1) of *The Real Property Act* (Manitoba). Hydro and Manitoba may file a caveat against the title of any parcel of land held by the Land Corporation that includes any of the Easement Land to provide notice of that interest.

## **ARTICLE 3 - SCOPE OF EASEMENT**

### **3.1 Rights and Privileges**

Hydro and Manitoba will have the right and privilege during the currency of this Easement Agreement to regulate the flow of, to inundate and store water on or over, and to affect from time to time, the Easement Land in accordance with, and subject to, the provisions of this Easement Agreement; and will and may peaceably hold and enjoy the rights, privileges

and easements hereby granted without obstruction, hindrance, molestation or interruption on the part of the Land Corporation.

### 3.2 Purposes of Easement

The Easement granted in this Easement Agreement, to regulate the flow of, to inundate and store water on or over, and to affect from time to time, the Easement Land, is solely for the purposes related and ancillary to the Project, in accordance with the provisions of this Easement Agreement.

### 3.3 Limitations

This Easement Agreement does not grant to Hydro or Manitoba any rights to, or to the use of, the Easement Land, other than as expressly set forth in this Easement Agreement; and the Land Corporation may use or continue to use the Easement Land in any manner not contrary to the provisions of this Easement Agreement.

### 3.4 Exclusions from Grant of Easement

Nothing in this Easement Agreement will be deemed to vest in Hydro:

- (a) any title to the mines, ores, metals, coal, slate, oil, gas, hydrocarbons, aggregate or other minerals in or under the land comprising the Easement Land; or
- (b) any right to prevent the exploitation of such minerals by or with the permission of the Land Corporation subject to Hydro's rights and privileges pursuant to this Easement Agreement.

## **ARTICLE 4 - ASSUMPTION OF RIGHTS AND OBLIGATIONS BY MANITOBA**

### 4.1 Assumption by Manitoba

In the event that Hydro ceases to:

- (a) be an agent of Manitoba; or
- (b) have effective legal authority and control over the operation of the Project;

and written notice thereof is given to the Land Corporation, then Manitoba will, effective on the date notice is given, assume all of the rights and obligations of Hydro under this Easement Agreement; but in any such event, the assumption by Manitoba of Hydro's rights and obligations

under this Easement Agreement will not relieve Hydro of its obligations under this Easement Agreement.

#### 4.2 Dispute

If a dispute should arise between Manitoba and Hydro with respect to their respective obligations to the Land Corporation under section 4.1, Manitoba will ensure such obligations to the Land Corporation are met.

### **ARTICLE 5 - BANK AND EASEMENT LINE PROTECTION, MAINTENANCE AND RELATED MATTERS**

#### 5.1 Inspection, Protection and Maintenance by Hydro and the Land Corporation

Hydro and the Land Corporation will each have the right to inspect, protect and maintain, at their own expense, the banks and shorelines forming part of the Easement Land.

#### 5.2 Inspection, Protection and Maintenance by Hydro

Subject to Article 6, Hydro will periodically inspect, protect and maintain the banks and shorelines within the Easement Land, to ensure that lands above the Easement Line, and not forming part of the Easement Land, are not damaged or impaired by erosion, slumping or other adverse impacts due to the use of the Easement Land for the purposes of the Project.

#### 5.3 Standards

All bank protection, shoreline or maintenance work on Easement Land, performed under this Easement Agreement, will be done in a workmanlike fashion in accordance with applicable engineering standards and in accordance with all applicable laws.

#### 5.4 Storage of Vehicles, Equipment and Other Chattels

Except while work permitted under this Easement Agreement is in progress, Hydro, its agents, employees, contractors and sub-contractors will not leave, park or store any vehicles, equipment or other chattels on the Easement Land.

#### 5.5 Damage caused by the Land Corporation

Where damage is caused to bank protection put in place by Hydro, or like works constructed or placed by Hydro on the Easement Land, due to the negligence or deliberate act of the Land Corporation, the Land Corporation will, at its expense, restore such works to the reasonable satisfaction of Hydro.

#### 5.6 Removal of Timber

Hydro, its employees, agents, contractors and sub-contractors may fell, cut, trim, or remove any trees or parts thereof, on or from the Easement Land below an elevation of 842 ft. (265.64m) ASL (GDC, 1929 Adjustment). Above that level, Hydro may request the permission of the Land Corporation, such permission not to be unreasonably withheld, to cut or remove trees or timber, subject to all applicable laws.

#### 5.7 Waste

Hydro, its agents, employees, contractors and sub-contractors will not commit or permit the commission of any waste, spoilage or destruction on the Easement Land. Any waste, spoilage or destruction on the Easement Land as a result of the regulation of the flow of, the inundation and storage of water on or over, and the affecting from time to time, of the Easement Land permitted under this Easement Agreement will not be a contravention of section 5.7.

#### 5.8 Removal of Debris or Waste Material

Hydro will promptly remove debris or waste material placed or caused to be placed on the Easement Land by Hydro works or operations (other than the deposit of debris and waste as a result of the regulation of the flow of, the inundation and storage of water on or over, and the affecting from time to time, of the Easement Land permitted under this Easement Agreement); and in any event not later than seven (7) days after receipt of a written request to do so from the Land Corporation.

#### 5.9 Disposal of Material

Hydro will dispose of any material excavated or removed from the Easement Land in connection with any work permitted under this Easement Agreement or any work otherwise approved in writing by the Land Corporation, in such location as may reasonably be directed by the Land Corporation. If the Land Corporation has not provided such direction within fourteen (14) days of a request by Hydro for such direction, or in the event of an emergency, Hydro may dispose of any material excavated or removed from the Easement Land at a location off the lands held by the Land Corporation. Any such disposal will be in compliance with all applicable laws and regulations.

#### 5.10 Location and Restoration of Easement Line

In order that construction or other activities within the Easement Land or near the Easement Line can be appropriately located, Hydro will, if requested and reasonably required by the Land Corporation:

- (a) locate or restore the Easement Line;
- (b) establish or restore cut lines associated with the Easement Line; and
- (c) place, check or replace survey monuments.

#### 5.11 Restoration of Survey Monuments by Hydro

Hydro will ensure that all legal or control survey monuments are protected and not disturbed, damaged or destroyed in the course of any of its activities pursuant to this Easement Agreement. Where any monuments have been or are disturbed, damaged or destroyed as a result of Hydro activities or works related to the Project, including Project operations, Hydro will at its expense have such monuments replaced by a qualified Land Surveyor. Section 5.11 does not apply to legal or control survey monuments which have been lawfully inundated as of the date of this Easement Agreement.

#### 5.12 Restoration of Survey Monuments by the Land Corporation

Where survey monuments are disturbed as a result of deliberate or negligent actions of the Land Corporation, it will be the responsibility of the Land Corporation to restore or replace such monuments.

#### 5.13 Non-Interference by Hydro

Hydro will, insofar as it is reasonably practical to do so, conduct all work so as not to interfere with the ordinary use or uses of the Easement Land, or other lands held by the Land Corporation adjacent to the Easement Land.

#### 5.14 Approvals

Any activities of Hydro permitted or required under Article 5 will be:

- (a) undertaken by Hydro in accordance with all applicable laws; and

- (b) subject to and conditional upon Hydro obtaining all necessary approvals, licenses and permits from all governmental authorities required in connection with such activities.

#### 5.15 Force Maieure

Whenever and to the extent that any party shall be unable to fulfill, or shall be delayed or restricted in the fulfillment of, any obligation under Article 5 in respect of the doing of any work by reason of such party being unable to obtain the material, goods, equipment, service, utility or labour required to enable it to fulfill such obligation or by reason of any statute, law or Order-In-Council or any regulation or order passed or made pursuant thereto or by reason of the order or direction of any administrator, controller or board, or any governmental department or officer or other authority or by reason of not being able to obtain any permission or authority required thereby, or by reason of any other cause beyond its reasonable control whether of the foregoing character or not, such party shall be entitled to extend the time for fulfillment of such obligation by a time equal to the duration of such delay or restriction, and the other parties shall not be entitled to compensation for any inconvenience, nuisance or discomfort thereby occasioned.

### **ARTICLE 6 - ACCESS TO EASEMENT LAND**

#### 6.1 Grant of Licence for Access

Subject to the terms hereinafter set forth, the Land Corporation grants to Hydro, a licence, without charge, for access to and from the Easement Land, over and upon the lands held by the Land Corporation, and over and upon any other lands now or hereafter held by the Land Corporation, or otherwise owned or controlled by the Land Corporation, contiguous to the Easement Land, with or without vehicles, machinery and equipment, for such inspections, bank protection, maintenance and other purposes authorized by this Easement Agreement, as Hydro at any time deems necessary or expedient.

#### 6.2 Notice for Access

Notice requirements for access will be as follows:

- (a) except in the case of an emergency, Hydro will give the Land Corporation not less than thirty (30) days written notice of the nature of bank protection, maintenance or other work to be performed on the Easement Land, and not less than ten (10) days written notice of inspections on Easement Land, or such other



periods of notice as may be agreed upon by Hydro and the Land Corporation in writing; and

- (b) in the event of an emergency, Hydro will, as soon as possible after the need is identified, give the Land Corporation notice by telephone and facsimile of the nature of the work to be performed on the Easement Land.

### 6.3 Other Means of Access

Where, in the opinion of Hydro, it is impossible or impractical to enter upon or exit from the Easement Land for purposes authorized under this Easement Agreement, except across the lands held by the Land Corporation, the notice under section 6.2 will include:

- (a) the proposed route across the lands held by the Land Corporation, which will be by means of existing roads, except where demonstrably impractical;
- (b) the nature, number, dimensions and gross weight of any vehicles, equipment or materials to be transported to or on the Easement Land;
- (c) the reasons why other means of entry or exit are impossible or impractical in the circumstances;
- (d) the approximate number of persons involved;
- (e) the earliest contemplated entry date; and
- (f) the estimated exit date.

### 6.4 Objection by the Land Corporation to Proposed Means of Access

The Land Corporation may, within seven (7) days of receipt of a notice under section 6.3, object to the proposed access by notifying Hydro in writing of its objections. Promptly after Hydro's receipt of such a notice by the Land Corporation, the Land Corporation and Hydro will use their best efforts to resolve their differences, in the interests of both the Land Corporation and Hydro. In the event those differences cannot, in the opinion of either the Land Corporation or Hydro, be resolved within a reasonable time, either party may refer the matter to arbitration in accordance with Article 14. Except in the event of an emergency, Hydro will refrain from use of the proposed access until the application or action is conclusively disposed of by arbitration.

#### 6.5 Non-Interference by the Land Corporation

The Land Corporation covenants that it will take all reasonable steps to ensure that Hydro is able to exercise its rights of entry and exit as provided for in this Easement Agreement, without hindrance or interference.

### **ARTICLE 7 - PERMANENT WORKS, BUILDINGS, STRUCTURES AND IMPROVEMENTS ON EASEMENT LAND**

#### 7.1 Limitation on Construction by Hydro

Hydro will not construct any permanent work, building, structure or improvement on the Easement Land, other than works in the nature of bank protection and shoreline maintenance or related work, without the prior written consent of the Land Corporation.

#### 7.2 Construction by the Land Corporation

Subject to the provisions of Article 7, the Land Corporation may permit the construction of any permanent work, building, structure or improvement upon the Easement Land, which is or is not inundated.

#### 7.3 Construction by Successor in Title

Successors in title to the Land Corporation, other than Chemawawin or its nominees, shall not construct any permanent work, building, structure or improvement on the Easement Land, without first providing detailed plans of such construction to Chemawawin, Manitoba and Hydro, and receiving the written permission of each of Chemawawin, Manitoba and Hydro to proceed with the construction. The provisions of section 7.3 shall apply to any successor in title to the Land Corporation, other than Chemawawin or its nominees, in the place of sections 7.4 to 7.7 inclusive, which shall no longer apply.

#### 7.4 Notice of Construction by the Land Corporation

The Land Corporation will give Hydro not less than thirty (30) days written notice prior to considering any proposal related to the construction of any permanent work, building, structure or improvement on the Easement Land. Such notice will include:

- (a) a description of the nature of the proposed permanent work, building, structure or improvement and its proposed location; and
- (b) the date, time and place of any meeting of the directors of the Land Corporation at which the proposal is to be considered;

and Hydro will have, and is hereby granted, the right to appear at that directors' meeting and/or make such representations to the directors as it considers appropriate.

#### 7.5 Limitation on Construction by the Land Corporation

The Land Corporation will only approve a proposal for the construction of any permanent work, building, structure or improvement on the Easement Land where:

- (a) the permanent work, building, structure or improvement is, in its judgment, necessary for the economic and social well-being of Chemawawin; and
- (b) the permanent work, building, structure or improvement can reasonably be expected not to interfere materially with or adversely affect Hydro's rights under this Easement Agreement, including Hydro's right to:
  - (i) regulate the flow of, to inundate and store water on or over, and to affect from time to time, the Easement Land as provided for in this Easement Agreement,
  - (ii) access the Easement Land in accordance with the entry and exit provisions of this Easement Agreement, or
  - (iii) carry out bank protection, shoreline maintenance and related works on the Easement Land, necessary for Hydro operations in accordance with the provisions of this Easement Agreement.

#### 7.6 Objection by Hydro

Where it appears to Hydro that a permanent work, building, structure or improvement on the Easement Land, which was constructed or approved by the Land Corporation for construction after the date of this Easement Agreement, is interfering or is likely to interfere materially with or adversely affect Hydro's rights under this Easement Agreement as set out in section 7.5, Hydro will notify the Land Corporation in writing that it:

- (a) objects to such permanent work, building, structure or improvement being constructed; or

- (b) proposes that such permanent work, building, structure or improvement be altered or removed, in which case Hydro will set forth details of such proposal, including details related to the cost of the removal or alteration.

#### 7.7 Disputes

The Land Corporation may, within fourteen (14) days of receipt of a notice under section 7.6, provide written notice to Hydro that it objects to the course of action proposed by Hydro, including the reasons for its objection. Promptly after receipt of any such notice, the Land Corporation and Hydro will use their best efforts to resolve their differences in the interests of both the Land Corporation and Hydro. In the event those differences cannot, in the opinion of either the Land Corporation or Hydro, be resolved within a reasonable time, either party may refer the matter to arbitration in accordance with Article 14. Any action taken by Hydro to remove or alter any permanent work, building, structure or improvement will be at Hydro's risk, and any action taken by the Land Corporation to proceed with the construction of such structure will be at the Land Corporation's risk, until the dispute has been conclusively disposed of by arbitration in accordance with Article 14.

### **ARTICLE 8 - ADDITIONAL EASEMENT TERMS**

#### 8.1 Conditions of Grant

The granting of the Easement by the Land Corporation is subject to the condition that Hydro will, to the extent it is possible to do so and to the extent it is within the control and authority of Hydro, control the flow of water on the regulated waterways so as to ensure that Wind Eliminated Water Levels do not exceed 842 feet A.S.L. measured immediately upstream of the Grand Rapids Hydro-Electric Generating Station.

### **ARTICLE 9 – ASSIGNMENT**

#### 9.1 Assignment or Encumbrance by Hydro

Subject to Article 4, Hydro may assign or encumber its rights under this Easement Agreement. Promptly upon any such assignment, Hydro will give written notice to the Land Corporation. Hydro will remain liable for the performance of all of Hydro's covenants in the event of such assignment or encumbrance.

### 9.2 Assignment or Encumbrance by Manitoba

Manitoba may assign or encumber its rights or assign its obligations, under this Easement Agreement. Promptly upon any such assignment or encumbrance, Manitoba will give written notice to the Land Corporation. Manitoba will remain liable for the performance of all of Manitoba's covenants in the event of such assignment or encumbrance, including those obligations of Hydro it is required to assume pursuant hereto.

### 9.3 Assignment by the Land Corporation

The Land Corporation will not dispose of or alienate its interest in the Easement Land, except subject to this Easement Agreement. No alienation of the Easement Land will be permitted unless there are reservations in favour of Manitoba and Hydro of all of the rights and privileges to which Manitoba and Hydro are entitled under this Easement Agreement, including this provision in a form which binds assignees and successors in interest.

## **ARTICLE 10 - TAXES, LEVIES AND CHARGES**

### 10.1 No Taxes, Levies or Charges

The Easement hereby granted will be exercisable by Hydro without charge, rate, levy, assessment, licence, fee or tax exigible by or payable to the Land Corporation in respect thereof, and this section 10.1 will be a full and sufficient exemption from any such charges.

### 10.2 Federal and Provincial Tax Excepted

Section 10.1 is not intended to exempt Hydro from any applicable federal or provincial tax.

### 10.3 Indemnity of Hydro re: Levies, Taxes and Charges

Hydro will be responsible for, and will indemnify the Land Corporation with respect to, any levies, taxes or charges assessed against the interest of Hydro in the Easement Land, or related to the use of the Easement Land by Hydro, its agents, employees, contractors and sub-contractors, where any such levies, taxes or charges are assessed pursuant to the laws of the Province of Manitoba, or are not within the scope of section 10.1.

## ARTICLE 11 - WARRANTIES OF POWER AND AUTHORITY

### 11.1 Warranty of Hydro

Hydro warrants that it has full power and authority to enter into and be bound by this Easement Agreement, and that it is in compliance with all statutory requirements and Hydro by-laws in connection with the execution of this Easement Agreement.

### 11.2 Warranty of Manitoba

Manitoba warrants that it has full power and authority to enter into and be bound by this Easement Agreement.

### 11.3 Warranty of the Land Corporation

The Land Corporation warrants that it has full power and authority to enter into and be bound by this Easement Agreement.

### 11.4 Warranty of the Land Corporation re: Independent Legal Advice

The Land Corporation warrants that it has been independently advised by legal and technical counsel and advisors of its choice in entering into this Easement Agreement.

## ARTICLE 12 - WAIVER AND CORRECTION OF BREACH

### 12.1 Waiver by the Land Corporation

No waiver of any breach, by or on behalf of the Land Corporation, will take place or be binding unless the same be expressed in writing by an officer or director of the Land Corporation duly authorized by resolution of the board of directors of the Land Corporation, and any waiver so expressed will extend only to the particular breach to which such waiver specifically relates, and will not be deemed to be a general waiver, or to limit or affect the rights of the Land Corporation with respect to any future or other breach.

### 12.2 Waiver by Hydro

No waiver of any breach, by or on behalf of Hydro, will take place or be binding unless the same be expressed in writing over the signature of the Chairman, President or Vice President of Hydro, and any waiver so expressed will extend only to the particular breach to which such waiver specifically relates, and will not be deemed to be a general waiver, or to limit or affect the rights of Hydro with respect to any future or other breach.

### 12.3 Waiver by Manitoba

No waiver of any breach, by or on behalf of Manitoba, will take place or be binding unless the same be expressed in writing over the signature of the Minister of the Government of Manitoba responsible for Hydro or Conservation, and any waiver so expressed will extend only to the particular breach to which such waiver specifically relates, and will not be deemed to be a general waiver, or to limit or affect the rights of Manitoba with respect to any future or other breach.

## ARTICLE 13 - LIABILITIES AND INDEMNIFICATION

### 13.1 Indemnity by Hydro regarding Third Party Claims

Hydro will be responsible for and, at all times hereafter, will indemnify and save harmless the Land Corporation from and against all and any losses, claims, actions, damages, liabilities and expenses in connection with:

- (a) all actions, claims, and demands that may be made against the Land Corporation by reason of any act or omission by Hydro, in the exercise or purported exercise of the rights granted by this Easement Agreement, or occasioned by or attributable to anything done or omitted to be done by Hydro, its agents, employees, contractors or sub-contractors in the exercise or purported exercise of the rights granted by this Easement Agreement;
- (b) any claims of any kind for loss, injury or damage to persons or property as a result of the presence or operation of vehicles, equipment or chattels of Hydro, its agents, employees, contractors or sub-contractors, on the Easement Land or access routes thereto;
- (c) any actual or purported liens, encumbrances or charges which may attach to the Easement Land under the laws of Manitoba or of Canada, where such liens, encumbrances or charges arise from the acts or omissions of Hydro, its agents, employees, contractors or sub-contractors.

provided that such indemnity shall not extend to or include any claims by any third party due in whole or in part to the Land Corporation granting or purporting to grant any rights in the Easement Land inconsistent with Hydro's rights hereunder.

### 13.2 Limitation on Indemnity by Hydro regarding Third Party Claims

The obligations of Hydro in connection with the indemnities referred to in section 13.1 are conditional upon Chemawawin:

- (e) forthwith, upon becoming aware of such claim, giving notice to Hydro;
- (f) supporting any application by Hydro to be named as a party thereto; and
- (g) first having received from Hydro its consent to the terms of any settlement whether or not such settlement is submitted to a court of competent jurisdiction to be made an order of that Court.

### 13.3 Compensation by Hydro regarding Hydro Acts

Except as provided in section 13.4, Hydro will be liable to compensate the Land Corporation, and any persons claiming through or under the Land Corporation, for any and all damage done on lands held by the Land Corporation to any property, real or personal, of the Land Corporation, or any person claiming through or under the Land Corporation, caused by Hydro, its agents, employees, contractors or sub-contractors.

### 13.4 Limitation of Hydro's Liability under Section 13.3

Hydro and Manitoba will not be liable to the Land Corporation, or any person claiming through or under the Land Corporation, with respect to any loss, damage, or injury to persons or property, arising out of their respective use of the Easement Land for any purpose authorized by this Easement Agreement, including regulating the flow of, inundating and storing water on or over, or affecting from time to time, the Easement Land, within the terms and conditions prescribed in this Easement Agreement; but nothing herein will exculpate Hydro for any loss, damage or injury to persons or property, arising from the breach of any provision of this Easement Agreement or arising from the negligence or wilful misconduct of Hydro, its agents, employees, contractors and sub-contractors.

## **ARTICLE 14 – ARBITRATION**

### 14.1 Referral of Matter to Arbitration

Hydro or the Land Corporation may refer any matter in dispute between them under Article 6 or Article 7 to arbitration by providing a "Notice of Arbitration" in writing to the other describing the matter in dispute.



#### 14.2 Sole Arbitrator

Subject to section 14.4, matters referred to arbitration will be referred to a sole arbitrator.

#### 14.3 Appointment of Sole Arbitrator

The sole arbitrator under section 14.2 will be appointed jointly by the Land Corporation and Hydro within fourteen (14) days of a party receiving a Notice of Arbitration under section 4.1.

#### 14.4 Arbitration Board

The Land Corporation and Hydro may agree, in writing, to have a matter referred to a three (3) member arbitration board to be appointed in accordance with sections 14.5 and 14.6.

#### 14.5 Appointment of Arbitration Board

Where a matter is referred to a three member arbitration board, the Land Corporation and Hydro will each appoint one (1) of the three (3) members of the arbitration board within fourteen (14) days of a party receiving a Notice of Arbitration under section 14.1.

#### 14.6 Appointment of Chairperson

Within fourteen (14) days from the date the last member of the arbitration board is appointed under section 14.5, the two members of the arbitration board will appoint the third member of the arbitration board, who will be the chairperson of the arbitration board.

#### 14.7 No Revocation

Subject to section 14.9, neither the Land Corporation nor Hydro may revoke the appointment of an arbitrator.

#### 14.8 Independence and Impartiality of Arbitrator(s)

Arbitrators appointed will:

- (a) be independent of the parties;
- (b) act impartially;
- (c) before accepting an appointment as arbitrator, disclose to the Land Corporation and Hydro any circumstances of which they are aware that may give rise to a reasonable apprehension of bias; and

#### 14.4 Arbitration Board

Chemawawin and Hydro may agree, in writing, to have a matter referred to a three (3) member arbitration board to be appointed in accordance with sections 14.5 and 14.6.

#### 14.5 Appointment of Arbitration Board

Where a matter is referred to a three member arbitration board, Chemawawin and Hydro will each appoint one (1) of the three (3) members of the arbitration board within fourteen (14) days of a party receiving a Notice of Arbitration under section 14.1.

#### 14.6 Appointment of Chairperson

Within fourteen (14) days from the date the last member of the arbitration board is appointed under section 14.5, the two members of the arbitration board will appoint the third member of the arbitration board, who will be the chairperson of the arbitration board.

#### 14.7 No Revocation

Subject to section 14.9, neither Chemawawin nor Hydro may revoke the appointment of an arbitrator.

#### 14.8 Independence and Impartiality of Arbitrator(s)

Arbitrators appointed will:

- (a) be independent of the parties;
- (b) act impartially;
- (c) before accepting an appointment as arbitrator, disclose to Chemawawin and Hydro any circumstances of which they are aware that may give rise to a reasonable apprehension of bias; and
- (d) during an arbitration, disclose to Chemawawin and Hydro any circumstances of which they become aware that may give rise to a reasonable apprehension of bias.

#### 14.9 Joint Removal of Arbitrator

Where Chemawawin and Hydro agree in writing that an arbitrator does not meet the requirements set out in section 14.8 and therefore is unable to act or continue to act as an arbitrator, and that arbitrator has not excused himself or herself from the arbitration

proceedings, Chemawawin and Hydro may jointly remove that arbitrator from the arbitral tribunal.

#### 14.10 Removal of Arbitrator by Court

Where either Chemawawin or Hydro has reasonable grounds to believe that an arbitrator does not meet the requirements set out in section 14.8, either may apply to the Court of Queen's Bench to have that arbitrator removed.

#### 14.11 Replacement of Arbitrator

In the event that an arbitrator:

- (a) is unable or unwilling to act; or
- (b) has been removed pursuant to section 14.9 or 14.10;

a substitute arbitrator will be appointed following the procedure that was used in the appointment of the arbitrator being replaced.

#### 14.12 Appointment of Arbitrator by Court

Chemawawin or Hydro may apply to the Court of Queen's Bench to appoint an arbitrator or, where applicable, a replacement arbitrator where:

- (a) under section 14.3, Chemawawin and Hydro are unable to reach agreement upon the identity of a sole arbitrator within the time provided;
- (b) under section 14.5, the other party has not appointed an arbitrator within the time provided;
- (c) under section 14.6, the chairperson has not been appointed within the time provided; or
- (d) the parties fail to appoint a replacement arbitrator under section 14.11 within a reasonable time.

#### 14.13 Jurisdiction of Arbitral Tribunal

From the date upon which the last arbitrator has accepted appointment, the arbitral tribunal (being either a sole arbitrator or a three member arbitration board) will have jurisdiction

#### 14.16 Costs of the Land Corporation's Participation in Arbitration

The costs of participation by the Land Corporation in arbitration proceedings under Article 14 will be addressed as follows:

- (a) Hydro will pay the reasonable costs of participation by the Land Corporation in arbitration proceedings under Article 14 in the following circumstances:
  - (i) where the Land Corporation has referred the matter to arbitration and the reference to arbitration by the Land Corporation is not unreasonable, and
  - (ii) where Hydro has referred the matter to arbitration and the position advanced by the Land Corporation leading up to the reference to arbitration has not been unreasonable, and
  - (iii) where the reference to arbitration is made jointly by Hydro and the Land Corporation;
  
- (b) where Hydro does not agree that it is required to pay the reasonable costs of the participation by the Land Corporation under paragraph (a), the Land Corporation may, at the outset of the proceedings, refer that issue to the arbitral tribunal and the arbitral tribunal will:
  - (i) where the Land Corporation has referred the matter to arbitration, determine whether the reference to arbitration by the Land Corporation is not unreasonable without finally determining the matter in dispute, and where the arbitral tribunal determines that the reference to arbitration by the Land Corporation is not unreasonable Hydro will pay the reasonable costs of participation by the Land Corporation in the arbitration proceedings, and
  - (ii) where Hydro has referred the matter to arbitration, determine whether the position advanced by the Land Corporation leading up to the reference to arbitration has not been unreasonable without finally determining the matter in dispute, and where the arbitral tribunal determines that the position advanced by the Land Corporation leading up to the reference to arbitration has not been unreasonable Hydro will pay the reasonable

costs of participation by the Land Corporation in the arbitration proceedings;

- (c) where Hydro does not agree that it is required to pay the reasonable costs of the participation by the Land Corporation under paragraph (a) and the arbitral tribunal does not determine at the outset of the proceedings that the position advanced by the Land Corporation is not unreasonable in accordance with paragraph (b), the arbitral tribunal will at the end of the proceedings, in addition to finally determining the matter in dispute:
  - (i) where the Land Corporation has referred the matter to arbitration, determine whether the reference to arbitration by the Land Corporation was not unreasonable and where the arbitral tribunal determines that the reference to arbitration by the Land Corporation is not unreasonable Hydro will pay the reasonable costs of participation by the Land Corporation in the arbitration proceedings, and
  - (ii) where Hydro has referred the matter to arbitration, determine whether the position advanced by the Land Corporation leading up to the reference to arbitration was not unreasonable and where the arbitral tribunal determines that the position advanced by the Land Corporation leading up to the reference to arbitration was not unreasonable Hydro will pay the reasonable costs of participation by the Land Corporation in the arbitration proceedings;
- (d) the arbitral tribunal may determine any issue relating to reasonableness of any costs of participation by the Land Corporation in arbitration proceedings under Article 14.

#### 14.17 Location and Date of Hearing

Any arbitration hearing will be held at a location and at a date and time determined by the Land Corporation and Hydro, or if they cannot agree, at a location and at a date and time determined by the arbitral tribunal.

#### 14.18 Procedure

The arbitral tribunal may determine the procedure to be followed in any arbitration proceedings, in accordance with *The Arbitration Act* (Manitoba).

#### 14.19 Evidence

The arbitral tribunal is not bound by the rules of evidence and may determine:

- (a) the admissibility, relevance and weight of any evidence; and
- (b) the manner in which evidence is to be admitted.

#### 14.20 Decision of Arbitration Board

Where under section 14.4 the arbitral tribunal is composed of a panel of three (3) members, the decision of a majority of the arbitration board will be the decision of the arbitral tribunal.

#### 14.21 Timing

The arbitral tribunal will make reasonable efforts to:

- (a) fix the date on which a matter will be considered within twenty-eight (28) days of the date the last appointment was accepted; and
- (b) deliver a written decision within twenty-eight (28) days of the receipt of evidence and final argument.

#### 14.22 Extension of Time Frame

Any of the time frames in sections 14.1 to 14.21 inclusive may be extended by agreement in writing between Hydro and the Land Corporation.

#### 14.23 Appeal of Award

The Land Corporation or Hydro may, within thirty (30) days after receipt of the arbitral award, appeal the award to the Court of Queen's Bench, but only on a question of law or jurisdiction, and costs of the appeal will be dealt with in accordance with sections 14.15 and 14.16, with necessary modifications.

#### 14.24 Third Parties Excluded

Nothing in this Easement Agreement will be interpreted to require Hydro to submit any matter in dispute with any party other than the Land Corporation to arbitration.

## ARTICLE 15 - GENERAL PROVISIONS

### 15.1 Interpretation

The division of this Easement Agreement into articles and sections is for convenience of reference only and will not affect the construction or interpretation of this Easement Agreement. Headings used in this Easement Agreement are for general guidance only and do not have substantive meaning so as to modify the text or the provisions of this Easement Agreement.

### 15.2 Extended Meanings

Words importing the singular number include the plural and vice versa as the context may require. Words importing persons will include firms, governments and corporations, and vice versa, as the context may require.

### 15.3 References to Agreement

The terms "herein" and any similar expressions refers to this Easement Agreement and not to any particular article, section, paragraph or other portion of this Easement Agreement.

### 15.4 Conflict

Except where the original document, data or measuring device was in Imperial, and subject to any legislative requirement, in the event of a conflict between metric and Imperial measure, metric measure will prevail.

### 15.5 Further Assurances

Each of the parties to this Easement Agreement will, from time to time, at another party's request and expense, and without further consideration, execute and deliver such other instruments of transfer, conveyance and assignment, and take such further action as the other may require, to more effectively complete any matter provided for in this Easement Agreement.

### 15.6 Enurement

This Easement Agreement will enure to the benefit of, and be binding upon, the parties to this Easement Agreement and their respective heirs, successors and assigns.

### 15.7 Prohibited Assignment

No part of this Easement Agreement may be assigned or otherwise transferred except as expressly provided for in this Easement Agreement.

15.8 Notice

Whenever in this Easement Agreement it is required or permitted that notice be given by any party to this Easement Agreement to any other party to this Easement Agreement, such notice will be given in writing and forwarded by registered mail or transmitted by facsimile confirmed by telephone, addressed as follows:

- (a) To the Land Corporation at the Band office of Chemawawin Cree Nation;
- (b) To Hydro at the office of the General Counsel of Manitoba Hydro; and
- (c) To Manitoba at the office of the Deputy Minister of Conservation.

A party whose address changes will promptly notify each other party of such change.

HER MAJESTY THE QUEEN IN THE  
RIGHT OF THE PROVINCE OF  
MANITOBA

Per:

\_\_\_\_\_

CHEMAWAWIN LAND CORPORATION

Per:

\_\_\_\_\_

THE MANITOBA HYDRO-ELECTRIC  
BOARD

Per:

\_\_\_\_\_

Per:

\_\_\_\_\_



# PART VII: CONDITION OF LANDS

## ARTICLE 11

### Condition of Lands

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## PART VII: CONDITION OF LANDS

### ARTICLE 11

#### 11.0 CONDITION OF LANDS

#### 11.1 INTRODUCTION

##### 11.1.1 Introduction.

With respect to parcels of **Reversion Lands, Returned Project Lands** and **Additional Lands**, Article 11 provides for the rejection or adjustment of parcels of land as a result of an adverse environmental condition or a fundamental change in the condition of the land.

#### 11.2 CONDITION OF LANDS GENERALLY

##### 11.2.1 Acknowledgement of Manitoba.

**Manitoba** acknowledges with respect to the **Reversion Lands, Returned Project Lands** and **Additional Lands** that:

- (a) **Manitoba** has not authorized any use that may damage the lands except for inundation, storage and regulation of the flow of water resulting from the authorized operation of the **Project**;
- (b) no mining, processing or shipment of ore on or from the lands has occurred;
- (c) no mining claims are in effect and there are no other interests in mines and minerals on those lands, except as specifically noted in this **Agreement**;
- (d) no major wildfires affecting those lands have occurred during the three (3) years preceding the **Date of this Agreement**;
- (e) no hazardous wastes or deleterious substances have been authorized by **Manitoba** to be disposed of, stored or placed on the lands by **Manitoba**;
- (f) subject to subsection 11.2.3, **Manitoba** is not aware of any hazardous wastes or deleterious substances located on the lands; and
- (g) no part of the lands has, to the knowledge of **Manitoba**, been selected by any other First Nation to fulfill any land claim entitlement.

### 11.2.2 Acknowledgement of Chemawawin.

**Chemawawin** acknowledges that:

- (a) it has, with professional and technical advice of its own choosing, agreed to the **Reversion Lands, Returned Project Lands and Additional Lands**;
- (b) the **Reversion Lands, Returned Project Lands and Additional Lands**, have been inspected on behalf of **Chemawawin** by persons designated by **Chief and Council** and have been found acceptable; and
- (c) **Chief and Council** have caused inquiries to be made among **Chemawawin** resource harvesters and **Elders** as to any environmental conditions within their knowledge which might render the **Reversion Lands, Returned Project Lands or Additional Lands** unacceptable to **Chemawawin** as **Reserve**, and, subject to subsection 11.2.3, no such conditions have been found.

### 11.2.3 Environmental Condition of Certain Parcels to be Addressed.

**Chemawawin** and **Manitoba** acknowledge that the environmental condition of those parcels of the **Reversion Lands, Returned Project Lands and Additional Lands** described in Schedule 11.1 require remediation, and that **Manitoba** will cause the environmental condition of those parcels to be remediated in a manner satisfactory to **Chemawawin** and **Canada** prior to the transfer of the parcel in accordance with this **Agreement**.

## 11.3 **CONDITION OF ADDITIONAL LANDS**

### 11.3.1 Rejection of Additional Lands prior to Land Use Permit.

Where, prior to the issuance of a **Land Use Permit** under section 9.2, **Chemawawin** determines, based on an environmental report or other evidence in writing, that the environmental condition of any parcel of **Additional Lands** does not meet acceptable standards, **Chemawawin** may, by **Council Resolution** substantially in the form attached as Schedule 11.2, give notice to **Manitoba** in writing that it rejects that parcel, which notice will include the environmental report or other evidence in writing.

### 11.3.2 Response by Manitoba to Rejection of Additional Lands under Subsection 11.3.1.

**Manitoba** will, within sixty (60) days of receipt of the notice provided by **Chemawawin** in accordance with subsection 11.3.1 or as soon thereafter as is reasonably practicable having regard to field conditions, advise **Chemawawin** in writing that it will do one of the following:

- (a) cause to be completed, as soon as reasonably practicable, an environmental study of the parcel to determine whether the environmental condition of that parcel of **Additional Lands** does not meet acceptable standards, and following the completion of that study, **Manitoba** will proceed in accordance with subsection 11.3.3;
- (b) remedy the adverse environmental condition, in which case **Manitoba** will proceed to do so as soon as reasonably practicable thereafter;
- (c) provide replacement lands, in which case **Manitoba** will proceed in accordance with section 11.6; or
- (d) refer the issue of whether the parcel meets acceptable environmental standards, to arbitration, in which case **Manitoba** will refer the matter to be determined in accordance with section 11.7.

#### 11.3.3 Alternatives following Environmental Report.

Within sixty (60) days following **Manitoba's** receipt of the report of any environmental study commissioned under paragraph 11.3.2(a), **Manitoba** will provide **Chemawawin** with a copy of the report and advise **Chemawawin** in writing that:

- (a) **Manitoba** accepts that the condition of the land does not meet acceptable environmental standards, in which case **Manitoba** will:
  - (i) proceed to remedy the adverse environmental condition as soon as reasonably practicable thereafter, or
  - (ii) provide replacement lands in accordance with section 11.6; or
- (b) **Manitoba** considers that the condition of the land meets acceptable environmental standards, in which case **Manitoba** will refer the matter to be determined in accordance with section 11.7.

#### 11.3.4 Risk.

Subject to subsection 11.3.5, following the issuance of a **Land Use Permit** under section 9.2 for any parcel of **Additional Lands**, **Chemawawin** will bear any risk associated with an adverse environmental condition on that parcel.

### 11.3.5 Alternatives after issuance of Land Use Permit.

Where, following the issuance of a **Land Use Permit** under section 9.2:

- (a) **Chemawawin** determines, based on an environmental report or other evidence in writing, that the environmental condition of any parcel of **Additional Lands** does not meet acceptable standards; and
- (b) neither **Chemawawin** nor any of its **Members** substantially caused, directed or contributed to the condition;

**Chemawawin** may, by **Council Resolution** substantially in the form attached as Schedule 11.2, give notice to **Manitoba** in writing that it rejects that parcel, which notice will include the environmental report or other evidence in writing and any information demonstrating that neither it nor any of its **Members** caused, directed or contributed to the condition, in which case subsection 11.3.2 will apply with necessary modifications.

## 11.4 FUNDAMENTAL CHANGE

### 11.4.1 Fundamental Change to Additional Lands.

If a fundamental change to any parcel of the **Additional Lands** makes the land unfit for reasonable use by **Chemawawin** prior to the issuance of a **Land Use Permit** under section 9.2, which was not caused or directed by **Chemawawin** or any of its **Members**, **Chemawawin** may, by notice in writing, advise **Manitoba** of that change, including any information it may have as to the cause of that change.

### 11.4.2 Response by Manitoba to Notice of Fundamental Change.

**Manitoba** will, within sixty (60) days of the receipt of notice from **Chemawawin** in accordance with subsection 11.4.1 or as soon thereafter as is reasonably practicable having regard to field conditions, advise **Chemawawin** in writing that:

- (a) **Manitoba** takes the position that no fundamental change to the condition of the parcel has occurred making the parcel unfit for reasonable use by **Chemawawin**, in which case **Manitoba** will refer the matter to be determined in accordance with section 11.7; or
- (b) **Manitoba** agrees that there has been a fundamental change in the condition of the parcel making the parcel unfit for reasonable use by **Chemawawin**, in which

case **Manitoba** will advise **Chemawawin** in writing that it will do one of the following:

- (i) remedy the condition causing the fundamental change, in which case **Manitoba** will proceed to do so as soon as reasonably practicable thereafter, or
- (ii) provide replacement land, in which case **Manitoba** will proceed in accordance with section 11.6.

## **11.5 ACCEPTABILITY TO CANADA**

### **11.5.1 Environmental Condition Satisfactory to Canada.**

It is recognized that acceptance by **Canada** of the administration and control of the **Reversion Lands, Returned Project Lands and Additional Lands** will be conditional upon the environmental condition of the land being satisfactory to **Canada**.

### **11.5.2 Determination of Area of Parcel Subject to Unsatisfactory Environmental Condition.**

If **Canada** advises **Manitoba** or **Chemawawin** that the environmental condition of any parcel of the **Additional Lands** is unsatisfactory, **Manitoba** and **Chemawawin** will, as soon as reasonably practicable, endeavour to determine the area of the portion of the parcel that is unsatisfactory to **Canada**.

### **11.5.3 Severance of Area of Additional Lands that is Unsatisfactory to Canada.**

Where **Canada** has advised **Manitoba** that it will not accept administration and control of a parcel of **Additional Lands** due to an adverse environmental condition relating to a portion of that parcel, and if, under subsection 11.5.2, **Manitoba** and **Chemawawin** agree on the determination of the area of the portion of the parcel that is unsatisfactory to **Canada**, that area will be surveyed, severed from the balance of the parcel, and no longer be considered **Additional Lands** with a view to facilitating the acceptance by **Canada** of the administration and control of the balance of the parcel.

### **11.5.4 Replacement of Severed Area.**

**Chemawawin** may request in writing that **Manitoba** provide replacement lands for the portion of the parcel that is no longer considered **Additional Lands** under subsection 11.5.3, in which case section 11.6 will apply.

#### 11.5.5 Severance Fundamentally Affects Value.

Where the severance of a portion of a parcel of **Additional Lands** under subsection 11.5.3 would fundamentally affect the value of the balance of the parcel to **Chemawawin**, **Chemawawin** may request that the portion of the parcel not be severed, in which case **Chemawawin** may refer the matter to be determined in accordance with section 11.7.

#### 11.5.6 Alternatives if Canada Rejects Additional Lands.

Where **Canada** has rejected any portion of a parcel of **Additional Lands** and has advised **Manitoba** that it will not accept administration and control of that portion due to:

- (a) an adverse environmental condition; or
- (b) a fundamental change to the parcel making the land unfit for reasonable use by **Chemawawin**;

section 11.3 in the case of paragraph (a) and section 11.4 in the case of paragraph (b), will apply with necessary modifications and, for greater certainty, **Canada** will be under no obligation to participate in any arbitration proceedings.

#### 11.5.7 Alternatives if Canada Rejects Reversion Lands or Returned Project Lands.

Where **Canada** advises that it will not accept administration and control of any parcel of **Reversion Lands** or **Returned Project Lands** due to an adverse environmental condition, **Manitoba** will, within sixty (60) days of receipt of that advice, or as soon thereafter as is reasonably practicable having regard to field conditions, advise **Chemawawin** in writing whether **Manitoba** will:

- (a) subject to subsection 11.5.8, remedy the adverse environmental condition, in which case **Manitoba** will proceed to do so as soon as reasonably practicable thereafter; or
- (b) dispute **Canada's** position, in which case **Manitoba** will take reasonable steps, with the co-operation of **Chemawawin** to encourage **Canada** to accept administration and control of that parcel.



### 11.5.8 Cost.

To the extent that the adverse environmental condition of the parcel of **Reversion Lands** or **Returned Project Lands** is attributable to **Chemawawin** or its **Members**, **Chemawawin** will be responsible for the cost of remedying the adverse environmental condition.

## 11.6 REPLACEMENT LANDS

### 11.6.1 Limitation on Replacement of Severed Area.

**Manitoba** will not be required to provide replacement land for a portion of a parcel that is no longer considered **Additional Lands** under subsection 11.5.3, where the severance of that portion of the parcel does not fundamentally affect the value of the balance of the parcel to **Chemawawin**.

### 11.6.2 Identification of Replacement Land.

Where **Manitoba** is to provide replacement land under Article 11, it will negotiate with **Chemawawin** to identify replacement land in accordance with the requirements set out in subsection 11.6.3.

### 11.6.3 Requirements of Replacement Land.

Replacement land will be identified from unoccupied and unencumbered Crown (Manitoba) land located within the **Cedar Lake Resource Management Area** and be of comparable size to the parcel which is being replaced. Any replacement land will include protection for water power sufficient to meet the requirements of *The Water Power Act* (Manitoba).

### 11.6.4 Effect of Replacement.

If at any time in relation to a parcel of **Additional Lands** replacement land is to be provided in accordance with Article 11 then:

- (a) the parcel that is replaced no longer will be considered to be **Additional Lands**;  
and
- (b) the parcel of replacement land will be considered to be **Additional Lands**.

### 11.6.5 No Delay.

A dispute in relation to any portion of **Additional Lands** will not hinder or delay the contemplated transfer of administration and control to **Canada** of the portions not affected by the dispute.

## 11.7 ARBITRATION

### 11.7.1 Referral of Matter to Arbitration.

**Manitoba** or **Chemawawin** may refer any matter in dispute between them under Article 11 by providing a "Notice of Arbitration" in writing to the other describing the matter in dispute, which, without limiting the generality of this subsection, may include:

- (a) any matter relating to a dispute:
  - (i) under subsection 11.5.2 in relation to the determination of the area of a portion of a parcel that is unsatisfactory due to its environmental condition,
  - (ii) under subsection 11.5.5 as to whether the severance of a portion of a parcel of **Additional Lands** under subsection 11.5.3 fundamentally affects the value of the balance of the parcel to **Chemawawin**, and
  - (iii) in relation to the identification of replacement land under section 11.6; and
- (b) a reference to arbitration:
  - (i) by **Manitoba** pursuant to paragraph 11.3.2(d) or 11.3.3(b) on the issue of whether a parcel of **Additional Lands** meets acceptable environmental standards,
  - (ii) by **Manitoba** pursuant to paragraph 11.4.2(a) on the issue of whether there has been a fundamental change in the condition of a parcel of **Additional Lands**, and
  - (iii) by **Chemawawin** pursuant to subsection 11.5.5 on the issue of whether a severance of a portion of a parcel of **Additional Lands** fundamentally affects the value of the balance of the parcel to **Chemawawin**.

#### 11.7.2 Sole Arbitrator.

Subject to subsection 11.7.4, matters referred to arbitration under Article 11 will be referred to a sole arbitrator.

#### 11.7.3 Appointment of Sole Arbitrator.

The sole arbitrator under subsection 11.7.2 will be appointed jointly by **Chemawawin** and **Manitoba** within fourteen (14) days of receiving a Notice of Arbitration under subsection 11.7.1.

#### 11.7.4 Arbitration Board.

**Chemawawin** and **Manitoba** may agree, in writing to have a matter referred to a three (3) member arbitration board to be appointed in accordance with subsections 11.7.5 and 11.7.6.

#### 11.7.5 Appointment of Arbitration Board.

Where a matter is referred to a three (3) member arbitration board, **Chemawawin** and **Manitoba** will each appoint one (1) of the three (3) members of the arbitration board within fourteen (14) days of receiving a Notice of Arbitration under subsection 11.7.1.

#### 11.7.6 Appointment of Chairperson.

Within fourteen (14) days from the date the last member of the arbitration board is appointed under subsection 11.7.5, the two (2) members of the arbitration board will appoint the third member of the arbitration board, who will be the chairperson of the arbitration board.

#### 11.7.7 No Revocation.

Subject to subsection 11.7.9, **Chemawawin** and **Manitoba** may not revoke the appointment of an arbitrator.

#### 11.7.8 Independence and Impartiality of Arbitrator(s).

Arbitrators appointed under section 11.7 will:

- (a) be independent of the **Parties**;
- (b) act impartially;
- (c) before accepting an appointment as arbitrator, disclose to **Chemawawin** and **Manitoba** any circumstances of which they are aware that may give rise to a reasonable apprehension of bias; and

- (d) during an arbitration, disclose to **Chemawawin** and **Manitoba** any circumstances of which they become aware that may give rise to a reasonable apprehension of bias.

#### 11.7.9 Joint Removal of Arbitrator.

Where **Chemawawin** and **Manitoba** agree in writing that an arbitrator does not meet the requirements set out in subsection 11.7.8 and therefore is unable to act or continue to act as an arbitrator, and that arbitrator has not excused himself or herself from the arbitration proceedings, **Chemawawin** and **Manitoba** may jointly remove that arbitrator from the arbitral tribunal.

#### 11.7.10 Removal of Arbitrator by Court.

Where either **Chemawawin** or **Manitoba** has reasonable grounds to believe that an arbitrator does not meet the requirements set out in subsection 11.7.8, either may apply to the Court of Queen's Bench to have the arbitrator removed.

#### 11.7.11 Replacement of Arbitrator.

In the event that an arbitrator:

- (a) is unable or unwilling to act; or
- (b) has been removed pursuant to subsection 11.7.9 or 11.7.10;

a substitute arbitrator will be appointed following the procedure that was used in the appointment of the arbitrator being replaced.

#### 11.7.12 Appointment of Arbitrator by Court.

**Chemawawin** or **Manitoba** may apply to the Court of Queen's Bench to appoint an arbitrator or, where applicable, a replacement arbitrator where:

- (a) under subsection 11.7.3, **Chemawawin** and **Manitoba** are unable to reach agreement upon the identity of a sole arbitrator within the time provided;
- (b) under subsection 11.7.5, the other **Party** has not appointed an arbitrator within the time provided;
- (c) under subsection 11.7.6, the chairperson has not been appointed within the time provided;

- (d) the **Parties** fail to appoint a replacement arbitrator under subsection 11.7.11 within a reasonable time.

#### 11.7.13 Jurisdiction of Arbitral Tribunal.

From the date upon which the last arbitrator has accepted appointment, the arbitral tribunal (being either a sole arbitrator or a three member arbitration board) will have jurisdiction over the conduct of proceedings and may make such orders as are necessary to ensure the dispute is dealt with fairly and expeditiously, with regard to the real substance of the dispute.

#### 11.7.14 Powers of the Arbitral Tribunal.

The arbitral tribunal will have the power to make awards that determine the issues that are referred to arbitration under Article 11 so as to resolve any dispute under Article 11 between the **Parties**, and subject to any rights of appeal or review available at law, **Chemawawin** and **Manitoba** will give effect to the award of the arbitral tribunal, and without limiting the generality of this power, the arbitral tribunal will have the authority to:

- (a) determine any facts in dispute;
- (b) interpret this **Agreement**; and
- (c) award costs in accordance with subsections 11.7.15 and 11.7.16;

in a manner consistent with this **Agreement**.

#### 11.7.15 Costs of Arbitration.

The costs of arbitration proceedings under Article 11 will be addressed as follows:

- (a) **Manitoba** will be responsible for paying its own costs of participation in the arbitration proceedings;
- (b) **Manitoba** will pay the reasonable costs of the arbitral tribunal; and
- (c) the costs of participation by **Chemawawin** in the arbitration proceedings will be addressed in accordance with subsection 11.7.16.

#### 11.7.16 Costs of Chemawawin's Participation in Arbitration.

The costs of participation by **Chemawawin** in arbitration proceedings under Article 11 will be addressed as follows:

- (a) **Manitoba** will pay the reasonable costs of participation by **Chemawawin** in arbitration proceedings under Article 11 in the following circumstances:
- (i) where **Chemawawin** has referred the matter to arbitration and the reference to arbitration by **Chemawawin** was not unreasonable, and
  - (ii) where **Manitoba** has referred the matter to arbitration and the position advanced by **Chemawawin** leading up to the reference to arbitration has not been unreasonable, and
  - (iii) where the reference to arbitration is made jointly by **Manitoba** and **Chemawawin**;
- (b) where **Manitoba** does not agree that it is required to pay the reasonable costs of participation by **Chemawawin** under paragraph (a), **Chemawawin** may, at the outset of the proceedings, refer that issue to the arbitral tribunal and the arbitral tribunal will:
- (i) where **Chemawawin** has referred the matter to arbitration, determine whether the reference to arbitration by **Chemawawin** is not unreasonable without finally determining the matter in dispute, and where the arbitral tribunal determines that the reference to arbitration by **Chemawawin** is not unreasonable **Manitoba** will pay the reasonable costs of participation by **Chemawawin** in the arbitration proceedings, and
  - (ii) where **Manitoba** has referred the matter to arbitration, determine whether the position advanced by **Chemawawin** leading up to the reference to arbitration has not been unreasonable without finally determining the matter in dispute, and where the arbitral tribunal determines that the position advanced by **Chemawawin** leading up to the reference to arbitration has not been unreasonable **Manitoba** will pay the reasonable costs of participation by **Chemawawin** in the arbitration proceedings;
- (c) where **Manitoba** does not agree that it is required to pay the reasonable costs of the participation by **Chemawawin** under paragraph (a) and the arbitral tribunal does not determine at the outset of the proceedings that the position advanced by **Chemawawin** is not unreasonable in accordance with paragraph (b), the

arbitral tribunal will at the end of the proceedings, in addition to finally determining the matter in dispute,

- (i) where **Chemawawin** has referred the matter to arbitration, determine whether the reference to arbitration by **Chemawawin** was not unreasonable and where the arbitral tribunal determines that the reference to arbitration by **Chemawawin** is not unreasonable **Manitoba** will pay the reasonable costs of participation by **Chemawawin** in the arbitration proceedings, and
  - (ii) where **Manitoba** has referred the matter to arbitration, determine whether the position advanced by **Chemawawin** leading up to the reference to arbitration was not unreasonable and where the arbitral tribunal determines that the position advanced by **Chemawawin** leading up to the reference to arbitration was not unreasonable **Manitoba** will pay the reasonable costs of participation by **Chemawawin** in the arbitration proceedings;
- (d) the arbitral tribunal may determine any issue relating to reasonableness of any costs of participation by **Chemawawin** in arbitration proceedings under Article 11.

#### 11.7.17 Location and Date of Hearing.

Any arbitration hearing will be held at a location and at a date and time determined by **Chemawawin** and **Manitoba**, or if they cannot agree, at a location and at a date and time determined by the arbitral tribunal.

#### 11.7.18 Procedure.

The arbitral tribunal may determine the procedure to be followed in any arbitration proceeding, in accordance with *The Arbitration Act* (Manitoba).

#### 11.7.19 Evidence.

The arbitral tribunal is not bound by the rules of evidence and may determine:

- (a) the admissibility, relevance and weight of any evidence; and
- (b) the manner in which evidence is to be admitted.

#### 11.7.20 Decision of Arbitration Board.

Where, under subsection 11.7.5 the arbitral tribunal is composed of a panel of three (3) members, the decision of a majority of the arbitration board will be the decision of the arbitral tribunal.

#### 11.7.21 Timing.

The arbitral tribunal will make reasonable efforts to:

- (a) fix the date on which a matter will be considered within twenty-eight (28) days of the date the last appointment was accepted; and
- (b) deliver a written decision within twenty-eight (28) days of the receipt of all evidence and final argument.

#### 11.7.22 Extension of Time Frame.

Any of the time frames in subsections 11.7.1 to 11.7.21 inclusive may be extended by agreement in writing between **Manitoba** and **Chemawawin**.

#### 11.7.23 Appeal of Award.

**Chemawawin** or **Manitoba** may, within thirty (30) days after receipt of the arbitral award, appeal the award to the Court of Queen's Bench on a question of law or jurisdiction, and costs of the appeal will be dealt with in accordance with subsections 11.7.15 and 11.7.16, with necessary modifications.



## SCHEDULE 11.1 – PARCELS REQUIRING REMEDIATION

### Additional Lands

#### Site 7.1.2

#### Extension I.R. No. 2

There are several abandoned waste disposal sites on this parcel. A number of these sites are located northeast of the town site and will require remediation. A derelict vehicle is also located in this area.

Several hundred drilling core samples, storage boxes, oil containers and machine parts are located near the intersection of P.R. 327 and the Manitoba Hydro ROW. The possibility exists that this area will be encompassed in the expansion of the Manitoba Hydro ROW and may not make up part of Site 7.1.2.

#### Site 7.1.3

#### Extension I.R. No. 3

There are a small number of household garbage disposal areas on this site.

The western area of this site contains an abandoned forestry base camp which includes some general debris evidence of machine maintenance.

**SCHEDULE 11.2 – FORM OF COUNCIL RESOLUTION**

**(Rejection of Additional Lands)**

**CHEMAWAWIN CREE NATION**

**COUNCIL RESOLUTION**

---

First Nation: CHEMAWAWIN CREE NATION

Address: Box 9  
Easterville, Manitoba  
R0C 0V0

Date: \_\_\_\_\_, 200\_\_

- A. In 1962, Her Majesty the Queen in right of Manitoba ("Manitoba") and The Manitoba Hydro-Electric Board ("Manitoba Hydro") made certain commitments to the Chemawawin Cree Nation ("Chemawawin") arising from anticipated effects of the development and operation of the Grand Rapids Hydro-Electric Project (the "Project") and the acquisition and use of certain Chemawawin lands for water storage, which commitments were more particularly set out in a letter dated June 7, 1962 sent to Chemawawin by the Grand Rapids Forebay Administration Committee, on behalf of Manitoba and Manitoba Hydro and subsequent arrangements (collectively, the "1962 Arrangements");
- B. On \_\_\_\_\_, 200\_\_, Chemawawin, Manitoba, and Manitoba Hydro entered into an agreement (the "Comprehensive Forebay Agreement") to resolve the issues between and among those parties in relation to and arising out of the Project and the 1962 Arrangements;
- C. The Comprehensive Forebay Agreement provides, among other things, that Manitoba will provide to or for the benefit of Chemawawin certain parcels of Crown (Manitoba) land, including the parcels described in Schedule "A" hereto, subject to certain limited rights and privileges of Manitoba and Manitoba Hydro to regulate the flow of and to inundate and store water on or over portions of some parcels sufficient to accommodate a maximum wind eliminated water level of 842 feet A.S.L. immediately upstream of the Grand Rapids Hydro-Electric Generating Station, and to affect from time to time, such parcels to a level at or about 848 feet A.S.L., for purposes of the Project;
- D. The Comprehensive Forebay Agreement contemplated that Manitoba would, upon the request of Chemawawin by Council Resolution, and upon receiving certain written assurances from Her Majesty the Queen in right of Canada ("Canada"), transfer to Canada the administration and control of such parcels in order that such lands could be set apart as reserve for the use and benefit of Chemawawin, subject to the rights of Manitoba and Manitoba Hydro described in paragraph C; and

- E. The Comprehensive Forebay Agreement provides, among other things, that Chemawawin may, by Council Resolution, reject certain parcels of land in certain circumstances, including the parcels described in Schedule "A".

**Therefore, be it resolved that:**

1. Chemawawin hereby rejects pursuant to subsection 11.3.1 of the Comprehensive Forebay Agreement (or pursuant to subsection 11.3.5 of the Comprehensive Forebay Agreement) the parcels of Additional Lands described in Schedule A hereto for the reasons specified in Schedule "B hereto;
2. Chemawawin hereby requests that Manitoba take such further and other steps as may be required in order to (remedy the adverse environmental condition described in Schedule "B") (provide for replacement lands to replace the lands described in Schedule "A") in accordance with the terms of the Comprehensive Forebay Agreement; and
3. The Chief of Chemawawin is hereby authorized and directed to deliver a copy of this resolution to Manitoba and to execute all documents and do all things necessary to give effect to this resolution.

**Schedule A**

**Rejected Parcels of Additional Lands**

(insert a description of the parcels of land affected)

**Schedule B**

**Reasons for Rejection**

(insert description of the reasons for rejection of the parcels described in Schedule A)

**PART VIII: LAND CORPORATION**

**ARTICLE 12**

**Land Corporation**

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## PART VIII: LAND CORPORATION

### ARTICLE 12

#### 12.0 LAND CORPORATION

#### 12.1 INTRODUCTION

##### 12.1.1 Introduction.

Article 12 provides for the incorporation of the **Land Corporation** to hold, on behalf of **Chemawawin**, its interests in the **Chemawawin Lands**.

#### 12.2 LAND CORPORATION

##### 12.2.1 Incorporation.

On or before the **Date of this Agreement**, the **Chief and Council** will have caused the **Land Corporation** to be incorporated under *The Corporations Act* (Manitoba) as a share capital corporation with authorized capital of one (1) common share for consideration of One Dollar (\$1.00). The registered office of the **Land Corporation** will be located on **Reserve**.

##### 12.2.2 Articles of Incorporation.

The **Articles of Incorporation** will be in the form attached as Schedule 12.1, a certified copy of which will have been provided by **Chemawawin** to each of **Manitoba** and **Hydro** on or before the **Date of this Agreement**.

##### 12.2.3 Ownership and Voting of Share.

The one (1) common share in the **Land Corporation** will be issued to **Chemawawin** and a copy of the share certificate representing the one (1) common share will be provided by **Chemawawin** to each of **Manitoba** and **Hydro** on or before the **Date of this Agreement**. Notice of any shareholders' meeting will be given by the **Directors** to **Chief and Council** and all voting rights attaching to the share will be exercised by **Council Resolution**.

##### 12.2.4 Nomination and Election of Board of Directors.

The Board of **Directors** will be composed of at least five (5) **Directors** nominated and elected by **Chief and Council** by **Council Resolution**. The **Directors** will, subject to subsection 12.2.5, include:

- (a) the **Chief**, or if the **Chief** does not qualify under subsection 12.2.5 or is removed under subsection 12.2.6, another Councillor of **Chemawawin**;

- (b) two Councillors of **Chemawawin** other than the **Chief**; and
- (c) two **Elders** who are not Councillors of **Chemawawin**.

On or before the **Date of this Agreement**, **Chemawawin** will provide a certified copy of the **Council Resolution** electing the Board of **Directors** to each of **Manitoba** and **Hydro**.

#### 12.2.5 Qualifications of Directors.

All **Directors** will be persons who:

- (a) are **Members** and are eighteen (18) years of age or older;
- (b) are not undischarged bankrupts;
- (c) have not been found by a court of competent jurisdiction to be a person of unsound mind.

#### 12.2.6 Removal of Directors.

The shareholder may, in any circumstances in which the **Directors** act in a manner contrary to the **Articles of Incorporation**, the By-laws of the **Land Corporation** or this **Agreement**, call, without notice, a shareholders' meeting at which one or more **Directors** may be removed, in which case the shareholder may elect the appropriate number of replacement **Directors** in accordance with subsections 12.2.4 and 12.2.5.

#### 12.2.7 By-Laws of Land Corporation.

On or before the **Date of this Agreement**, **Chemawawin** will have caused By-law No. 1, in the form attached as Schedule 12.2, to be enacted and ratified and a certified copy thereof provided to **Manitoba** and **Hydro**. The **Directors** may from time to time amend By-law No. 1 in a manner not inconsistent with the **Articles of Incorporation** and this **Agreement**.

### 12.3 APPROVAL OF LAND CORPORATION TRANSACTIONS

#### 12.3.1 Restricted Transactions.

**Chemawawin** will not cause or permit any of the following transactions unless such transaction is approved by the **Members** by a referendum held in accordance with the **Articles of Incorporation**:



- (a) any disposition by the **Land Corporation** of any interest in the **Chemawawin Lands**, including, without limitation, any disposition by way of sale, transfer, lease, mortgage or charge or by way of the granting of any right of first refusal, option to purchase, or other right to acquire any interest in the **Chemawawin Lands**, other than the granting of a lease or other right to use the **Chemawawin Lands** for a term not exceeding seven (7) years, inclusive of renewals by a lessee;
- (b) any disposition by **Chemawawin** of any interest in the share it holds in the **Land Corporation**, including, without limitation, any disposition by way of sale, transfer, mortgage, pledge, hypothecation or charge, or by way of the granting of any right of first refusal or option to purchase or other right to acquire any interest in the share;
- (c) any amendment to the **Articles of Incorporation**; or
- (d) the wind up or dissolution of the **Land Corporation**.

**SCHEDULE 12.1 - ARTICLES OF INCORPORATION OF LAND CORPORATION**

See Articles of Incorporation Attached



The Corporations Act  
Loi sur les corporations  
**ARTICLES OF INCORPORATION (share capital)**  
**STATUTS CONSTITUTIFS (avec capital-actions)**

1. Name of Corporation / Dénomination sociale

CHEMAWAWIN LAND CORPORATION

2. The address in full of the registered office (include postal code)  
Adresse complète du bureau enregistré (inclure le postal code)

BAND OFFICE  
CHEMAWAWIN CREE NATION RESERVE  
BOX 9, EASTERVILLE, MANITOBA, R0C 0V0

3. Number (or minimum and maximum number) of directors  
Nombre (ou nombre minimal et maximal) d'administrateurs

minimum of 5 directors and maximum of 10 directors

4. First directors / Premiers administrateurs

Name in full / Nom complet	Address in full (include postal code) / Adresse complète (inclure le code postal)
CLARENCE EASTER	Box 9, Easterville, MB R0C 0V0

5. The classes and any maximum number of shares that the corporation is authorized to issue  
Catégories et tout nombre maximal d'actions que la corporation est autorisée à émettre  
One Common share.

6. The rights, privileges, restrictions and conditions attaching to the shares, if any  
Droits, privilèges, restrictions et conditions dont les actions sont assorties, s'il y a lieu  
See Schedule I attached.

7. Restrictions, if any, on share transfers / Restrictions au transfert des actions, s'il y a lieu  
The sole outstanding common share shall at all times be held by Chemawawin Cree Nation and no transfer of such share shall be permitted.

8. Restrictions, if any, on business the corporation may carry on  
Limites imposées quant à l'entreprise que la corporation peut exercer, s'il y a lieu  
The business of the Corporation shall be restricted to the holding, managing, administering and maintaining of corporate assets, to initially be comprised of interests in lands to be provided by Manitoba.

9. Other provisions, if any / Autres dispositions, s'il y a lieu  
See Schedule II attached.

10. I have satisfied myself that, the proposed name of the corporation is not the same as or similar to the name of any known body corporate, association, partnership, individual or business so as to be likely to confuse or mislead.  
Je me suis assuré que la dénomination sociale projetée n'est ni identique ni semblable à la dénomination d'une personne morale, d'une association, d'une société ou d'une entreprise connue ou au nom d'un particulier connu et qu'elle ne saurait prêter à confusion ni induire en erreur.

11. Incorporators / Fondateurs

Name in full / Nom complet	Address in full (include postal code) / Adresse complète (inclure le code postal)	Signature / Signature
CLARENCE EASTER	Box 9, Easterville, MB R0C 0V0	

**Note:** If any First Director named in paragraph 4 is not an Incorporator, a Form 3 "Consent to Act as a First Director" must be attached. State the full civic address in paragraphs 2, 4 and 11 – a P.O. box number alone is not acceptable.

**Remarque :** Si l'un des premiers administrateurs nommés à la rubrique 4 n'est pas un fondateur, joindre la formule 3 intitulée "Consentement à agir en qualité de premier administrateur". Indiquer l'adresse complète dans les rubriques 2, 4 et 11; un numéro de case postale seul n'est pas suffisant.

**OFFICE USE ONLY / RÉSERVÉ À L'ADMINISTRATION**

Corporation Number: / N° de la corporation : \_\_\_\_\_

Business Number: / Numéro d'entreprise : \_\_\_\_\_

THIS IS SCHEDULE I referred to in the Articles of Incorporation of CHEMAWAWIN LAND CORPORATION (the "Corporation").

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The one Common share in the capital of the Corporation issued to Chemawawin Cree Nation shall have attached thereto the rights, privileges, restrictions and conditions hereinafter set forth.

## **ARTICLE 1** **INTERPRETATION**

### **1.1 Definitions**

In these Articles, the following words and phrases have the following meanings:

- (a) **"Chemawawin"** means Chemawawin Cree Nation, a "band" within the meaning of the *Indian Act* (Canada), which is represented by Chief and Council;
- (b) **"Chief"** means the Chief of Chemawawin in office at the relevant time;
- (c) **"Chief and Council"** means the Council of Chemawawin in office at the relevant time;
- (d) **"Council Resolution"** means a lawful resolution of Chief and Council;
- (e) **"Directors"** means the board of directors of the Corporation, as the same may be constituted from time to time;
- (f) **"Winding-Up of the Corporation"** means any liquidation, dissolution or winding-up, whether involuntary or otherwise, or other distribution of the assets of the Corporation or repayment of capital to the shareholders of the Corporation for the purpose of winding-up its affairs.

### **1.2 Interpretation**

In these Articles, (1) words importing the singular number only shall include the plural and vice versa, (2) words importing the use of one gender only shall include all genders and (3) the division of these Articles into articles and sections and the insertion of headings are for the convenience of reference only and shall not affect the construction or interpretation of these Articles.

**ARTICLE 2**  
**COMMON SHARE**

**2.1 Voting Rights**

(a) Chemawawin, as holder of the one issued Common share in the capital of the Corporation, (1) will have sole voting rights for the election of Directors and for all other purposes whatsoever, and (2) will be entitled to be given or to receive notice of and to attend meetings of the shareholders of the Corporation.

(b) Notice of any shareholders' meeting will be given by the Directors of the Corporation to the Chief and Council and all voting rights attaching to the one Common share in the capital of the Corporation will be exercised by Council Resolution.

**2.2 Dividend Rights**

Chemawawin, as holder of the one issued Common share in the capital of the Corporation, will be entitled to receive, if, as and when declared by the Directors, such dividends as may be declared thereon by the Directors from time to time.

**2.3 Return of Capital**

Chemawawin, as holder of the one issued Common share in the capital of the Corporation, will have the right to receive the remaining assets of the Corporation upon any Winding-Up of the Corporation.

**THIS IS SCHEDULE II** referred to in the Articles of Incorporation of CHEMAWAWIN LAND CORPORATION

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The Corporation will be subject to the following restrictions:

**1.1 Definitions**

Words and phrases that are capitalized in Schedule II and not defined in Schedule II will have the meanings ascribed to such words and phrases in Schedule I. In addition, whenever used in these Articles of Incorporation, the following words and phrases will have the following meanings:

- (a) **"Chemawawin Lands"** means all interests in real property held by the Corporation on behalf of Chemawawin, under land use permit or fee simple title, in accordance with the Comprehensive Forebay Agreement;
- (b) **"Comprehensive Forebay Agreement"** means the agreement entered into or to be entered into among Chemawawin, as represented by Chief and Council, Her Majesty the Queen in right of the Province of Manitoba, as represented by The Minister of Conservation, and The Manitoba Hydro-Electric Board to resolve certain outstanding issues between and among such parties in relation to and arising out of the Grand Rapids Hydro-Electric Project, pursuant to which Chemawawin is to receive the Chemawawin Lands; and
- (c) **"Electors"** means all persons entitled to vote in a referendum held pursuant to the *Indian Act (Canada)* and the *Indian Referendum Regulations*.

**1.2 Interpretation**

In these Articles, (1) words importing the singular number only shall include the plural and vice versa; (2) words importing the use of one gender only shall include all genders and (3) the division of these Articles into articles and sections and the insertion of headings are for the convenience of reference only and shall not affect the construction or interpretation of these Articles.

**1.3 Restricted Transactions**

The Corporation will not cause or permit:

- (a) any disposition by the Corporation of any interest in the Chemawawin Lands, including, without limitation, any disposition by way of sale, transfer, lease, mortgage or charge or by way of the granting of any right of first refusal, option to purchase, or other right to acquire any interest in the Chemawawin Lands, other than the granting of a lease or other right to use the Chemawawin Lands for a term not exceeding seven (7) years, inclusive of renewals by a lessee;

- (b) any disposition by Chemawawin of any interest in the share it holds in the Corporation, including, without limitation, any disposition by way of sale, transfer, mortgage, pledge, hypothecation or charge, or by way of the granting of any right of first refusal or option to purchase or other right to acquire any interest in the share;
- (c) any amendment to the Articles of Incorporation; or
- (d) the wind up or dissolution of the Corporation;

unless such transaction is approved by Chemawawin after a referendum held in accordance with the procedures contained in this Schedule II of the Articles of Incorporation.

#### 1.4 Referendum

If they consider it in the best interests of the Corporation to enter into any of the transactions restricted under section 1.3 of this Schedule II, Chief and Council may, by Council Resolution, cause a referendum be held to determine if a majority of the Electors voting in the referendum are in favour of the transaction.

#### 1.5 Approval

The transaction will be approved by the Electors if, at the referendum held in accordance with section 1.4, a majority of the Electors voting in such referendum vote to approve the transaction.

#### 1.6 Conduct of Referendum

Chemawawin will conduct the referendum in accordance with the provisions of the *Indian Act (Canada)* and the *Indian Referendum Regulations* except that, at Chemawawin's option:

- (a) no order of the Minister responsible under the *Indian Act (Canada)* and the *Indian Referendum Regulations* will be obtained;
- (b) the electoral officer under the *Indian Referendum Regulations* will be a person to be determined by Chief and Council, rather than an officer of the Department of Indian Affairs acting under the direction of the Minister; and
- (c) representatives of Chief and Council will prepare any reports or statements which otherwise would have been prepared by the officer appointed by the Minister and will provide copies of the reports or statements to the Corporation.

#### 1.7 Statement of Referendum Results

Upon receipt of a written statement from the officer appointed by the Minister or the representative of Chemawawin appointed under subsection 1.6(b), as the case may be, confirming that the referendum was held in accordance with the procedures set forth in this Schedule II and that a majority of the Electors voting in the referendum voted in favour of the Corporation proceeding with the proposed transaction, the Corporation will be permitted, without further approvals, to cause or permit the transaction to proceed.



**SCHEDULE 12.2 - BY-LAW NO. 1 OF LAND CORPORATION**

See By-Law No 1 Attached

# CHEMAWAWIN LAND CORPORATION

## BY-LAW NO. 1

A by-law relating generally to the transaction of the business and affairs of CHEMAWAWIN LAND CORPORATION.

### CONTENTS

Article 1	-	Interpretation
Article 2	-	Business of the Corporation
Article 3	-	Directors
Article 4		Officers
Article 5	-	Delegation
Article 6	-	Protection of Directors, Officers and Others
Article 7	-	Shares
Article 8	-	Dividends and Rights
Article 9	-	Meetings of Shareholders
Article 10	-	Notices
Article 11	-	Effective Date and Interpretation

BE IT ENACTED AS A BY-LAW of the Corporation as follows:

### ARTICLE 1 INTERPRETATION

#### 1.1 DEFINITIONS

In the by-laws of the Corporation, unless the context otherwise requires:

- (a) "Act" means *The Corporations Act* (Manitoba) and the regulations passed pursuant to that Act and any legislation that may be substituted therefor, as amended from time to time;
- (b) "Affairs" means, with respect to a corporation, the relations among a corporation, its affiliates, and the shareholders, directors and officers, but does not include the business carried on by such corporation;
- (c) "Appoint" includes "elect" and vice versa;

- (d) "Articles" means the Articles of Incorporation of the Corporation attached to the Certificate of Incorporation and dated the                      day of                      ,                      , as amended or restated from time to time;
- (e) "Board" means the Board of Directors of the Corporation;
- (f) "By-laws" means this by-law and all other by-laws of the Corporation from time to time enacted by the Corporation and being in force and effect;
- (g) "Chemawawin" means Chemawawin Cree Nation, a "band" within the meaning of the *Indian Act* (Canada), which is represented by Chief and Council;
- (h) "Chief" means the Chief of Chemawawin in office at the relevant time;
- (i) "Chief and Council" means the Council of Chemawawin in office at the relevant time;
- (j) "Corporation" means the body corporate incorporated or continued under the Act and named in the Articles;
- (k) "Council Resolution" means a resolution of Chief and Council;
- (l) "Meeting of the Shareholder" means an annual meeting of Shareholder and/or a special meeting of Shareholder;
- (m) "Member" means a person who, at the relevant time, is a member of Chemawawin pursuant to the *Indian Act* (Canada);
- (n) "Non-Business Day" means Saturday, Sunday and any other day that is a holiday as defined in the *Interpretation Act* (Canada);
- (o) "Person" includes an individual, partnership, association, body corporate, Trustee, Executor, Administrator or legal representative;
- (p) "Recorded Address" means in the case of any person, such person's last known address as recorded in the records of the Corporation;
- (q) "Resident of Canada" means an individual who is (i) ordinarily resident in Canada, or (ii) not ordinarily resident in Canada but who is a member of a prescribed class of persons as outlined in the regulations passed pursuant to the Act;
- (r) "Reserve" has the same meaning as in the *Indian Act* (Canada), but is restricted to those reserves set apart for the use and benefit of Chemawawin;
- (s) "Shareholder" means Chemawawin, the holder of the only share in the capital of the Corporation authorized under the Articles;
- (t) "Signing Officer" means any person authorized to sign any instrument on behalf of the Corporation;

- (u) "Special Meeting" means a meeting of the Shareholder called to transact specific items of business other than those normally transacted at annual meetings.

## **1.2 INTERPRETATION**

All terms which are contained in the by-laws of the Corporation and which are defined in the Act but not defined in any by-law will have the meanings given to such terms in the Act. Words importing the singular number include the plural and vice versa; words importing gender include the masculine, feminine and neuter genders. Words importing persons include individuals, bodies corporate, partnerships, trusts and unincorporated organizations.

## **ARTICLE 2 BUSINESS OF THE CORPORATION**

### **2.1 REGISTERED OFFICE**

The registered office of the Corporation will at all times be located on Chemawawin Reserve land at such locations as the Board may from time to time determine.

### **2.2 CORPORATE SEAL**

Until changed by the Board, the corporate seal of the Corporation will be in the form impressed.

### **2.3 FINANCIAL YEAR**

The financial year end of the Corporation will be determined at a later date.

### **2.4 EXECUTION OF INSTRUMENTS**

Deeds, transfers, assignments, contracts, obligations, certificates and other instruments may be signed on behalf of the Corporation by two persons, one of whom holds the office of Chairman of the Board, President, Managing Director, Vice-President or Director and the other of whom holds one of the said offices or the office of Secretary, Treasurer, Assistant Secretary or Assistant Treasurer or any other office created by by-law or by resolution of the Board. In addition, the Board may from time to time direct the manner in which and the person or persons by whom any particular instrument or class of instruments may be signed. Any signing officer may affix the corporate seal to any instrument requiring the same.

### **2.5 BANKING ARRANGEMENTS**

The banking business of the Corporation including, without limitation, the borrowing of money and the giving of security therefor, will be transacted with such banks, trust companies or other bodies corporate or organizations as may from time to time be designated by or under the authority of the Board. Such banking business or any part thereof will be transacted under such agreements, instructions and delegations of powers as the Board may from time to time prescribe or authorize.

## **2.6 VOTING RIGHTS IN OTHER BODIES CORPORATE**

The signing officers of the Corporation may execute and deliver proxies and/or arrange for the issuance of voting certificates or other evidence of the right to exercise the voting rights attaching to any securities held by the Corporation. Such instruments, certificates or other evidence will be in favour of such person or persons, as may be determined by the officers executing such proxies and/or arranging for the issuance of voting certificates or such other evidence of the right to exercise such voting rights. In addition, the Board may from time to time direct the manner in which and the person or persons by whom any particular voting rights or class of voting rights may or will be exercised.

## **ARTICLE 3** **DIRECTORS**

### **3.1 NUMBER OF DIRECTORS AND QUORUM**

The Board will consist of not fewer than five (5) and not more than ten (10) directors. Subject to Section 3.8, the quorum for the transaction of business at any meeting of the Board will consist of a majority of directors then in office or such greater number of directors as the Board may from time to time determine.

### **3.2 QUALIFICATION**

Any person, in order to be qualified for election as a Director, will be a person who:

- (a) is a Member;
- (b) is eighteen (18) years of age or older;
- (c) is not an undischarged bankrupt; and
- (d) has not been found by a court of competent jurisdiction to be a person of unsound mind.

### **3.3 ELECTION AND TERM**

The election of directors will take place annually, at which time all the directors then in office will retire but, if qualified, will be eligible for re-election.

The Directors will be nominated and elected by the Shareholder by a shareholder's resolution. The nominees will qualify under Section 3.2 and will include:

- (a) the Chief, or if the Chief does not qualify under Section 3.2 or is removed under Section 3.4, another Councillor of Chemawawin;
- (b) two Councillors of Chemawawin other than the Chief; and
- (c) two Elders who are not Councillors of Chemawawin.

If an election of directors is not held at the proper time, the incumbent directors will continue in office until their successors are elected.

### **3.4 REMOVAL OF DIRECTORS**

The Shareholder may, by resolution, remove any director from office and fill the vacancy so created provided that any new director shall qualify under Sections 3.2 and 3.3.

### **3.5 VACATION OF OFFICE**

A director ceases to hold office when:

- (a) he dies;
- (b) he is removed from office by resolution of the Shareholder;
- (c) he ceases to be qualified for election as a director;
- (d) his or her written resignation is sent or delivered to the Corporation, or if a time is specified in such resignation, at the time so specified, whichever is later; or
- (e) he is not re-elected, and his or her successor is elected.

### **3.6 ACTION BY THE BOARD**

The Board will manage the business and affairs of the Corporation. Subject to Sections 3.7 and 3.8, the powers of the Board may be exercised by resolution passed at a meeting at which a quorum is present or by resolution in writing signed by all the directors entitled to vote on that resolution at a meeting of the Board. Where there is a vacancy in the Board, the remaining directors may exercise all the powers of the Board so long as a quorum remains in office.

### **3.7 CANADIAN MAJORITY**

The Board will not transact business at a meeting unless a majority of the directors present are Residents of Canada, except where:

- (a) a director who is a Resident of Canada and who is unable to be present approves the business transacted at the meeting in writing, or by telephone, or by other communications facilities; and
- (b) a majority of directors who are Residents of Canada would have been present had that director been present at the meeting.

### **3.8 MEETINGS BY TELEPHONE**

If all the directors consent, a director may participate in a meeting of the Board or of a committee of the Board by telephone or by other communications facilities which permit all persons participating in the meeting to hear each other, and a director participating in such a meeting by such means is deemed to be present at the meeting. Any such consent will be effective whether given before or after the meeting to which it relates and may be given with respect to all meetings of the Board and of committees of the Board held while a director holds office.

### **3.9 PLACES OF MEETINGS**

Meetings of the Board will be held on the Reserve.

### **3.10 CALLING OF MEETINGS**

Meetings of the Board will be held from time to time and at such place on the Reserve as any one director may determine.

### **3.11 NOTICE OF MEETING**

Notice of the time and place of each meeting of the Board will be given in the manner provided in Section 10.1 to each director not less than 5 days (other than non-business days) before the time when the meeting is to be held. A notice of meeting of directors need not specify the purpose of the business to be transacted at the meeting except where the Act requires such purpose or business to be specified. A director may in any manner waive notice of or otherwise consent to a meeting of the Board.

### **3.12 FIRST MEETING OF NEW BOARD**

Provided a quorum of directors is present, each newly elected Board may without notice hold its first meeting immediately following the meeting of Shareholder at which such Board is elected.

### **3.13 ADJOURNED MEETING**

If a meeting of directors is adjourned for less than 30 days, it will not be necessary to give notice of the adjourned meeting, other than by announcement at the earliest meeting that is adjourned. If a meeting of directors is adjourned by one or more adjournments for an aggregate of 30 days or more, notice of the adjourned meeting will be given as for an original meeting.

### **3.14 REGULAR MEETINGS**

The Board may appoint a day or days in any month or months for regular meetings of the Board at a place and hour to be named provided that there will be at least one meeting every two months. A copy of any resolution of the Board fixing the place and time of such regular meetings will be sent to each director forthwith after being passed, but no other notice will be required for any such regular meeting except where the Act requires the purpose thereof or the business to be transacted thereat to be specified.

### **3.15 CHAIRMAN**

The Chairman of any meeting of the Board will be the first mentioned of such of the following officers as have been appointed and who is a director and is present at the meeting: Chairman of the Board, Managing Director, President, or a Vice-President who is a director. If no such officer is present, the directors present will choose one of their number to be a Chairman.

### **3.16 VOTES TO GOVERN**

At all meetings of the Board every decision will be made by consensus unless a director requests that a vote be taken. If a motion is put to a vote it will be defeated unless supported by a majority of the directors casting votes on the question. In case of an equality of votes the Chairman of the meeting will not be entitled to a second or casting vote.

### **3.17 CONFLICT OF INTEREST**

A director or officer who is a party to, or who is a director or officer of or has a material interest in any person who is a party to, a material contract or proposed material contract with the Corporation will disclose in writing to the Corporation or request to have entered in the minutes of meetings of directors of the Corporation the nature and extent of his or her interest at the time and in the manner provided for by the Act. Any director or officer so interested will not vote on any resolution to approve the contract except in the manner and to the extent provided in the Act.

### **3.18 REMUNERATION AND EXPENSES**

The Board may fix the remuneration of the directors, officers, and employees of the Corporation and may formulate the policy of the Corporation in relation to the reimbursement of expenses. The remuneration to be paid to the directors will be in addition to the salary paid to any officer or employee of the Corporation who is also a director. The Board may also award special remuneration to any director undertaking any special services on the Corporation's behalf other than the routine work ordinarily required of a director by the Corporation and the confirmation of any such resolution or resolutions by the Shareholder will not be required. The directors will also be entitled to be reimbursed for their travelling and other expenses properly incurred by them in attending to the affairs of the Corporation. Nothing herein contained will preclude any director from serving the Corporation in any other capacity and receiving remuneration therefor.

### **3.19 REMUNERATION OF DIRECTORS AND OFFICERS**

If any director or officer of the Corporation will be employed by or will perform services for the Corporation other than as a director or officer or will be a member of a firm, or shareholder, director or officer of a company which is employed by or performs services for the Corporation, the fact of his or her being the director or officer of the Corporation will not disentitle such director or officer or such firm or company, as the case may be, from receiving proper remuneration for such services.

## **ARTICLE 4 OFFICERS**

### **4.1 APPOINTMENT**

The Board may from time to time appoint a President, one or more Vice-Presidents (to which title may be added words indicating seniority or function), a Secretary, a Treasurer and such other officers as the Board may determine, including one or more assistants to any of the officers so appointed. The Board may specify the duties of any such officers. Subject to Sections 4.2 and 4.3, an officer may but need not be a director and one person may hold more than one (1) office.



#### **4.2 CHAIRMAN OF THE BOARD**

The Board may from time to time also appoint a Chairman of the Board who will be a Director. If appointed, the Board may assign to him or her any of the powers and duties that are by any provisions of this by-law assigned to the Managing Director or to the President; and he or she will, subject to the provisions of the Act, have such other powers and duties as the Board may specify. During the absence of the Chairman, or if no Chairman has been appointed, his or her duties will be performed and his or her powers exercised by the Managing Director, if any, and if no Managing Director, then by the President.

#### **4.3 MANAGING DIRECTOR**

The Board may from time to time appoint a Managing Director who will be a Resident of Canada and a director. If appointed, he or she will be the chief executive officer and, subject to the authority of the Board, will have general supervision of the business and affairs of the Corporation; and he or she will, subject to the provisions of the Act, have such other powers and duties as the Board may specify. During the absence or disability of the President, or if no President has been appointed, the Managing Director will also have the powers and duties of that office.

#### **4.4 PRESIDENT**

If appointed, the President will, in the absence of a Managing Director, be the chief executive officer and, subject to the authority of the Board, will have general supervision of the business of the Corporation; and he or she will have such other powers and duties as the Board may specify. During the absence or disability of the Managing Director, or if no Managing Director has been appointed, the President will also have the powers and duties of that office.

#### **4.5 VICE-PRESIDENT**

A Vice-President will have such powers and duties as the Board may specify.

#### **4.6 SECRETARY**

The Secretary, if in attendance, will be the secretary of all meetings of the Board, the Shareholder and any committees of the Board and will enter or cause to be entered in records kept for that purpose minutes of all proceedings; he or she will give or cause to be given, as and when instructed, all notices to the Shareholder, directors, officers, auditors, Chief and Council and members of committees of the Board; he or she will be the custodian of the stamp or mechanical device generally used for affixing the corporate seal of the Corporation and of all books, papers, records, documents and instruments belonging to the Corporation, except when some other officer or agent has been appointed for that purpose; and he or she will have such other powers and duties as the Board or the Chief Executive Officer may specify. If there is no Secretary in attendance at a meeting, those in attendance at the meeting may appoint from among themselves a person to perform the function of a secretary at that meeting.

#### **4.7 TREASURER**

The Treasurer will keep proper accounting records in compliance with the Act and will be responsible for the deposit of money, the safekeeping of securities and the disbursement of the funds of the Corporation; he or she will render to the Board whenever required an account of all

his or her transactions as Treasurer and of the financial position of the Corporation; and he or she will have such other powers and duties as the Board or the Chief Executive Officer may specify.

#### **4.8 POWERS AND DUTIES OF OTHER OFFICERS**

The powers and duties of all other officers will be such as the terms of their engagement call for or as the Board or the Chief Executive Officer may specify. Any of the powers and duties of an officer to whom an assistant has been appointed may be exercised and performed by such assistant, unless the Board or the Chief Executive Officer otherwise directs.

#### **4.9 VARIATION OF POWERS AND DUTIES**

The Board may from time to time and subject to the provisions of the Act, vary, add to or limit the powers and duties of any officer.

#### **4.10 INABILITY OF OFFICER OR DIRECTOR TO PERFORM DUTIES**

If any officer is unable to perform his or her functions or discharge his or her duties as such officer, the Board may appoint such other officer(s) to perform the functions and/or to discharge the duties of that officer.

#### **4.11 TERM OF OFFICE**

The Board, in its discretion by ordinary resolution, may remove any officer of the Corporation, without prejudice to such officer's rights under any employment contract. Otherwise each officer appointed by the Board will hold office until his or her successor is appointed.

#### **4.12 TERMS OF APPOINTMENT AND REMUNERATION**

The terms of appointment and the remuneration of officers appointed by the Board will be settled by it from time to time.

#### **4.13 DISCLOSURE OF INTEREST**

An officer will disclose his or her interest in any material contract or proposed material contract with the Corporation in accordance with Section 3.17.

#### **4.14 AGENTS AND ATTORNEYS**

Subject to Section 5.2, the Board will have the power from time to time to appoint agents or attorneys for the Corporation with such powers of management or otherwise (including the power to sub-delegate) as may be thought fit.

#### **4.15 FIDELITY BONDS**

The Board may require such officers, employees and agents of the Corporation as the Board deems advisable to furnish bonds for the faithful discharge of their powers and duties, in such form and with such surety as the Board may from time to time determine.

**ARTICLE 5**  
**DELEGATION**

**5.1 DELEGATION BY THE BOARD OF DIRECTORS**

Subject to Section 5.2, the Board may from time to time, delegate to a Managing Director, General Manager, Committee of Directors, or to such one or more of the directors and officers of the Corporation as may be designated by the Board, all or any of the powers conferred upon the Board pursuant to the Act, or any articles or by-laws of the Corporation, to such extent and in such manner as the Board will determine at the time of each such delegation.

**5.2 EXCEPTION**

The Board will not delegate any authority or power exclusively conferred to it by the Act.

**ARTICLE 6**  
**PROTECTION OF DIRECTORS, OFFICERS AND OTHERS**

**6.1 LIMITATION OF LIABILITY**

No director or officer will be liable for the acts, receipts, neglects or defaults of any other director or officer or employee, or for joining in any other act or conformity, or for any loss, damage or expense occurring to the Corporation through the insufficiency or deficiency of title to any property acquired for or on behalf of the Corporation, or for the insufficiency or deficiency of any security in or upon which any of the monies of the Corporation will be invested, or for any loss or damage arising from the bankruptcy, insolvency or tortious acts of any person with whom any of the monies, securities or effects of the Corporation will be deposited, or for any loss occasioned by any error of judgment or oversight on his or her part, or for any other loss, damage or misfortune whatsoever which will happen in the execution of the duties of his or her office or in relation thereto, unless the same are occasioned by his or her own wilful neglect or default; provided that nothing herein will relieve any director or officer from the duty to act in accordance with the Act or from liability for any breach of the provisions thereof.

**6.2 INDEMNITY**

Subject to the limitations contained in the Act, the Corporation may indemnify a director or an officer of the Corporation, a former director or officer of the Corporation, or a person who acts or acted at the Corporation's request as a director or officer of a body corporate of which the Corporation is or was a shareholder or creditor (or a person who undertakes or has undertaken any liability on behalf of the Corporation or any such body corporate) and his or her heirs and legal representatives, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by him or her in respect of any civil, criminal or administrative action or proceeding to which he or she has been made a party by reason of being or having been a director or officer of the Corporation or such body corporate (or having undertaken any such liability), if:

- (a) he or she acted honestly and in good faith with a view to the best interests of the Corporation; and

- (b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, he or she had reasonable grounds for believing that his or her conduct was lawful;

and will so indemnify such a person as aforesaid who has been substantially successful in the defence of any civil, criminal or administrative action or proceeding to which he or she is made a party by reason of being or having been a director or officer of the Corporation or body corporate against all costs, charges and expenses reasonably incurred by him or her in respect of such acts or proceedings, notwithstanding paragraphs (a) and (b) above.

### **6.3 INSURANCE**

Subject to the limitations contained in the Act, the Corporation may purchase and maintain such insurance for the benefit of its directors and officers as such, as the Board may from time to time determine.

### **6.4 SAVING**

Subject to compliance with Section 3.17, in supplement of and not by way of limitation upon any rights conferred upon directors under the Act, it is declared that no director will be disqualified from holding office, or required to vacate his or her office by reason of holding any office or place of profit in the Corporation or in any body corporate in which the Corporation will be a shareholder or by reason of being otherwise in any manner directly or indirectly interested or contracting with the Corporation either as vendor, purchaser or otherwise or being concerned in any contract or arrangement made or proposed to be entered into with the Corporation in which he or she is in any way directly or indirectly interested either as vendor, purchaser or otherwise; nor will any director be liable to account to the Corporation or any of its shareholders or creditors for any profit arising from any such office or price or profit; and, subject to the provisions of the Act, and compliance with Section 3.17, no contract or arrangement entered into by or on behalf of the Corporation in which any director will be in any way directly or indirectly interested will be avoided or voidable and no director will be liable to account to the Corporation or any of its shareholders or creditors for any profit realized by or from any such contract or arrangement by reason of any fiduciary relationship, if the director complied with Section 3.17 and if the contract or arrangement was approved by the directors or the shareholders and it was reasonable and fair to the Corporation at the time it was approved.

## **ARTICLE 7** **SHARE**

### **7.1 SHARE CERTIFICATE**

The Shareholder will be entitled, at its option, to a share certificate, or to a non-transferable written acknowledgement of its right to obtain a share certificate with respect to the one Common share in the capital of the Corporation held by it as shown in the securities register. The share certificate or acknowledgement of the Shareholder's right to a share certificate, respectively, will be in such form as the Board will from time to time approve. Any share certificate will be signed in accordance with Section 2.4 and need not be under the corporate seal.

## **7.2 REPLACEMENT OF SHARE CERTIFICATE**

The Board or any officer or agent designated by the Board may in its or his or her discretion direct the issue of a new share certificate in lieu of and upon cancellation of a share certificate that has been mutilated or in substitution for a share certificate claimed to have been lost, destroyed or wrongfully taken on payment of such fee as the Board will determine, and on such terms as to indemnity, reimbursement of expenses and evidence of loss and of title as the Board may from time to time prescribe, whether generally or in any particular case.

## **ARTICLE 8** **DIVIDENDS AND RIGHTS**

### **8.1 DIVIDENDS**

Subject to the provisions of the Act, the Board may from time to time declare dividends payable to the Shareholder. Dividends may be paid in money or property.

### **8.2 DIVIDEND CHEQUES**

A dividend payable in cash will be paid by cheque drawn on the Corporation's bankers or one of them to the order of the Shareholder and mailed by prepaid ordinary mail to the Shareholder, unless the Shareholder otherwise directs.

## **ARTICLE 9** **MEETINGS OF SHAREHOLDER**

### **9.1 POWERS EXERCISED BY CHIEF AND COUNCIL**

All power and authority of the Shareholder and all voting rights attaching to the share issued to the Shareholder will be exercised by Chief and Council by Council Resolution. The Chief and each member of the Council will be entitled to receive notice of and attend any meeting of the Shareholder.

### **9.2 ANNUAL MEETINGS**

The annual meeting of the Shareholder will be held at such time in each year and, subject to Section 9.3, at such place on Reserve as the Board, failing which, the Chairman of the Board, failing which, the Managing Directors, failing which, the President may from time to time determine, for the purposes of considering the financial statements and reports required by the Act to be placed before the annual meeting, electing directors, appointing or waiving the appointment of auditors and for the transaction of such other business as may properly be brought before the meeting.

### **9.3 SPECIAL MEETINGS**

The Board, the Chairman of the Board, the Managing Director or the President will have power to call a special meeting of the Shareholder at any time, and the Shareholder will, by Council Resolution, have power to call a special meeting of the Shareholder at any time.

#### **9.4 PLACE OF MEETINGS**

Meetings of the Shareholder will be held at the registered office of the Corporation or elsewhere on Reserve.

#### **9.5 NOTICE OF MEETINGS**

Notice of the time and place of each meeting of the Shareholder will be given in the manner provided in Section 10.1 not less than 21 and not more than 50 days before the date of the meeting to the Shareholder, to each director, to the auditor, if any, and to each member of the Chief and Council. Notice of a meeting of the Shareholder called for any purpose other than consideration of the financial statements and auditor's report, election of directors and reappointment of the incumbent auditor will state the nature of such business in sufficient detail to permit the members of Chief and Council to form a reasoned judgment thereon and will state the text of any special resolution to be submitted to the meeting.

#### **9.6 MEETINGS WITHOUT NOTICE**

A meeting of the Shareholder may be held without notice at any time and at any place on Reserve:

- (a) if the Chief and Council by Council Resolution waive notice of or otherwise consent to such meeting being held; and
- (b) if the auditors, if any, and the directors are present or waive notice of or otherwise consent to such meeting being held;

and at such meeting any business may be transacted which the Corporation at a meeting of shareholders may transact.

#### **9.7 CHAIRMAN AND SECRETARY**

The Chairman of any meeting of the Shareholder will be the first mentioned of such of the following officers as have been appointed and who is present at the meeting: President, Managing Director, Chairman of the Board, or a Vice-President who is a member of Chief and Council. If no such officer is present within 15 minutes from the time fixed for holding the meeting, the persons present and entitled to vote will choose one of their number to be Chairman. If the Secretary of the Corporation is absent, the Chairman will appoint some person, who need not be a member of Chief and Council, to act as Secretary of the meeting.

#### **9.8 PERSONS ENTITLED TO BE PRESENT**

The only persons entitled to be present at a meeting of the Shareholder will be members of Chief and Council, the directors and auditors of the Corporation. Any other person may be admitted only with the consent of the meeting expressed by Council Resolution passed at the meeting.

#### **9.9 QUORUM**

A quorum for the transaction of business at any meeting of the Shareholder will be the same as a quorum for a meeting of Chief and Council.

## **9.10 RIGHT TO VOTE**

Any member of Chief and Council entitled to vote at a meeting of Chief and Council will be entitled to vote on any Council Resolution authorizing the exercise of the voting rights attaching to the share issued to Chemawawin at any meeting of the Shareholder.

## **9.11 VOTES TO GOVERN**

At any meeting of the Shareholder every question will be determined by Council Resolution duly adopted by Chief and Council. Any resolution adopted in such manner will be recorded in the minutes of the Corporation as a resolution of the Shareholder of the Corporation.

## **9.12 ADJOURNMENT**

If a meeting of the Shareholder is adjourned for less than 30 days, it will not be necessary to give notice of the adjourned meeting, other than by announcement at the earliest meeting that is adjourned. If a meeting of the Shareholder is adjourned by one or more adjournments for an aggregate of 30 days or more, notice of the adjourned meeting will be given as for an original meeting.

## **9.13 RESOLUTION IN WRITING**

A resolution in writing signed by all the members of Chief and Council on behalf of Chemawawin is as valid as if it had been passed at a meeting of the Shareholder unless a written statement with respect to the subject matter of the resolution is submitted by a director or the auditors to the Corporation in accordance with Subsections 105(2) and 162(5) of the Act.

## **ARTICLE 10 NOTICES**

### **10.1 METHOD OF GIVING NOTICES**

Any notice (which term includes any communication or document) to be given (which term includes sent, delivered or served) pursuant to the Act, the Articles, the By-laws or otherwise to a shareholder, director, officer, auditor, member of a committee of the Board or member of Chief and Council will be sufficiently given if delivered personally to the person to whom it is to be given or if delivered to his or her recorded address or if mailed to him or her at his or her recorded address by prepaid ordinary mail or if sent to him or her at his or her recorded address by any means of prepaid transmitted or recorded communication. A notice so delivered will be deemed to have been given when it is delivered personally or to the recorded address as aforesaid; a notice so mailed will be deemed to have been given when deposited in a post office or public letter box; and a notice so sent by any means of transmitted or recorded communication will be deemed to have been given when dispatched or delivered to the appropriate communication company or agency or its representative for dispatch. The Secretary may change or cause to be changed the recorded address of any shareholder, director, officer, auditor or member of a committee of the Board in accordance with any information believed by him or her to be reliable.

**10.2 COMPUTATION OF TIME**

In computing the date when notice must be given under any provision requiring a specified number of days notice of any meeting or other event, the date of giving the notice will be excluded and the date of the meeting or other event will be included.

**10.3 OMISSIONS AND ERRORS**

The accidental omission to give any notice to any shareholder, director, officer, auditor or member, committee of the Board or member of Chief and Council, or the non-receipt of any notice to any shareholder, director, officer, auditor or member, committee of the Board, or member of Chief and Council, or any error contained in any such notice not affecting the substance of the notice will not invalidate any action taken at any meeting held pursuant to such notice or otherwise founded thereon.

**10.4 WAIVER OF NOTICE**

A shareholder, director, officer, auditor or member of a committee of the Board may at any time waive any notice, or waive or abridge the time for any notice, required to be given to him or her under any provision of the Act, the regulations thereunder, the Articles, the By-laws or otherwise and such waiver or abridgement will cure any default in the giving or in the time of such notice as the case may be. Any such waiver or abridgement will be in writing except a waiver of notice of a meeting of the shareholder or of the Board which may be given in any manner.

**ARTICLE 11**  
**EFFECTIVE DATE**

**11.1 EFFECTIVE DATE**

This By-law will come into force when confirmed by the Shareholder in accordance with the Act and these by-laws.

ENACTED this            day of            ,            .

WITNESS the Corporate Seal of the Corporation.

\_\_\_\_\_  
President

\_\_\_\_\_  
Secretary



# PART IX: RESOURCES

## ARTICLE 13

### Resource Management

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## Map of Cedar Lake Resource Management Area

## PART IX: RESOURCES

### ARTICLE 13

#### 13.0 RESOURCE MANAGEMENT

#### 13.1 INTRODUCTION

##### 13.1.1 Introduction.

Article 13 provides for:

- (a) the establishment of the **Cedar Lake Resource Management Area**; and
- (b) the operation of the **Cedar Lake Resource Management Board** composed of representatives of **Chemawawin and Manitoba**;

to promote cooperative land use planning, resource management and environmental monitoring in the **Cedar Lake Resource Management Area**.

##### 13.1.2 Consultation.

The composition and functions of the **Cedar Lake Resource Management Board** have been determined based on consultation among **Manitoba, Chemawawin and the Easterville Community Council**.

#### 13.2 CEDAR LAKE RESOURCE MANAGEMENT AREA

##### 13.2.1 Establishment of Cedar Lake Resource Management Area.

Subject to subsections 13.2.2 and 13.2.3, the lands and waters described and depicted in Schedule 13.1 are hereby established as the **Cedar Lake Resource Management Area**.

##### 13.2.2 Amendment of Area.

The **Cedar Lake Resource Management Area** may be amended by agreement in writing between **Chemawawin and Manitoba** following consultation with the **Easterville Community Council**.

##### 13.2.3 Cedar Lake Commercial Fishery.

Notwithstanding the boundaries of the **Cedar Lake Resource Management Area** depicted in Schedule 13.1, the **Cedar Lake Resource Management Board** will have the authority to deal with the management of the Cedar Lake commercial fishery.

### 13.3 CEDAR LAKE RESOURCE MANAGEMENT BOARD

#### 13.3.1 Establishment.

Within ninety (90) days following the **Date of this Agreement**, **Chemawawin** and **Manitoba** will each appoint four (4) persons to constitute the **Cedar Lake Resource Management Board** and advise the other in writing of the appointments.

#### 13.3.2 Appointment of Community Member by Manitoba.

**Manitoba** contemplates entering into an agreement with **Easterville Community** that provides for one (1) of the persons appointed by **Manitoba** in accordance with subsection 13.3.1 to be a designate of the **Easterville Community Council**, subject to the approval of **Manitoba** which approval will not be unreasonably withheld.

#### 13.3.3 Identification of Community Member.

**Manitoba** contemplates entering into an agreement with **Easterville Community** that provides that the **Easterville Community Council** will appoint the designate referred to in subsection 13.3.2 by resolution of the **Easterville Community Council**.

#### 13.3.4 Board Meetings.

The **Cedar Lake Resource Management Board** will meet not later than thirty (30) days following the appointment of its last member. The **Cedar Lake Resource Management Board** will meet at least four (4) times a year at Easterville or other location agreed upon by Board members.

#### 13.3.5 Change in Number of Members.

The number of Board members may be changed by agreement between **Chemawawin** and **Manitoba** provided that there is always an equal number of members appointed by each. **Manitoba** contemplates entering into an agreement with **Easterville Community** that provides that if the number of Board members is significantly increased, **Manitoba** will consider increasing the representation from **Easterville Community**.

#### 13.3.6 Alternate Members.

Subject to subsection 13.3.7, if any Board member is unable to attend a meeting, the **Party** that appointed that member may, by providing notice in writing to the other **Party**, appoint a temporary replacement of that member.

### 13.3.7 Alternate Community Member.

**Manitoba** contemplates entering into an agreement with **Easterville Community** that provides that, where the designate of the **Easterville Community Council** is unable to attend a meeting, the **Easterville Community Council** may, by providing notice in writing to **Manitoba** and **Chemawawin**, identify a temporary replacement of that member, subject to the approval of **Manitoba** which approval will not be unreasonably withheld.

### 13.3.8 Replacing Members.

**Chemawawin** and **Manitoba** may, at any time, by providing notice in writing to the other, revoke the appointment of any member of the **Cedar Lake Resource Management Board** appointed by that **Party**, including an alternate member under subsection 13.3.6 or 13.3.7, and appoint a replacement of that member, but replacement of the designate of the **Easterville Community Council** must be consistent with subsections 13.3.2 and 13.3.3.

### 13.3.9 Rules and Procedures.

The **Cedar Lake Resource Management Board** may establish its own rules and procedures for the conduct of the business of the Board, consistent with this **Agreement**.

### 13.3.10 Selection of Chairperson.

A Chairperson will be selected from among the members of the **Cedar Lake Resource Management Board**. The Chairperson will have a vote as a member of the Board, but will not have an additional deciding vote as Chairperson.

### 13.3.11 Quorum.

A quorum will be at least three (3) of the members appointed by each of **Chemawawin** and **Manitoba**.

### 13.3.12 Decisions.

Decisions of the **Cedar Lake Resource Management Board** will be made by consensus unless a member requests that a vote be taken. Equal numbers of members appointed by each of **Chemawawin** and **Manitoba** will participate in any vote. Every motion put to a vote will be defeated unless supported by a majority of the members appointed by **Chemawawin** and a majority of the members appointed by **Manitoba** participating in that vote.

## 13.4 PROGRAMS AND BUDGETS

### 13.4.1 Annual Program and Budget.

On or before September 1 in any year, the **Cedar Lake Resource Management Board** will submit to **Chemawawin** and **Manitoba** for approval an annual program and budget for the next fiscal year, approved by the Board. Within ninety (90) days of receiving the annual program and budget, **Chemawawin** and **Manitoba** each will advise the Board whether it accepts or rejects all or part of the annual program and budget.

### 13.4.2 Budget Components.

The annual program and budget may:

- (a) include anticipated requirements for:
  - (i) staff, facilities, equipment and administration,
  - (ii) public meetings, consultations and hearings,
  - (iii) research, publications and public education,
  - (iv) technical assistance,
  - (v) environmental monitoring, and
  - (vi) other programs or activities determined by the **Cedar Lake Resource Management Board**; and
- (b) identify how the budget will be funded.

### 13.4.3 Provision of Budget to Hydro.

**Chemawawin** and **Manitoba** will ensure that a copy of the approved annual program and budget is provided to **Hydro** for its information.

### 13.4.4 Sharing of Costs.

Notwithstanding subsection 13.4.2:

- (a) **Chemawawin** will pay the costs of its representatives on the **Cedar Lake Resource Management Board** not covered by normal programs; and

- (b) **Manitoba** will pay the costs of its representatives on the **Cedar Lake Resource Management Board**, including the costs of any designate of the **Easterville Community Council**.

**13.4.5 Costs of Participation by Chemawawin's Representatives.**

The \$400,000.00 payment made under paragraph 2.2.3(b) is being made to support the future costs of participation by the representatives of **Chemawawin** on the **Cedar Lake Resource Management Board**. **Manitoba** and **Hydro** will have no further responsibility in relation to the costs of **Chemawawin's** participation on the Board.

**13.4.6 Fiscal Year.**

The fiscal year of the **Cedar Lake Resource Management Board** will commence on April 1 in each year unless changed by agreement in writing between **Chemawawin** and **Manitoba**.

**13.4.7 Reports.**

**The Cedar Lake Resource Management Board:**

- (a) will within ninety (90) days after the end of the fiscal year provide **Chemawawin, Manitoba, Easterville Community** and **Hydro** with a written report which includes:
- (i) a description of the activities carried out during the year,
  - (ii) a summary of decisions and recommendations,
  - (iii) an evaluation of the success or failure of the activities undertaken, and the reasons therefor, and
  - (iv) an identification of any deficiencies in activities related to land use planning, resource management and environmental monitoring; and
- (b) may produce, from time to time, other reports or materials.

## 13.5 ASSISTANCE AND INFORMATION

### 13.5.1 Technical Support.

Technical support for land use planning, resource management and environmental monitoring normally available from **Manitoba** will be made available to, and coordinated with programs of, the **Cedar Lake Resource Management Board**, without charge. However, in those instances where a fee or charge has been established, it will be levied, unless otherwise waived by **Manitoba**.

### 13.5.2 Requesting Information.

**Chemawawin** and **Manitoba** will each, upon the written request of the **Cedar Lake Resource Management Board**, **Chemawawin**, **Easterville Community** or **Manitoba**, and subject to payment, unless waived, of any set fee or charge, provide the **Cedar Lake Resource Management Board** with information within its control about matters being dealt with by, or of interest to, the **Cedar Lake Resource Management Board** except where such information is privileged or confidential. **Manitoba** contemplates entering into an agreement with **Easterville Community** that provides that **Easterville Community** will, upon the written request of the **Cedar Lake Resource Management Board**, **Chemawawin** or **Manitoba**, and subject to payment, unless waived, of any set fee or charge, provide the **Cedar Lake Resource Management Board** with information within its control about matters being dealt with by, or of interest to, the **Cedar Lake Resource Management Board** except where such information is privileged or confidential.

### 13.5.3 Requesting Assistance.

**Chemawawin** and **Manitoba** will each, upon the written request of the **Cedar Lake Resource Management Board**, **Chemawawin** or **Manitoba**, provide to the **Cedar Lake Resource Management Board**:

- (a) information concerning the application of existing laws, policies, procedures and plans affecting management or use of **Resources** in the **Cedar Lake Resource Management Area**;
- (b) any completed reports, data, findings or recommendations prepared or submitted by any board or group advising **Chemawawin** or **Manitoba** on matters which might relate to or affect the management of **Resources** in the **Cedar Lake Resource Management Area**; and



- (c) assistance in drafting any recommendation or plan. This will not imply that **Manitoba or Chemawawin** will adopt the recommendation or plan.

#### 13.5.4 Disclosure subject to Legislation.

Provision of information under Article 13 will be subject to the restrictions on use and disclosure of information set out in *The Freedom of Information and Protection of Privacy Act* (Manitoba).

### 13.6 **FUNCTIONS AND PURPOSES OF THE CEDAR LAKE RESOURCE MANAGEMENT BOARD**

#### 13.6.1 Board Activities.

In order to promote land use planning, resource management and environmental monitoring, the **Cedar Lake Resource Management Board**:

- (a) will develop and recommend **Resource Management Plans** in accordance with subsection 13.6.2;
- (b) will develop and recommend **Land Use Plans** in accordance with subsection 13.6.5;
- (c) may examine, study and review **Resources**, their use, and matters affecting the same, including the nature and extent of **Fish and Wildlife** populations, and their environment;
- (d) may conduct and coordinate monitoring activities, including, subject to subsection 13.6.8, environmental monitoring, of the effects of activities within the **Cedar Lake Resource Management Area**, which may include the consideration of any information made available under subsections 13.5.2, 13.5.3 and 13.7.2;
- (e) may monitor and review the use and allocation of **Resources**;
- (f) may propose subjects for research;
- (g) may prepare information and communication strategies;
- (h) may hold meetings and workshops or otherwise consult publicly or privately with any person; and

- (i) will carry out other duties jointly assigned to it by **Chemawawin** and **Manitoba**.

### 13.6.2 Resource Management Plans.

The **Cedar Lake Resource Management Board** will develop and recommend **Resource Management Plans** for the **Cedar Lake Resource Management Area**, or any part thereof, which, without limitation, may include provision for:

- (a) measures to enhance and preserve areas of significant **Fish** and **Wildlife** populations;
- (b) methods of harvesting **Resources**;
- (c) health and safety considerations;
- (d) procedures for the assignment or re-assignment of new, vacant or under-utilized traplines, fishery quotas and wild rice licences;
- (e) enforcement considerations;
- (f) protecting, conserving and enhancing **Resources** and their environment, including areas of ecological, cultural or historical significance;
- (g) prescribing and monitoring levels of use of **Resources**;
- (h) proposing the modification of existing priorities and allocations for domestic, commercial and recreational uses of **Resources** by lease, permit, quota or otherwise;
- (i) resolving conflicts related to the use of **Resources**;
- (j) sustainable development of **Resources**; and
- (k) proposing a role for the **Cedar Lake Resource Management Board** in the implementation of the **Resource Management Plan**.

### 13.6.3 Resource Use.

**Chemawawin** and **Manitoba** recognize that, subject to the aboriginal and treaty rights of aboriginal peoples recognized and affirmed by section 35 of the *Constitution Act, 1982*, and subject to **Resource Management Plans** in force, other individuals may, as provided by law,

hunt, trap or fish in the **Cedar Lake Resource Management Area**. **Chemawawin** and **Manitoba** recognize that provisions for conservation, management and protection of **Resources** in the **Cedar Lake Resource Management Area** are essential. Actions under Article 13 by the **Cedar Lake Resource Management Board**, **Chemawawin** and **Manitoba** will be consistent with the rights of **Chemawawin** and other aboriginal people, the rights of other individuals, and the need for the conservation, management and protection of **Resources** in the **Cedar Lake Resource Management Area**. **Manitoba** contemplates entering into an agreement with **Easterville Community** under which **Easterville Community** will recognize that, subject to the aboriginal and treaty rights of aboriginal people recognized and affirmed by section 35 of the *Constitution Act, 1982*, and subject to **Resource Management Plans** in force, other individuals may, as provided by law, hunt, trap or fish in the **Cedar Lake Resource Management Area**. Under the contemplated agreement between **Manitoba** and **Easterville Community**, **Easterville Community** would also recognize that provisions for conservation, management and protection of **Resources** in the **Cedar Lake Resource Management Area** are essential and that actions under Article 13 by **Easterville Community** will be consistent with the rights of **Chemawawin** and other aboriginal peoples, the rights of other individuals, and the need for the conservation, management and protection of **Resources** in the **Cedar Lake Resource Management Area**.

#### 13.6.4 Application of Resource Management Plans.

Notwithstanding subsection 13.6.2 and subject to applicable legislation, a **Resource Management Plan** will apply within a **Municipality** only insofar as it does not conflict with a **Development Plan** for the **Municipality** or any part thereof.

#### 13.6.5 Land Use Plans.

The **Cedar Lake Resource Management Board** will develop and recommend **Land Use Plans** for the **Cedar Lake Resource Management Area**, or any part thereof, which, without limitation, may include provision for:

- (a) zoning lands;
- (b) prescribing areas of land or bodies of waters for purposes of regulating use and activities thereon;
- (c) prescribing and regulating land uses;

- (d) establishing administrative arrangements for the construction or occupation of cabins or shelters;
- (e) recognizing and preserving areas of ecological, cultural or historical significance;
- (f) resolving conflicting uses of land; and
- (g) proposing a role for the **Cedar Lake Resource Management Board** in the implementation of a **Land Use Plan**.

#### 13.6.6 Application of Land Use Plans.

Notwithstanding subsection 13.6.5 and subject to applicable legislation, **Land Use Plans** will not apply within a **Municipality** in which a **Development Plan** is effective.

#### 13.6.7 Operation and Maintenance of Water Control Structures.

The **Cedar Lake Resource Management Board** may submit recommendations under subsection 13.9.1 regarding the operation, maintenance or construction of any existing or proposed water control structures within the **Cedar Lake Resource Management Area** relating to land use or resource management conditions within the **Cedar Lake Resource Management Area**.

#### 13.6.8 Environmental Monitoring by the Board.

The **Cedar Lake Resource Management Board** may conduct and coordinate environmental monitoring within the **Cedar Lake Resource Management Area**, or any part thereof, which, without limitation, may include the following activities:

- (a) receiving and analyzing environmental data or information:
  - (i) supplied by **Chemawawin, Easterville Community, Hydro or Manitoba**,  
or
  - (ii) supplied by or obtained from any other source;
- (b) monitoring, investigating, identifying and assessing any environmental data or information;
- (c) collecting information on environmental conditions relevant to the **Cedar Lake Resource Management Area**;

- (d) compiling and maintaining a baseline of environmental conditions within the **Cedar Lake Resource Management Area**;
- (e) recommending to **Chemawawin, Manitoba** and other interested parties the nature and scope of environmental investigation and monitoring activities which could be undertaken in response to any environmental concern which may arise;
- (f) conducting consultations with interested parties including **Easterville Community** in connection with environmental findings and activities in the **Cedar Lake Resource Management Area**; and
- (g) performing such other duties as **Chemawawin** and **Manitoba** may jointly direct.

#### 13.6.9 Environmental Monitoring by the Parties.

No **Party** is required to take any action in relation to environmental monitoring except as:

- (a) expressly provided in this **Agreement**; or
- (b) otherwise provided by law.

### 13.7 PARTICIPATION BY HYDRO

#### 13.7.1 Attendance by Hydro Representatives at Board Meetings.

At the request of either **Chemawawin** or **Manitoba**, **Hydro** will send a representative to attend and participate at meetings of the **Cedar Lake Resource Management Board**.

#### 13.7.2 Provision of Information to the Board by Hydro.

Subject to rights of privilege and confidentiality provided by law, at the request of **Manitoba** or **Chemawawin**, **Hydro** will:

- (a) advise the **Cedar Lake Resource Management Board** on the collection and evaluation of water regime and bio-physical data obtained by **Hydro**;
- (b) review in a timely fashion environmental monitoring results available to, or made available to, **Hydro**; and
- (c) comment on the operation of works constructed, maintained and operated by **Hydro**.

### 13.7.3 Notice of Environmental Monitoring Program.

**Hydro** will advise **Chemawawin** and **Manitoba** of any new environmental monitoring program it proposes to undertake in the **Cedar Lake Resource Management Area** and, if possible, will do so prior to commencing any such program.

### 13.7.4 Environmental Monitoring by Hydro.

**Hydro** is not required under this **Agreement** to undertake any environmental monitoring activities, but nothing in section 13.7 is intended to relieve **Hydro** of any obligations it may have at law in relation to carrying out any environmental monitoring activities. The provisions of this **Agreement** will fulfill and satisfy the obligations of **Hydro** under Article 4.06 of the **1990 Agreement**.

## 13.8 CONSULTATION

### 13.8.1 Consultation with Interested Parties.

Before recommending that a **Land Use Plan** or **Resource Management Plan** be adopted, the **Cedar Lake Resource Management Board** will hold one (1) or more public meetings at such place and in such manner as it determines appropriate in order to provide information to and obtain the view of interested parties.

### 13.8.2 Giving Notice.

The **Cedar Lake Resource Management Board** will give at least thirty (30) days written notice of the meeting under subsection 13.8.1, with a copy of any proposed **Land Use Plan** or **Resource Management Plan** to:

- (a) **Hydro;**
- (b) any First Nation which could be affected by the plan;
- (c) any **Municipality** within the **Cedar Lake Resource Management Area**;
- (d) any third party with a significant interest in **Resources** in the **Cedar Lake Resource Management Area** that the **Cedar Lake Resource Management Board** considers appropriate to be notified; and
- (e) any board or group that **Manitoba, Chemawawin** or **Easterville Community** advises the **Cedar Lake Resource Management Board** be notified.

### 13.8.3 Consultation with Easterville Community Council.

Where a matter considered by the **Cedar Lake Resource Management Board** relates to the disposition of any Crown (Manitoba) land located in or within eight kilometers from the boundaries of **Easterville Community**, the **Cedar Lake Resource Management Board** will consult with **Easterville Community**, for the purposes of section 9 of *The Northern Affairs Act* (Manitoba).

## 13.9 ADOPTION OF PLANS AND RECOMMENDATIONS

### 13.9.1 Submission of Plans and Recommendations to Chemawawin and Manitoba.

The **Cedar Lake Resource Management Board** will submit proposed **Land Use Plans**, **Resource Management Plans**, environmental monitoring plans or any recommendations to **Chemawawin** and **Manitoba** accompanied by written reasons for supporting the plan or recommendation and written confirmation of consultation and notice in accordance with subsections 13.8.1 and 13.8.2, and **Chemawawin** and **Manitoba** will each consider this submitted plan or recommendation within ninety (90) days of submission.

### 13.9.2 Adoption of Plans and Recommendations.

Where **Chemawawin** and **Manitoba** both advise the **Cedar Lake Resource Management Board** that a plan or recommendation submitted under subsection 13.9.1 is acceptable for adoption, each will promptly take all appropriate steps within its jurisdiction to give such plan or recommendation full effect and will promptly provide the **Cedar Lake Resource Management Board** with documentation evidencing that such effect has been given.

### 13.9.3 Non-Adoption of Plans and Recommendations.

If either **Chemawawin** or **Manitoba** does not adopt a plan or recommendation of the **Cedar Lake Resource Management Board** submitted to it under subsection 13.9.1, the **Party** not adopting the plan or recommendation will, within the ninety (90) day period referred to in subsection 13.9.1:

- (a) refer the matter to the Board for further consideration; and
- (b) provide written reasons for its decision not to adopt the plan or recommendation to the Board with a copy to the other **Party**.

#### 13.9.4 Resubmission of Plan or Recommendation to Chemawawin and Manitoba.

Where either **Chemawawin** or **Manitoba** has referred a matter to the **Cedar Lake Resource Management Board** for further consideration under paragraph 13.9.3(a), the **Cedar Lake Resource Management Board** may, within thirty (30) days following its next meeting, submit to **Chemawawin and Manitoba**:

- (a) a revised plan or recommendation; or
- (b) a request that the plan or recommendation first submitted under subsection 13.9.1 be reconsidered, including such additional information as the **Cedar Lake Resource Management Board** may consider relevant.

#### 13.9.5 Final Decision.

**Chemawawin** and **Manitoba** will each, within ninety (90) days of a submission of a plan, recommendation or request under subsection 13.9.4, advise the **Cedar Lake Resource Management Board** and the other **Party** in writing of its decision on whether it adopts the plan or recommendation.

#### 13.9.6 No Further Submission.

Where a plan or recommendation submitted under subsection 13.9.4 is not adopted by both **Chemawawin** and **Manitoba**, the **Cedar Lake Resource Management Board** may not make a further submission under subsection 13.9.4 of the same plan or the same recommendation without first having obtained the approval of both **Chemawawin** and **Manitoba**.

#### 13.9.7 Extensions.

Time limits set forth in section 13.9 may be extended by agreement in writing between **Chemawawin** and **Manitoba**.

#### 13.9.8 Plans and Recommendations of No Force or Effect.

Unless adopted by both **Chemawawin** and **Manitoba**, no **Resource Management Plan**, **Land Use Plan** or recommendation of the **Cedar Lake Resource Management Board** will have any force or effect.

#### 13.9.9 Review of Plans and Recommendations.

The **Cedar Lake Resource Management Board** will conduct a regular review of all adopted plans and recommendations and, where the **Cedar Lake Resource Management**



**Board** considers necessary, propose amendments to **Chemawawin** and **Manitoba** along with supporting reasons. The procedures set out in subsections 13.9.1 to 13.9.8, inclusive, will apply to any proposed amendments.

## **13.10 RESOURCE ALLOCATIONS**

### **13.10.1 Requests Made to Manitoba.**

Requests or applications made to **Manitoba** for allocations, permits and other dispositions of **Resources** in the **Cedar Lake Resource Management Area**, or other matters, which, in the opinion of **Manitoba**, are directly related to the management of **Resources** in the **Cedar Lake Resource Management Area**, will be provided by **Manitoba** to **Chemawawin**, the **Cedar Lake Resource Management Board** and, where agreed upon between **Manitoba** and **Easterville Community**, to **Easterville Community**.

### **13.10.2 Requests Made to Chemawawin.**

Requests or applications made to **Chemawawin** for allocations, permits and other dispositions of **Resources** in the **Cedar Lake Resource Management Area**, or other matters, which, in the opinion of **Chemawawin**, are directly related to the management of **Resources** in the **Cedar Lake Resource Management Area**, will be provided by **Chemawawin** to **Manitoba** and the **Cedar Lake Resource Management Board** for purposes of consultation.

### **13.10.3 Consideration of Requests by Board.**

The **Cedar Lake Resource Management Board** will consider requests or applications forwarded to it under subsections 13.10.1 and 13.10.2 within forty-five (45) days of receiving a request or application.

### **13.10.4 Recommendation by Board.**

Where the **Cedar Lake Resource Management Board** considers a request or application under subsection 13.10.3, the **Cedar Lake Resource Management Board** may submit recommendations to the **Party** which provided the request or application to the **Cedar Lake Resource Management Board** under subsection 13.10.1 or 13.10.2.

### **13.10.5 Non-Adoption of Recommendations.**

If either **Chemawawin** or **Manitoba** does not adopt a recommendation of the **Cedar Lake Resource Management Board** made under subsection 13.10.4, the **Party** not adopting the recommendation will, within ninety (90) days:

- (a) provide written reasons for its decision not to adopt the recommendation to the **Cedar Lake Resource Management Board** with a copy to the other **Party**; and
- (b) refer the matter to the **Cedar Lake Resource Management Board** for further consideration.

#### 13.10.6 Resubmission of Recommendation to Chemawawin and Manitoba.

Where either **Chemawawin** or **Manitoba** has referred a matter to the **Cedar Lake Resource Management Board** for further consideration under paragraph 13.10.5(b), the **Cedar Lake Resource Management Board** may, within thirty (30) days following its next meeting, submit to **Chemawawin** and **Manitoba**:

- (a) a revised recommendation; or
- (b) a request that the recommendation first submitted under subsection 13.10.1 or 13.10.2 be reconsidered, including such additional information as the **Cedar Lake Resource Management Board** may consider relevant.

#### 13.10.7 Final Decision.

**Chemawawin** and **Manitoba** will each, within ninety (90) days of a submission of a recommendation or request under subsection 13.10.6, advise the **Cedar Lake Resource Management Board** and the other **Party** in writing of its decision on whether it adopts the recommendation.

#### 13.10.8 No Recommendation by Board.

In the absence of a recommendation being submitted by the **Cedar Lake Resource Management Board** within the time period provided under subsection 13.10.3, **Chemawawin** or **Manitoba** will provide notice in writing to the other of its intended action and allow the other **Party** thirty (30) days to respond, following which **Chemawawin** or **Manitoba** may, in the sole discretion of each, act within its jurisdiction upon such requests or applications and will advise the **Cedar Lake Resource Management Board** of its actions.

#### 13.10.9 Transitional Measures.

From the **Date of this Agreement** to the date the **Cedar Lake Resource Management Board** first meets, **Chemawawin** and **Manitoba** will defer any requests or applications for allocations or dispositions of **Resources** within the **Cedar Lake Resource Management Area** which are received after the **Date of this Agreement**. Where **Manitoba** has, prior to the **Date**

of this Agreement, provided copies of requests or applications to Chemawawin or, where applicable, to the Easterville Community Council, and deferred such requests or applications pending the execution of this Agreement, Manitoba will provide any such requests or applications and any new requests or applications to the Cedar Lake Resource Management Board at its first meeting, and the Cedar Lake Resource Management Board will submit its recommendations on those requests or applications within forty-five (45) days of its first meeting, and the procedures set out in subsections 13.10.1 to 13.10.8 inclusive will apply with necessary modifications.

### 13.11 CEDAR LAKE FISHERY

#### 13.11.1 Cedar Lake Fishery.

Manitoba acknowledges that:

- (a) Chemawawin is interested in enhancing the opportunities for its Members to participate in the Cedar Lake fishery; and
- (b) as a matter of policy, Chemawawin may acquire entitlements in the Cedar Lake fishery from the holders of those rights, subject to:
  - (i) Article 13, and
  - (ii) any applicable laws, including the requirement for any necessary licences.

### 13.12 GENERAL

#### 13.12.1 No Derogation.

Nothing in Article 13 will derogate from any authority of Chemawawin or Manitoba, each within its respective jurisdiction, over the Resources in the Cedar Lake Resource Management Area.

#### 13.12.2 Access to Lands.

Article 13 does not restrict the right of any person to enter on Crown (Manitoba) lands for any lawful purpose.

### 13.12.3 Existing Rights.

Nothing in Article 13 will affect any rights or privileges granted under any licences, permits, leases or approvals issued by or on behalf of **Chemawawin** or **Manitoba** prior to the **Date of this Agreement.**

### 13.12.4 Statutory Requirements.

Nothing in Article 13 alters any statute or any statutory authority or requirement, or confers any statutory approval.

### 13.12.5 Discontinuance.

**Chemawawin** and **Manitoba** may, by agreement in writing:

- (a) discontinue the **Cedar Lake Resource Management Board** and its activities; or
- (b) assign the functions of the **Cedar Lake Resource Management Board** under Article 13 to other entities.

If **Manitoba** and **Easterville Community** have agreed, **Manitoba** will consult with **Easterville Community** prior to **Manitoba** agreeing under subsection 13.12.5 either to discontinue the **Cedar Lake Resource Management Board** and its activities or to assign the functions of the **Cedar Lake Resource Management Board** to other entities.

### 13.12.6 No Revenue Sharing.

The functions and purposes of the **Cedar Lake Resource Management Board** do not extend to consideration of royalties, income or other revenue derived from or attributable to **Resources**, and nothing in this **Agreement** entitles **Chemawawin** or **Manitoba** to share in the royalties, income or other revenue derived from **Resources** within the other's jurisdiction, ownership or administration and control.

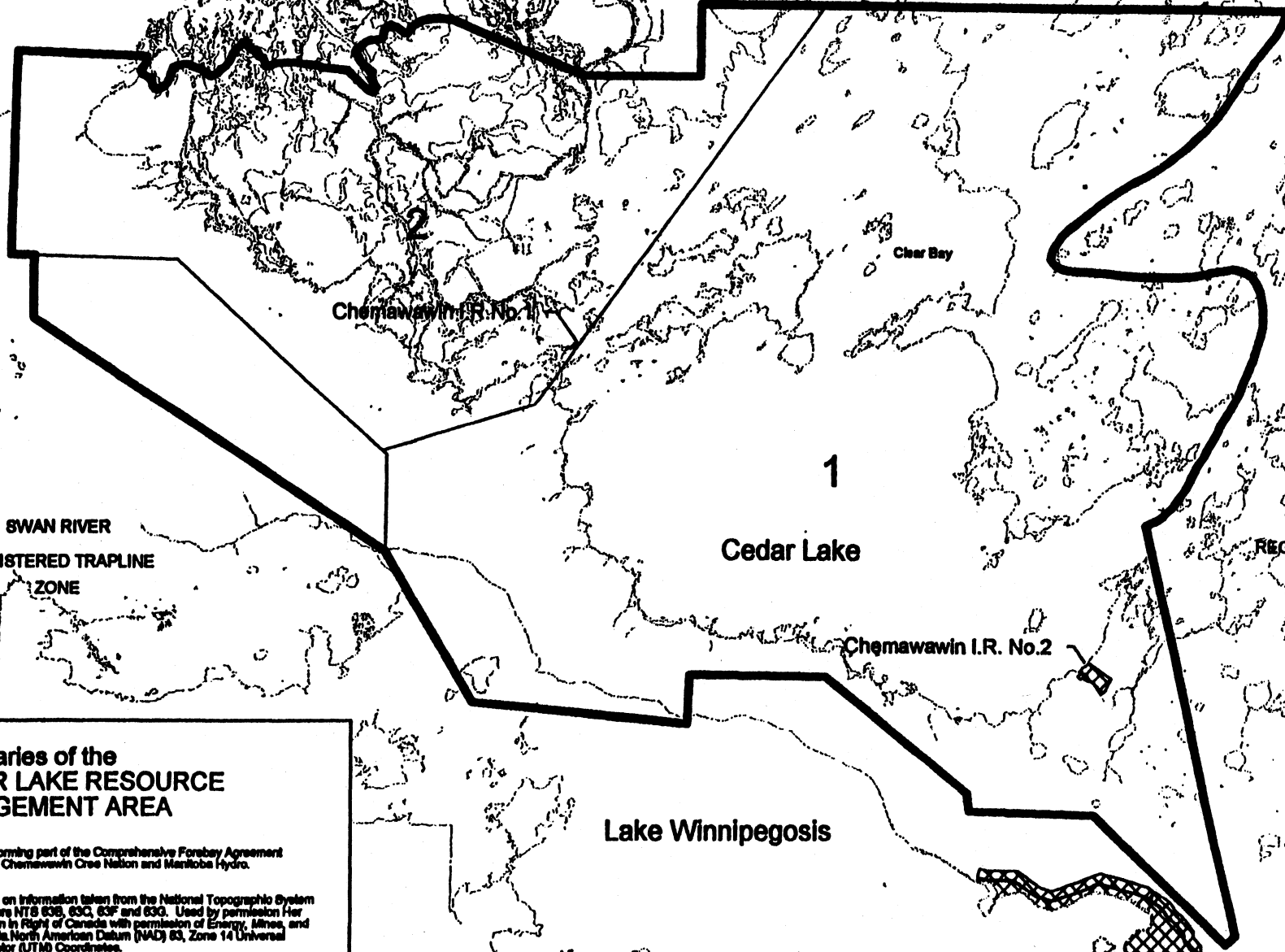
**SCHEDULE 13.1 - MAP OF CEDAR LAKE**

**RESOURCE MANAGEMENT AREA**

See Map 13.1.1 attached

SUMMERBERRY SPECIAL  
TRAPPING DISTRICT

MOOSE LAKE  
RESOURCE MANAGEMENT AREA



**Boundaries of the  
CEDAR LAKE RESOURCE  
MANAGEMENT AREA**

Attached to and forming part of the Comprehensive Forestry Agreement  
among Manitoba, Chemawawin Cree Nation and Manitoba Hydro.

Notes:  
Mapping is based on information taken from the National Topographic System  
map sheet numbers NTB 63B, 63C, 63F and 63G. Used by permission Her  
Majesty the Queen in Right of Canada with permission of Energy, Mines, and  
Resource Canada. North American Datum (NAD) 83, Zone 14 Universal  
Transverse Mercator (UTM) Coordinates.

Scale 1:450 000

10/09/02

Map 13.1.1

Numbers 1 and 2 denote Registered Traplines

**ARTICLE 14**

**Protected Area**

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**Schedule 14.1**      Protected Area

## ARTICLE 14

### 14.0 PROTECTED AREA

#### 14.1 INTRODUCTION

##### 14.1.1 Introduction.

Article 14 provides for the establishment of a Protected Area.

### 14.2 PROTECTED AREA

#### 14.2.1 Protected Area.

**Manitoba** will set aside the Crown (Manitoba) lands described in Schedule 14.1 as a Protected Area within which the following activities will be prohibited:

- (a) logging;
- (b) mining (including aggregate extraction);
- (c) oil, petroleum, natural gas or hydro-electric development; and
- (d) other activities which significantly affect habitat.

#### 14.2.2 Permitted Activities.

The Protected Area set aside under subsection 14.2.1 will remain open for other activities, including, without limitation, hunting, trapping, fishing and gathering.

### 14.3 WITHDRAWAL FROM DISPOSITION

#### 14.3.1 Withdrawal from Disposition.

**Manitoba** will withdraw the Crown (Manitoba) lands described in Schedule 14.1 from "disposition", as that term is defined in *The Crown Lands Act* (Manitoba)



**SCHEDULE 14.1 - PROTECTED AREA**

See attached Map 14.1.1

430000 m

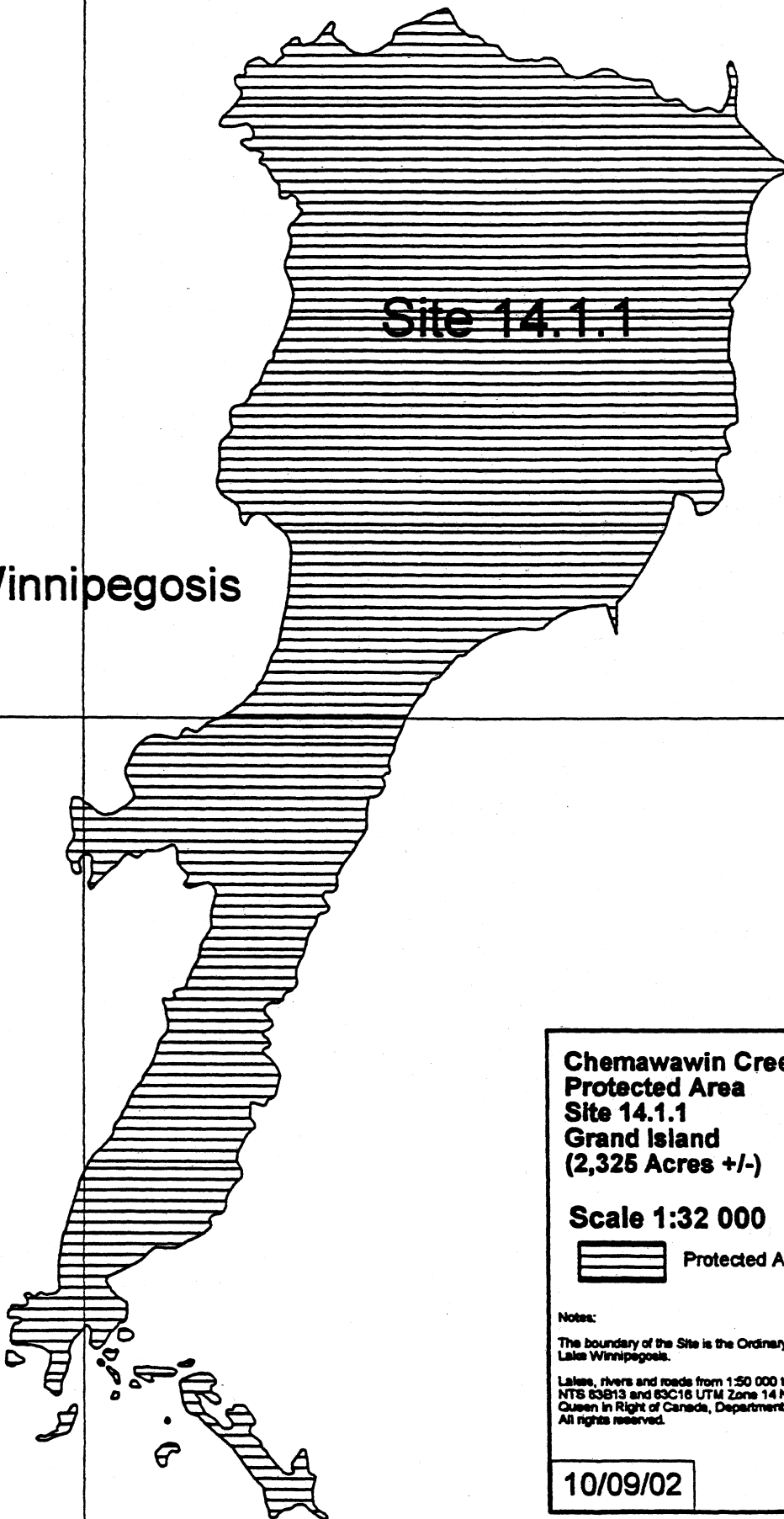


Site 14.1.1

Lake Winnipegosis

5455000 m

5455000 m



**Chemawawin Cree Nation  
Protected Area  
Site 14.1.1  
Grand Island  
(2,325 Acres +/-)**

**Scale 1:32 000**



**Notes:**

The boundary of the Site is the Ordinary High Water Mark of Lake Winnipegosis.

Lakes, rivers and roads from 1:50 000 topographic maps NTS 63B13 and 63C16 UTM Zone 14 NAD 83. Her Majesty the Queen in Right of Canada, Department of Natural Resources. All rights reserved.

10/09/02

Map 14.1.1

430000 m

# PART X - PROJECT OPERATIONS

## ARTICLE 15

### Project Operations and Compensation

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**Schedule 15.1**  
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**Fully Compensated Zone**  
**Pre-Determined Compensation Zones**  
Method of Calculation of Water Levels and Sample Calculation of  
Pre-Determined Compensation

## PART X - PROJECT OPERATIONS

### ARTICLE 15

#### 15.0 PROJECT OPERATIONS AND COMPENSATION

##### 15.1 INTRODUCTION

###### 15.1.1 Introduction.

Article 15 establishes the **Fully Compensated Zone** and sets out a payment schedule for compensation for damages payable by **Hydro** to **Chemawawin** to the extent that **Wind Eliminated Water Levels** fall within the **Pre-Determined Compensation Zones**.

##### 15.2 RECORDS

###### 15.2.1 Daily Average Water Level Records.

From and after the **Date of this Agreement**, **Hydro** will maintain a record of the **Daily Average Water Levels**, sufficient to make the determinations in sections 15.5 and 15.6, and provide such records to any **Party** when requested or required for the purposes of this **Agreement**. Although the **Parties** believe that the **Cedar Lake Gauge** accurately records water levels on Cedar Lake, which will be prima facie but not conclusive data, no **Party** warrants the accuracy of such records.

###### 15.2.2 Notice of Malfunction.

If at any time it comes to the attention of any **Party** that the **Cedar Lake Gauge** is not accurately recording the water level measurements required by this **Agreement**, that **Party** will forthwith notify the other **Parties**. Upon **Hydro** becoming aware that the **Cedar Lake Gauge** is not accurately recording water levels, **Hydro** will take such steps as may be necessary, including notifying **Canada**, to ensure that the **Cedar Lake Gauge** is operating accurately. If **Canada** is not prepared to correct, or permit **Hydro** to correct, the problem with the **Cedar Lake Gauge**, **Hydro** will establish and operate a replacement gauge to record the required water level measurements.

##### 15.3 PROJECTIONS

###### 15.3.1 Daily Average Water Level Projections.

**Hydro** will, early in each month, provide a two month **Daily Average Water Levels** projection to **Chemawawin**, which will indicate the anticipated **Daily Average Water Levels** on Cedar Lake for that month and the next month.

### 15.3.2 Qualification as to Accuracy of Projections.

The projections in subsection 15.3.1 will be as accurate as is reasonable, based on the information available at the time they are made. **Hydro** may set forth any appropriate qualification as to the accuracy of the **Daily Average Water Levels** projections.

### 15.3.3 Notice of Change.

**Hydro** will notify **Chemawawin**, as soon as is reasonably practicable, of any change in excess of 0.3 metres (1 foot) to the **Daily Average Water Levels** projections provided pursuant to subsection 15.3.1.

## 15.4 PROJECT OPERATIONS

### 15.4.1 No Restraint on Lawful Operation.

Nothing in this **Agreement** will impose, or be read or construed to impose, any restraint on the lawful operation of the **Project** by **Hydro**.

### 15.4.2 No Releases for Unlawful Operation.

Nothing in this **Agreement** will be construed as a limitation, restriction or release of any liability on the part of **Hydro** for unlawful operation of the **Project** after the **Date of this Agreement**.

## 15.5 FULLY COMPENSATED ZONE

### 15.5.1 Fully Compensated Zone.

The parameters of the **Fully Compensated Zone** are shown graphically on Schedule 15.1 and delineate that zone in which **Wind Eliminated Water Levels** have generally fallen during the post **Project** period from 1967 to 1998 and within which it is anticipated that **Wind Eliminated Water Levels** will usually fall in the future.

## 15.6 PRE-DETERMINED COMPENSATION ZONES

### 15.6.1 Pre-Determined Compensation Zones.

The parameters of the **Pre-Determined Compensated Zones** are shown graphically on Schedule 15.2 and delineate the zones in which **Wind Eliminated Water Levels** have infrequently fallen during the post **Project** period from 1967 to 1998 and within which it is anticipated that **Wind Eliminated Water Levels** will infrequently fall in the future.

#### 15.6.2 Calculation and Payment.

No later than March 31 in each calendar year following the first anniversary of this **Agreement**, **Hydro** will calculate and pay compensation, if any, for the previous calendar year, at the rates indicated in Schedule 15.2 in accordance with the following provisions:

- (a) for any day where the **Wind Eliminated Water Levels** fall in the **Pre-Determined Compensation Zones**, as depicted in Schedule 15.2, compensation for that day will be calculated at the rate shown in the relevant zone on that graph; and
- (b) pre-determined compensation is expressed in dollars per foot per day and, as it relates to **Wind Eliminated Water Levels**, the compensation is to be calculated on a pro rata basis to the nearest tenth of a foot, as demonstrated in Schedule 15.3.

#### 15.6.3 Annual Maximum.

Pre-determined compensation will not exceed a total of \$200,000.00 in any calendar year.

#### 15.6.4 Annual Minimum where Compensation Payable.

Where **Wind Eliminated Water Levels** fall within the **Pre-Determined Compensation Zones** and some pre-determined compensation of less than \$10,000.00 is calculated to be payable pursuant to section 15.6, in any calendar year, **Hydro** will, notwithstanding such calculation, pay to **Chemawawin** \$10,000.00 with respect to such calendar year.

#### 15.6.5 Rejection of Pre-Determined Compensation.

If in any year, **Chemawawin** determines that the compensation, if any, paid pursuant to subsection 15.6.2 is insufficient to compensate for damages caused by **Wind Eliminated Water Levels** within the **Pre-Determined Compensation Zones**, it may within one hundred and twenty (120) days of receipt of such compensation, return the amount so paid, explain in writing its reasons for rejecting the compensation and state the quantum of compensation which it believes is appropriate in the circumstances.

#### 15.6.6 Claim by Chemawawin.

**Hydro** will endeavour to advise **Chemawawin** in writing of its position not later than ninety (90) days following its receipt of **Chemawawin's** reasons for rejecting the compensation.

If **Hydro** either fails to respond, or fails to respond to the satisfaction of **Chemawawin**, within the ninety (90) day period, **Chemawawin's** sole remedy is to proceed to make a claim against **Hydro** for the amount it believes is appropriate.

**15.6.7 Deemed Acceptance of Compensation.**

If **Chemawawin** fails to return the pre-determined compensation payment within the one hundred and twenty (120) day time period referred to in subsection 15.6.5, it will conclusively be deemed to have accepted such pre-determined compensation in full and complete satisfaction of any and all claims it may otherwise have had against **Manitoba** and **Hydro** arising from **Wind Eliminated Water Levels** within the **Pre-Determined Compensation Zones** in that year.

**15.6.8 Payments Not for Taking Reserve Land.**

The payment of pre-determined compensation in accordance with section 15.6 is in compensation for the effects of the **Project**, but does not relate to the taking, using or granting of **Reserve** land.

**15.6.9 Indexing.**

Where any amount of pre-determined compensation is specified in dollars, the amount payable will be read as if it had been adjusted over time from the **Date of this Agreement** based upon the Consumer Price Index ("CPI"), provided that no such adjustment will result in the reduction of the compensation amounts, as specified in dollars, to less than the amounts specified in this **Agreement**.

**15.6.10 CPI.**

CPI means the monthly publication by Statistics Canada of statistical data related to the change in price of goods and services (all items, excluding alcoholic beverages and tobacco products) for the Province of Manitoba.

**15.7 WIND ELIMINATED WATER LEVELS OUTSIDE ZONES**

**15.7.1 Parties to Discuss Cause.**

Should **Wind Eliminated Water Levels** fall outside the **Fully Compensated Zone** and the **Pre-Determined Compensation Zones**, the **Parties** will discuss the reasons for such an occurrence.



15.7.2 Hydro Not Released.

**Hydro** is not, by this **Agreement**, released with respect to any damages arising from **Wind Eliminated Water Levels** falling outside of both the **Fully Compensated Zone** and the **Pre-Determined Compensation Zones**.

**15.8 TERMINATION OR AMENDMENT OF THE PRE-DETERMINED COMPENSATION PROVISIONS**

15.8.1 Termination of Section 15.6.

At any time following the **Date of this Agreement**, either **Hydro** or **Chemawawin** may give written notice to the other that it no longer considers that the pre-determined compensation calculated under section 15.6 equitably addresses the issue of compensation for loss or damage suffered as a consequence of the occurrence of **Wind Eliminated Water Levels** in the **Pre-Determined Compensation Zones** in which case section 15.6 will terminate at the expiry of the first full calendar year following the date of such notice.

15.8.2 Hydro and Chemawawin to Study Potential Effects.

If **Hydro's** reason for giving notice pursuant to subsection 15.8.1 is a consequence of a significant change in the regulation of the water ways by **Hydro**:

- (a) **Hydro** will, in such notice, identify the nature of and reasons for the change in the regulation of the water ways;
- (b) **Hydro** and **Chemawawin** will do the following during the period contemplated in subsection 15.8.1:
  - (i) identify and review any positive and negative effects on **Chemawawin** which have resulted, or which it is anticipated would result, from the significant change in the regulation of the water ways,
  - (ii) undertake, at **Hydro's** expense, such studies and investigations as are necessary to obtain a reasonable assessment and understanding of the effects or potential effects which have been identified, and
  - (iii) on the basis of the foregoing, assess and endeavour to agree upon amended pre-determined compensation provisions appropriate to the new water regime.

### 15.8.3 Amendment of Compensation Provisions.

If **Hydro** and **Chemawawin** agree, by an agreement in writing executed by their respective duly authorized representatives, upon amended pre-determined compensation provisions, this **Agreement** will be amended accordingly.

### 15.8.4 Amendment or Termination of Pre-Determined Compensation Provisions.

If **Hydro** and **Chemawawin** are unable to agree upon amended pre-determined compensation provisions in accordance with subparagraph 15.8.2(b)(iii), this **Agreement** will, upon written notice from either **Party** to the other, be amended, effective at the end of such period, by terminating section 15.6.

## 15.9 END OF PROJECT

### 15.9.1 Maintenance of Water Regime.

If, in the future, the **Project** is no longer utilized for the production of hydro-electric power, then **Hydro** covenants and agrees to continue to operate and maintain all such works, structures and improvements, within its legal authority and control, so that, to the extent reasonably possible, **Wind Eliminated Water Levels** remain within the **Fully Compensated Zone** or otherwise within seasonal patterns agreed to by the **Parties**.

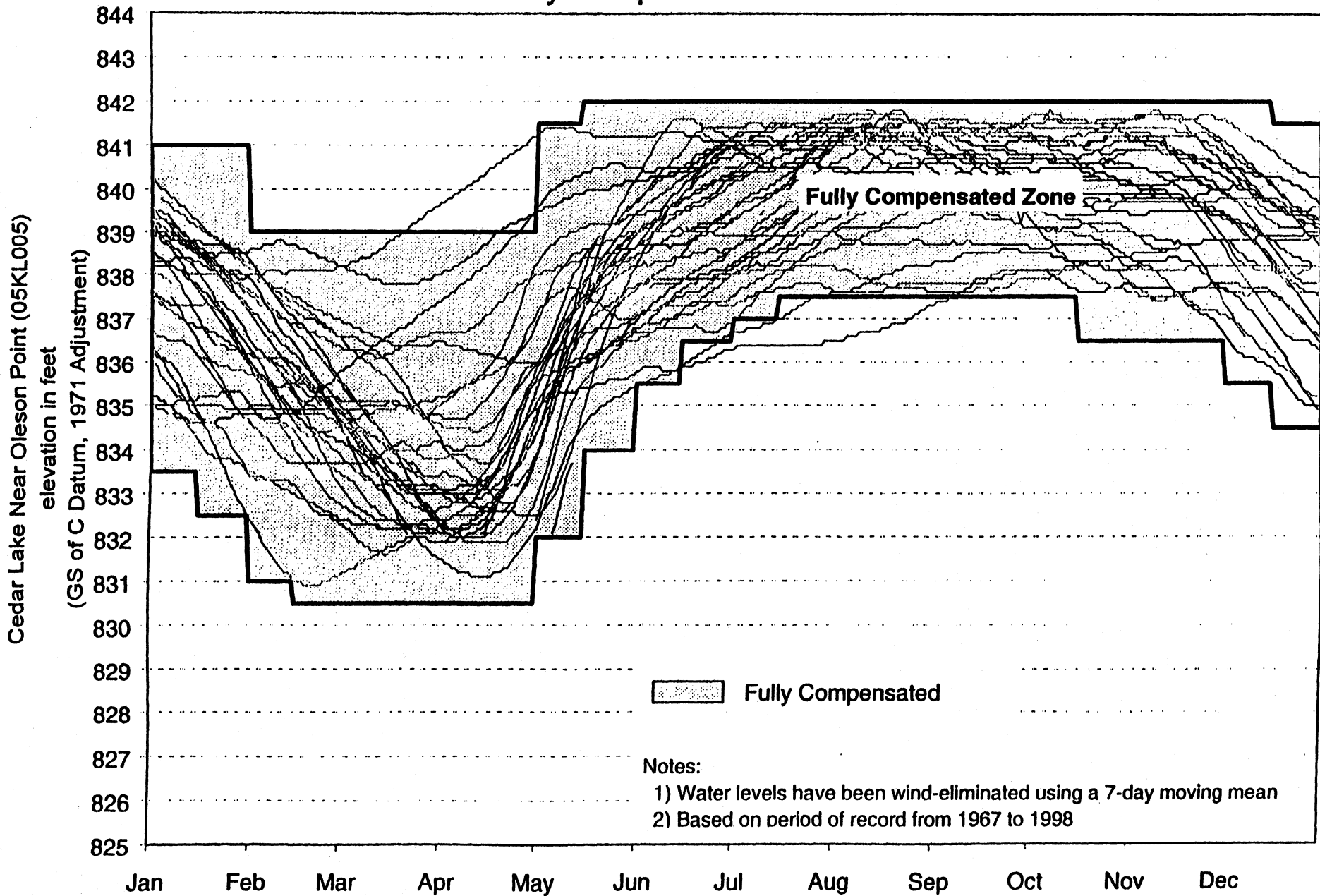
### 15.9.2 No Release where Unlawful to Comply.

This **Agreement** does not release **Hydro** from liability for any **Adverse Effects** resulting from **Wind Eliminated Water Levels** falling outside of the **Fully Compensated Zone** or otherwise agreed seasonal pattern, even where it has become unlawful or impractical for **Hydro** to comply with its covenants and agreements as provided for in subsection 15.9.1.

**SCHEDULE 15.1 - FULLY COMPENSATED ZONE**

See attached.

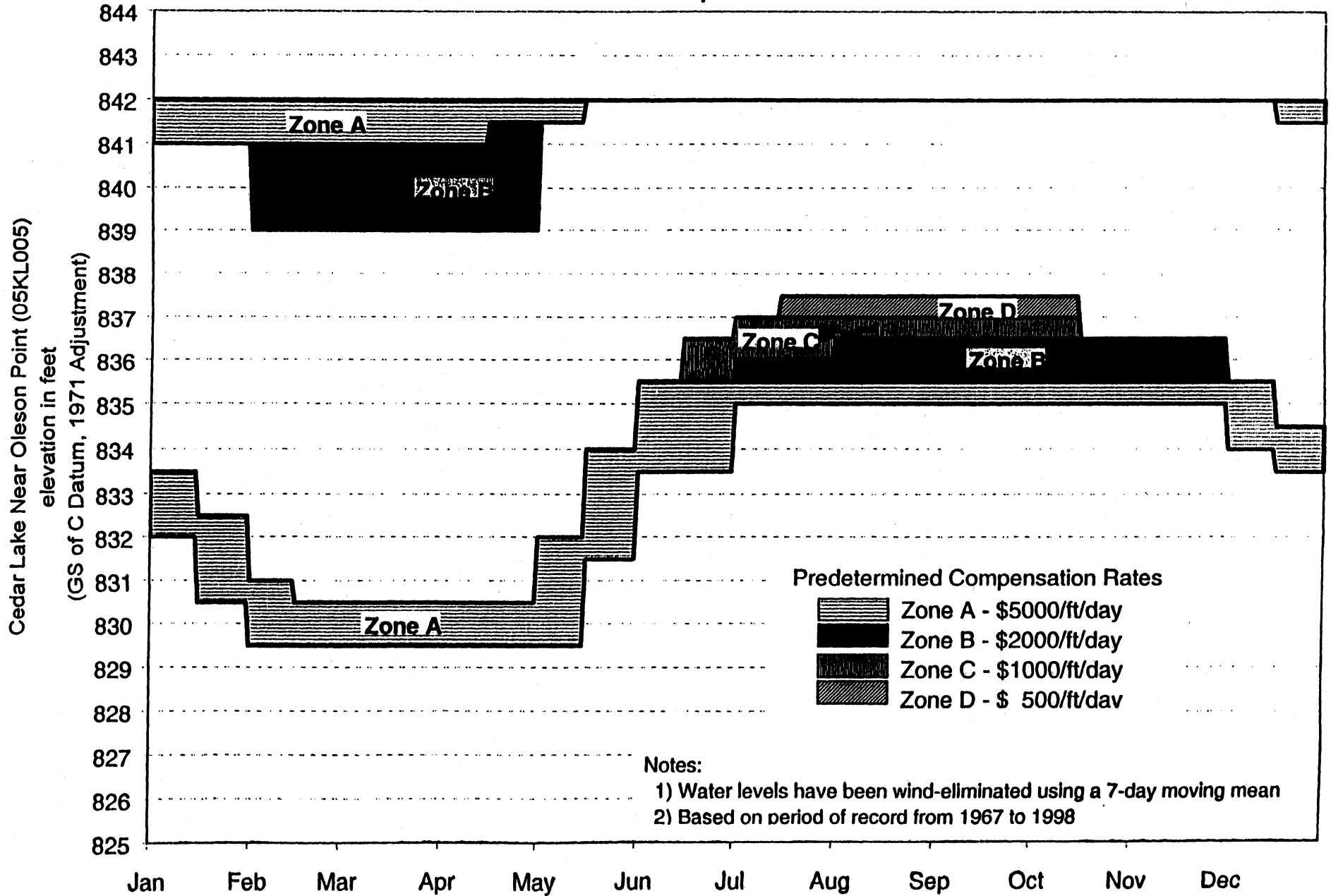
# Chemawawin Cree Nation Fully Compensated Zone



**SCHEDULE 15.2 - PRE-DETERMINED COMPENSATION ZONES**

See attached.

# Chemawawin Cree Nation Predetermined Compensation Zones



**SCHEDULE 15.3 - METHOD OF CALCULATION OF WATER LEVELS AND SAMPLE  
CALCULATION OF PRE-DETERMINED COMPENSATION**

**PDC CALCULATION**

**CHEMAWAWIN COMPREHENSIVE FOREBAY AGREEMENT**

The following outlines the Pre-Determined Compensation (PDC) calculation for the Chemawawin Comprehensive Forebay Agreement.

**Wind Eliminated Water Level**

The PDC calculation is based on the **Wind Eliminated Water Level (WEWL)** which is a 7-day moving mean of the **Daily Average Water Levels (DAWLs)** rounded to the nearest tenth of a foot.

For example, the WEWL for April 26, 1993 is calculated as:

$$\begin{aligned} &= \text{Average of the DAWLs for April 23}^{\text{rd}}, 24^{\text{th}}, 25^{\text{th}}, 26^{\text{th}}, 27^{\text{th}}, 28^{\text{th}}, \text{ and } 29^{\text{th}} \\ &= 1/7 (839.22 + 839.23 + 839.27 + 839.29 + 839.33 + 839.38 + 839.42) \\ &= 839.3 \text{ A.S.L.} \end{aligned}$$

If any data is missing, the DAWLs will be estimated using a practical but technically sound method, and the WEWLs will be calculated using a combination of actual and estimated DAWLs.

**PDC Amount**

The PDC amount depends on what zone the WEWL is in; the zones are shown on the attached chart. The PDC calculation is also based on the amount that the WEWL exceeds the zone boundary in a high water condition (or on the amount that the WEWL falls below the zone boundary in a low water condition). The following is an example PDC calculation for one day:

$$\begin{aligned} \text{If WEWL} &= 839.3 \text{ ft A.S.L. on April 26}^{\text{th}} \text{ (Zone B)} \\ \text{Then PDC would be the following:} \\ \text{PDC} &= (839.3 - 839.0) * 2,000 \text{ \$/ft/day} = \underline{\$600.00} \text{ for the day} \end{aligned}$$

On the attached chart, the WEWL for 1993 was in Zone B from April 20<sup>th</sup> to April 30<sup>th</sup>. The following table illustrates the example PDC calculation for this time period.

**Sample Calculation of PDC in Zone B**

Chemawawin Comprehensive Forebay Agreement  
(using 1993 wind eliminated water levels)

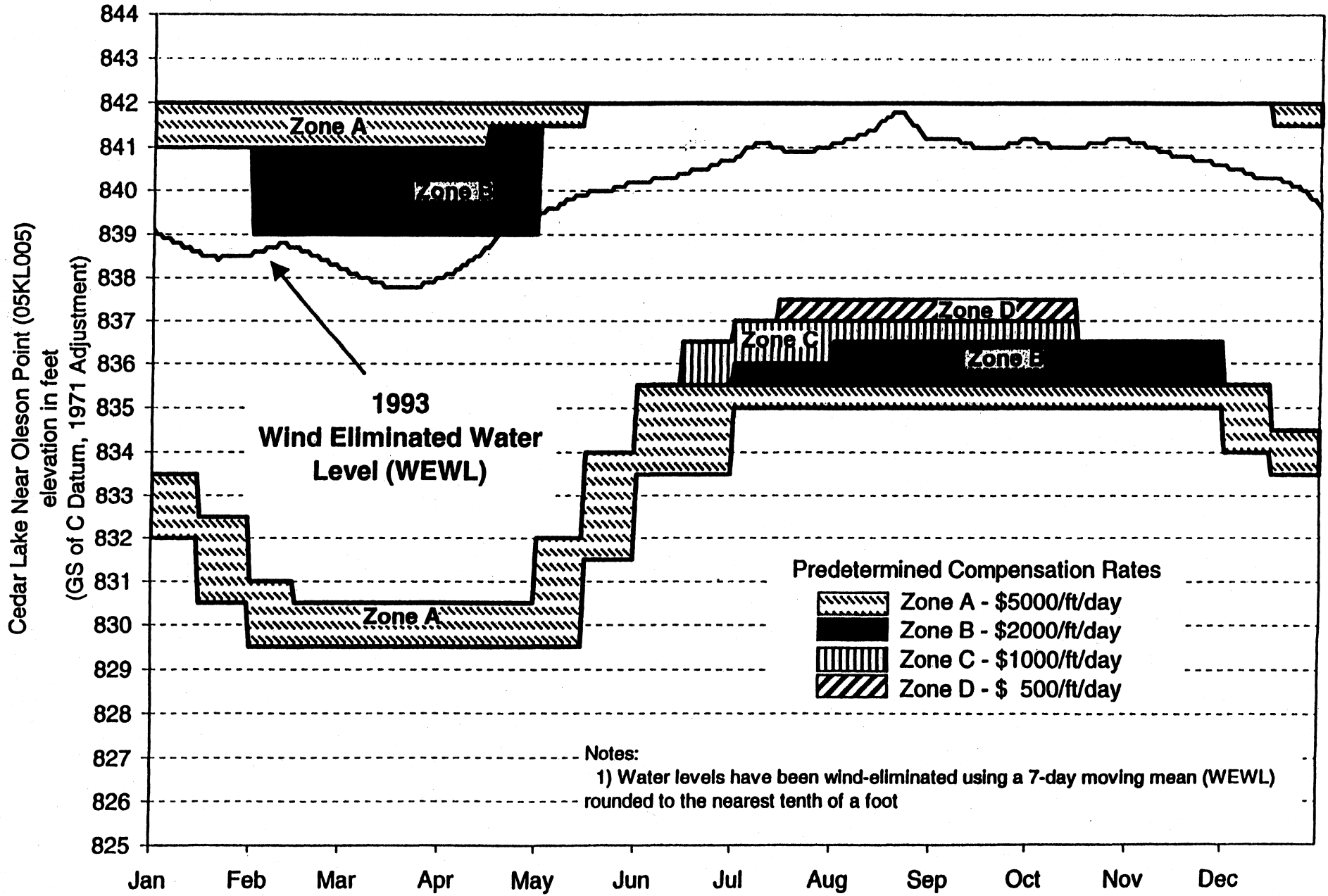
Date	Wind Eliminated Water Level [WEWL] (feet A.S.L.)	Bound of Zone B [BOUND] (feet A.S.L.)	Wind Eliminated Water Level Exceeds bound by [Z] = WEWL - BOUND (feet)	PDC Rate For Zone B (\$/feet/day)	PDC = Z x \$2,000/ft/day (\$)
Apr. 20	839.1	839.0	0.1	2000	\$200.00
Apr. 21	839.1	839.0	0.1	2000	\$200.00
Apr. 22	839.2	839.0	0.2	2000	\$400.00
Apr. 23	839.2	839.0	0.2	2000	\$400.00
Apr. 24	839.2	839.0	0.2	2000	\$400.00
Apr. 25	839.3	839.0	0.3	2000	\$600.00
Apr. 26	839.3	839.0	0.3	2000	\$600.00
Apr. 27	839.3	839.0	0.3	2000	\$600.00
Apr. 28	839.4	839.0	0.4	2000	\$800.00
Apr. 29	839.4	839.0	0.4	2000	\$800.00
Apr. 30	839.4	839.0	0.4	2000	\$800.00
TOTAL					\$5,800.00

Note: Subsection 15.6.4 provides for a minimum compensation payment of \$10,000.00 in any calendar year in which compensation is payable. Assuming there are no other instances in the same calendar year in which WEWLs fall within the **Pre-Determined Compensation Zones**, the amount of compensation that would be payable based on the above WEWLs would be \$10,000.00.



# Chemawawin Cree Nation - Predetermined Compensation Zones

## Example calculation of PDC using 1993 Wind Eliminated Water Levels



ARTICLE 16

Debris Program and Other Programs

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**Schedule 16.1      Area A**

## ARTICLE 16

### 16.0 DEBRIS PROGRAM AND OTHER PROGRAMS

#### 16.1 INTRODUCTION

##### 16.1.1 Introduction.

Article 16 provides for the right of **Chemawawin** to remove, use or market **Debris**, and for the development of **Debris** management, clearing and other programs for and by **Chemawawin** and its **Members**.

#### 16.2 DEBRIS RIGHTS

##### 16.2.1 Grant of Exclusive Right.

Subject to subsections 16.2.2, 16.5.2 and 16.5.3, **Manitoba** grants to **Chemawawin** the exclusive right, without payment of any fees or charges of any kind whatsoever to **Manitoba**, to remove, use and market **Debris** removed from any part of Cedar Lake except the immediate Grand Rapids Forebay area which is shown on Schedule 16.1 as **Area A**.

##### 16.2.2 Terms and Conditions.

The exclusive right, granted to **Chemawawin**, is not intended to prohibit or preclude any person from removing and using small quantities of **Debris** from Cedar Lake for purely personal and domestic purposes.

##### 16.2.3 Submission of Plans.

**Chemawawin** will submit to the **Cedar Lake Resource Management Board**, for its consideration and recommendations, plans for managing, harvesting and removal of **Debris** pursuant to subsection 16.3.8.

#### 16.3 DEBRIS PROGRAM

##### 16.3.1 Debris Program.

The **Debris Program** is the existing initiative developed and undertaken by **Chemawawin**, with funding by **Hydro**, to remove **Debris** for the use of **Chemawawin** and where it interferes with navigation or with **Chemawawin's** use and enjoyment of Cedar Lake.

##### 16.3.2 Commercial Value.

Since 1998, **Chemawawin**, with the support of **Hydro**, has been exploring the potential for commercial use and marketing of **Debris** removed from Cedar Lake.

16.3.3 Future Opportunities.

**Chemawawin** and **Hydro** are considering, but have made no commitment to, a joint venture to exploit the potential commercial value of **Debris** removed from Cedar Lake.

16.3.4 Multi-year Program.

**Hydro** will continue to fund the **Debris Program** for a further period of five (5) years from the **Date of this Agreement** at a rate of \$150,000.00 per year, in accordance with the terms set forth in Article 16 and **Chemawawin** will continue to implement the **Debris Program** using these funds. The purpose of the **Debris Program** will continue to be to remove **Debris** for the purposes contemplated in subsection 16.3.1, but, if viable, and subject to all necessary regulatory approvals, may be expanded to include the removal of **Debris** for commercial purposes.

16.3.5 Standards.

**Debris** will be removed from Cedar Lake in a manner, which is safe and environmentally sensitive. **Chemawawin** agrees to comply with any statutory or regulatory requirements and any requirements imposed by, or any orders issued by, any federal or provincial authority having jurisdiction in relation to the operation of the **Debris Program**.

16.3.6 Compliance with Laws.

The **Debris Program**, including the removal, transportation, storage and processing of **Debris**, has been and will be undertaken consistent with applicable law and standards in force in the Province of Manitoba.

16.3.7 Liability.

Any work performed by **Chemawawin** as part of the **Debris Program** will be solely the responsibility of **Chemawawin**, and neither **Hydro** nor **Manitoba** will have any liability with respect to such work or regulatory compliance.

16.3.8 Annual Plans.

Prior to March 31 in each year of the **Debris Program**, **Chemawawin** will provide to **Hydro** and **Manitoba** its plan for its **Debris** activities for that year. Such annual plan will include, without limitation, the following information:

- (a) a description of the area in which the **Debris** activities are to occur; and
- (b) the dates for starting and finishing the planned activities.

#### 16.3.9 Consideration of Recommendations.

**Chemawawin** will consider, and find means to implement, any written recommendations or concerns it receives from the **Cedar Lake Resource Management Board, Hydro or Manitoba** in relation to its annual plan, or, where it rejects any such recommendations or concerns, it shall so advise with its reasons for such rejection in writing.

### 16.4 **DEBRIS PROGRAM FUNDING**

#### 16.4.1 Payments.

After the **Date of this Agreement**, for each year of the **Debris Program**, **Hydro** will pay to **Chemawawin** the sum of \$150,000.00, not later than thirty (30) days following its receipt of **Chemawawin's** annual plan under subsection 16.3.8, which will be used by **Chemawawin** to fund the cost of implementing the continuing **Debris Program** activities detailed in its annual plan. **Hydro** will not be required, at any time, to pay more than \$150,000.00 per annum toward the **Debris Program**.

#### 16.4.2 Annual Report.

Not later than ninety (90) days after December 31 in each year of the **Debris Program**, **Chemawawin** will submit to its **Members** and to **Hydro**, a detailed report of the activities undertaken during the year, including without limitation:

- (a) a description, including photographs and the identification of the areas in which the **Debris** activities have occurred;
- (b) the dates during which the program was carried out; and
- (c) an accounting of the expenditures of the \$150,000.00 payment referred to in subsection 16.4.1.

### 16.5 **DEBRIS CONTRACTING**

#### 16.5.1 Contracting with Chemawawin for Debris Removal.

To further accommodate the interest of **Chemawawin** in pursuing a commercial enterprise in relation to **Debris** on Cedar Lake, **Hydro** will not, subject to the exceptions and limitations hereinafter set out, contract with, or employ, any person or entity except **Chemawawin** to remove **Debris** from any part of Cedar Lake, except **Area A**.

16.5.2 Contracting with Others.

Subject to subsection 16.5.4, nothing in subsection 16.2.1 or 16.5.1 will preclude **Hydro** from contracting with, or employing, any person or entity to remove **Debris** from Cedar Lake as part of the implementation of **Hydro's** core debris management program, which consists of the following elements:

- (a) marking of safe passage routes;
- (b) monitoring those routes to ensure that they are free from floating debris;
- (c) removing debris in any area which may be determined as environmentally sensitive; and
- (d) removing debris in areas of unique interest to any community or First Nation located on the debris impacted forebays.

16.5.3 Compulsion.

In addition, subject to subsection 16.5.4, nothing in subsection 16.2.1 or 16.5.1 will preclude **Hydro** from contracting with or employing any person or entity to remove **Debris** from Cedar Lake if **Hydro**, during or after the expiration of the **Debris Program**, is ordered or compelled by law to remove such **Debris**.

16.5.4 First Preference.

In the circumstances contemplated in subsections 16.5.2 and 16.5.3, **Hydro**:

- (a) will endeavor to negotiate a contract on mutually agreed terms with **Chemawawin**, or a company owned and controlled by **Chemawawin** in preference to other potential contractors;
- (b) if **Chemawawin** and **Hydro** are unable to reach agreement on the terms of a negotiated contract, **Hydro** reserves the right to go to public tender provided that:
  - (i) prior to tendering any contract for **Debris** removal from Cedar Lake, **Hydro** will give notice to **Chemawawin** of its intention to tender such work and invite its bid, and
  - (ii) in awarding any tendered contract for the removal of **Debris** from Cedar Lake, **Hydro** will, consistent with its Northern Purchasing Policy, give first

preference to a bid by **Chemawawin**, or a company owned and controlled by **Chemawawin**; and

- (c) will require that **Debris** removed by anyone other than **Chemawawin** be stockpiled and left for collection by, and the use of, **Chemawawin** at a location or locations reasonably selected by **Hydro**, subject to **Chemawawin** committing to collect and use such stockpiled **Debris** within a reasonable time.

#### 16.5.5 Discretion Retained.

Notwithstanding the foregoing, and for further clarity, **Hydro** retains its full discretion to contract with, or employ, any person or entity, without preference whatsoever to **Chemawawin**, to remove **Debris** from **Area A**.

#### 16.5.6 Regulatory Compliance.

**Hydro** will be responsible for ensuring that any program under which work is contracted to **Chemawawin** under section 16.5 complies with all statutory and regulatory requirements and any requirements imposed by any federal or provincial authority having jurisdiction in relation to such program.

### 16.6 RELATED OR COMMUNITY INITIATIVES

#### 16.6.1 Nature of Programs.

In addition to the commitment set out in subsection 16.3.4, **Hydro** and **Chemawawin** agree that the funding to be made available under subsection 16.6.3 will be used for the following related or community initiatives:

- (a) projects or programs related, or ancillary, to the **Debris Program**, especially related to the use or marketing of removed **Debris**; and
- (b) community initiatives, including, without limitation, programs related to:
  - (i) buildings and infrastructure at key locations around Cedar Lake,
  - (ii) various activities related to the future use of the Old Post area,
  - (iii) clearing of areas of **Reserve** including Collins Island, if so desired,
  - (iv) improvements to the Easterville harbour, and



- (v) support of the Cedar Lake fishery.

16.6.2 Costs of Proposal Development.

The funding contemplated in subsection 16.6.3 may also be used to cover the costs incurred by **Chemawawin** to develop proposals for the use of funds, including without limitation, its costs for travel, and professional and legal advice or assistance.

16.6.3 Multi-year Program.

**Hydro** will fund the initiatives in subsection 16.6.1 for a period of five (5) years following the **Date of the Agreement** at a rate of \$100,000.00 per year, in accordance with the terms set forth in section 16.6.

16.6.4 Annual Proposal and Budget.

Prior to March 31 in each year of the multi-year program referenced in subsection 16.6.3, **Chemawawin** will provide to **Hydro** its proposal setting out the details of the initiative to be undertaken, including a breakdown and budget of the associated costs.

16.6.5 Responding to Proposal and Budget.

Within thirty (30) days of receipt of the submitted annual proposal and budget, **Hydro** will provide **Chemawawin** with its recommendations or concerns, if any.

16.6.6 Consideration of Recommendations.

**Chemawawin** will consider any recommendation or concerns of **Hydro** and where it rejects such comments it will so advise **Hydro**, giving reasons for its rejection in writing.

16.6.7 Payment.

During each year of the multi-year program referenced in subsection 16.6.3, **Hydro** will pay to **Chemawawin** the amount required to meet that year's budget for the initiative to be undertaken to a maximum of \$100,000.00, not later than thirty (30) days following its receipt of **Chemawawin's** annual plan and budget. **Chemawawin** will use the funds paid by **Hydro** to fund the initiative being undertaken pursuant to the plan and budget. **Hydro** will not be required at any time to pay more than \$100,000.00 per annum towards any related or community initiative referenced in subsection 16.6.1.

16.6.8 Material Change.

**Chemawawin** will report to **Hydro** any material change in its annual proposal or budget as soon as reasonably practicable.

16.6.9 No Responsibility for Additional Expenses.

**Hydro** will not be responsible for any cost over-runs or additional expenses incurred by **Chemawawin** in the implementation of any related or community initiative in any year in excess of \$100,000.00 contemplated in subsection 16.6.3.

16.6.10 Annual Report.

Not later than ninety (90) days after December 31<sup>st</sup> in each year of the multi-year program referenced in subsection 16.6.3, **Chemawawin** will submit to **Members** and to **Hydro** a detailed report of the activities undertaken in implementing the initiatives referred to in subsection 16.6.1 including, without limitation:

- (a) a description, including photographs and locational map of any work that was undertaken;
- (b) a description of any program which was undertaken;
- (c) the dates during which the program was undertaken; and
- (d) an accounting of the expenditures in accordance with the budget.

16.6.11 Unexpended Portions.

If any portion of the monies budgeted and paid by **Hydro**, in relation to any initiatives undertaken pursuant to subsection 16.6.3, is not expended by **Chemawawin** during the year, such unexpended portion will not be repaid to **Hydro** but will be available for use by **Chemawawin** in the budgets for future years.

16.6.12 No Liability or Responsibility.

**Hydro** is in no way liable for, or in relation to, any work or program undertaken by **Chemawawin** and makes no warranty as to the success of any related or community initiative carried out pursuant to subsection 16.6.3.

**16.7 OWNERSHIP OF WORKS AND INFORMATION**

16.7.1 Works Property of Chemawawin.

All works constructed pursuant to Article 16, will be the property of **Chemawawin**, and responsibility for the proper maintenance thereof will rest with **Chemawawin**.

16.7.2 Cooperation to Access Work Sites.

**Chemawawin** will cooperate and provide reasonable and practical assistance, at no cost to **Chemawawin**, when **Hydro** requires access to work sites in order that **Hydro** may inspect and record on its own behalf the activities, works and measures undertaken.

**16.8 HYDRO NOT LIABLE FOR INJURY**

16.8.1 Hydro Not Liable for Injury.

**Hydro** will not be liable for any injury to **Chemawawin**, or to any officers, employees or agents of **Chemawawin**, or for any damage to or loss of property of **Chemawawin**, or to or of the officers, employees and agents of **Chemawawin**, caused by or in any way related to any activities of **Chemawawin** pursuant to Article 16.

16.8.2 Workers' Compensation.

**Chemawawin** will ensure that all persons working in the implementation of the **Debris Program** and any initiatives under subsection 16.6.1 are adequately covered by Workers' Compensation, where required, and, in the case of any subcontractors, will ensure that advice is provided when contracting, that **Hydro** has no responsibility and is not liable for any loss or damage.

16.8.3 Non-Applicability Where Hydro Negligent.

Subsections 16.8.1 and 16.8.2 will not apply if the injury, damage or loss was caused by the wrongful or negligent act of an officer, employee or agent of **Hydro** while acting within the scope of his or her employment.

**16.9 INDEMNIFICATION**

16.9.1 Chemawawin to Use Due Care.

**Chemawawin** will use due care in the carrying out of activities pursuant to this **Agreement** to ensure that no person is injured, no property is damaged, and no rights are infringed.

16.9.2 Indemnity.

**Chemawawin** will be responsible for:

- (a) any injury to persons (including death), damage or loss of property, or infringement of rights caused by, or related to, the implementation of Article 16 by

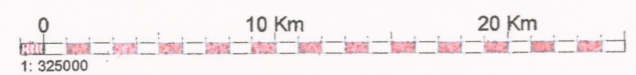
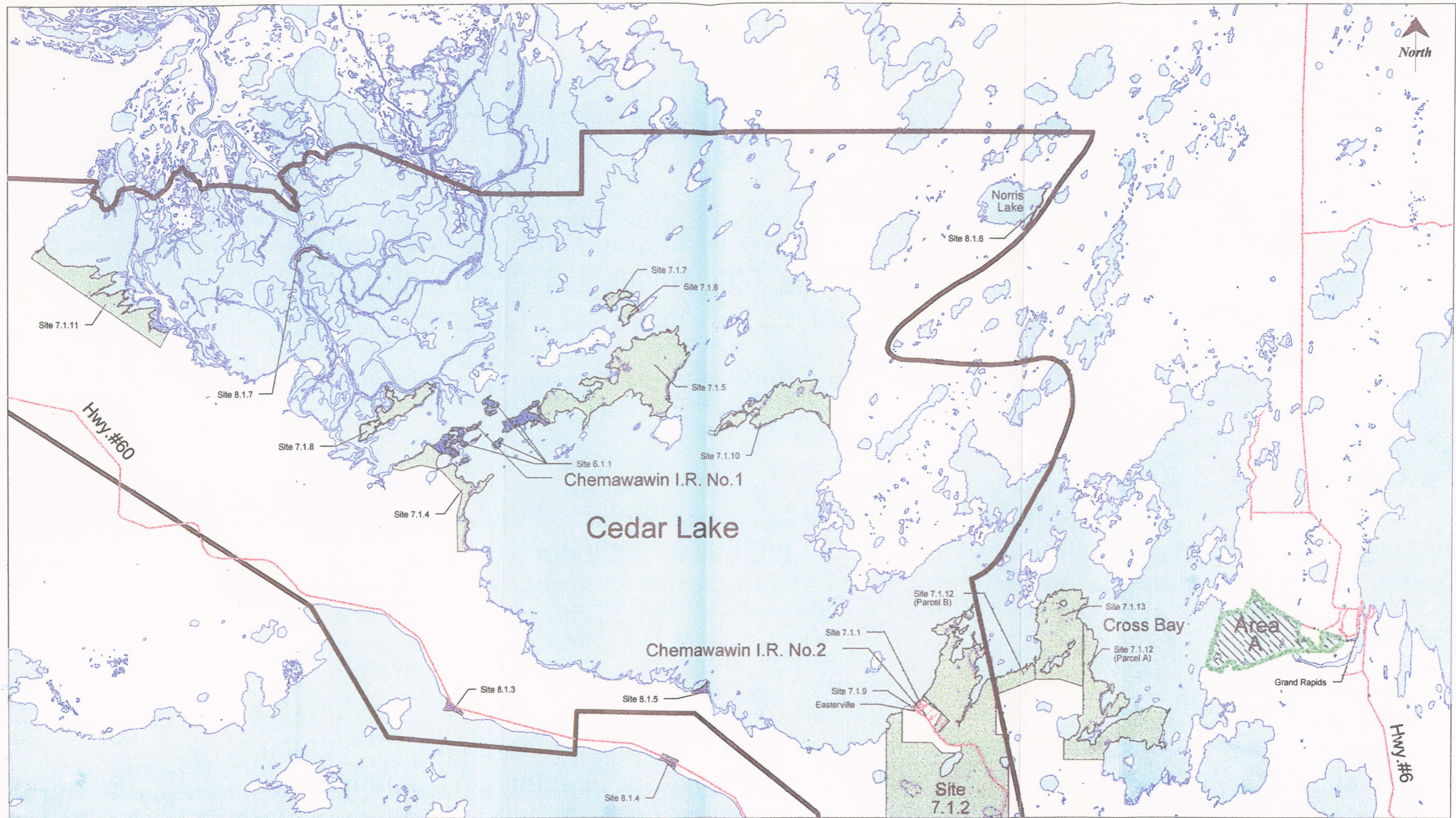
**Chemawawin**, or its officers, employees or agents, while acting within the scope of their employment; and

- (b) any omission or wrongful or negligent act of **Chemawawin**, or its officers, employees or agents, while acting within the scope of their employment;

and will save harmless and indemnify **Hydro**, its officers, employees and agents from and against all claims, liabilities and demands with respect to any matters covered by paragraphs 16.9.2(a) and 16.9.2(b).

**SCHEDULE 16.1 – AREA A**

See Map 16.1.1 attached



Scale 1:325 000

**NOTE:**  
Lands shown on this map are those confirmed in the Comprehensive Forebay Agreement among Chemawawin Cree Nation, Manitoba and Manitoba Hydro.

**Legend**

- Debris Clearing Area A
- Exchange Lands
- Returned Project Lands
- Additional Lands
- Permit/Fee Simple Lands
- Roads
- Cedar Lake Resource Management Area Boundary

**CHEMAWAWIN CREE NATION  
GENERAL LOCATION PLAN OF DEBRIS CLEARING AREA A.**

**Notes:**

Mapping is based on information taken from the National Topographic System map sheet numbers NTS 63B, 63C, 63F, and 63G. Used by permission of Manitoba Hydro through Her Majesty the Queen in Right of Canada with permission of Energy, Mines, and Resources Canada.

North American Datum (NAD) 83, Zone 14 Universal Transverse Mercator (UTM) Coordinates.

Prepared by:  
Hobbs & Associates Ltd.  
for Chemawawin Cree Nation  
September, 2002

MAP 16.1.1

# PART XI: SETTLEMENT AND SATISFACTION

## ARTICLE 17

### SETTLEMENT AND SATISFACTION

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Certificates of Independent Advice

## PART XI: SETTLEMENT AND SATISFACTION

### ARTICLE 17

#### 17.0 SETTLEMENT AND SATISFACTION

#### 17.1 INTRODUCTION

##### 17.1.1 Introduction.

Article 17 provides for confirmation by **Chemawawin** of the settlement and satisfaction of obligations and liabilities of **Manitoba** and **Hydro** in relation to the **Project**.

#### 17.2 SETTLEMENT AND SATISFACTION

##### 17.2.1 Settlement and Satisfaction.

Without implying acceptance by **Chemawawin** of the fairness of the **1962 Arrangements**, and no further redress being forthcoming from **Manitoba** and **Hydro**, the execution of this **Agreement** and payment of the amounts paid or payable under subsection 2.2.1 and paragraphs 2.2.3(a) and (b) by **Manitoba** and **Hydro** will, subject to subsection 17.2.2, constitute a full and final settlement and satisfaction of any and all obligations of **Manitoba** or **Hydro** in respect of, and all liabilities of **Manitoba** and **Hydro** arising out of, or attributable to:

- (a) the **1962 Arrangements**;
- (b) the use of **Reserve** lands for **Project** purposes prior to the **Date of this Agreement**;
- (c) the use of **Reserve** lands below the **Easement Lines** for **Project** purposes after the **Date of this Agreement**;
- (d) **Adverse Effects** of the **Project** prior to the **Date of this Agreement**;
- (e) **Adverse Effects** of the **Project** after the **Date of this Agreement**; and
- (f) the effects of any of the matters referred to in paragraphs 17.2.1 (a), (b), (c), (d) and (e) on the **Collective Rights** of **Chemawawin** and its **Members**.

##### 17.2.2 Exclusions.

Subsection 17.2.1 does not apply to:



- (a) **Adverse Effects** of the **Project** that are unknown and/or unanticipated and are not discernible with the ordinary exercise of due diligence by **Chemawawin** as of the **Date of this Agreement**;
- (b) **Adverse Effects** to the extent such **Adverse Effects** are attributable to **Wind Eliminated Water Levels** occurring after the **Date of this Agreement** outside of both the **Fully Compensated Zone** and the **Pre-Determined Compensation Zones**;
- (c) **Adverse Effects** of the **Project** on the commercial fishery on Cedar Lake that were unknown and/or unanticipated and were not discernible with the ordinary exercise of due diligence by **Chemawawin** at the date of the **1990 Agreement**, or if known or discernible at such date, were not known or discernible with the ordinary exercise of due diligence, to be attributable to the **Project**;
- (d) **Adverse Effects**, if:
  - (i) the pre-determined compensation provisions of section 15.6 are terminated pursuant to section 15.8, to the extent such **Adverse Effects** are attributable to **Wind Eliminated Water Levels** outside of the **Fully Compensated Zone** occurring after the date of such termination, or
  - (ii) a pre-determined compensation payment is returned to **Hydro** pursuant to subsection 15.6.5, to the extent such **Adverse Effects** are attributable to **Wind Eliminated Water Levels** outside of the **Fully Compensated Zone** occurring during the period which would have been compensated by the payment of pre-determined compensation if such amount had not been returned to **Hydro**;
- (e) the personal injury or death of an individual to the extent resulting from or attributable to the **Project**;
- (f) obligations under this **Agreement**;
- (g) liabilities arising out of breaches of this **Agreement**;
- (h) obligations under the **Project Easement Agreements**; and

- (i) liabilities and obligations arising out of breaches of the **Project Easement Agreements**.

#### 17.2.3 Covenant Not to Sue.

**Chemawawin** covenants and agrees that, except as may be required in order to enforce any covenants and agreements of **Manitoba** or **Hydro** contained in this **Agreement** or any other agreement entered into pursuant hereto, it will not, with respect to the matters addressed pursuant to subsection 17.2.1, subject to the exclusions in subsection 17.2.2:

- (a) commence or prosecute any action, claim, demand or proceeding on its own behalf or on behalf of any other person or entity against **Manitoba** or **Hydro**; or
- (b) seek any further redress against **Manitoba** or **Hydro**.

#### 17.2.4 Discontinuance of Legal Actions.

**Chemawawin** will discontinue any and all existing legal actions against **Manitoba** or **Hydro** with regard to the matters addressed pursuant to subsection 17.2.1, subject to the exclusions in subsection 17.2.2, including, without limitation, the Statement of Claim filed in the Court of Queen's Bench on December 17, 1991 as Q.B. Suit No. CI91-01-59643.

### 17.3 INDEMNITIES

#### 17.3.1 Indemnity re: Payments to Chemawawin or Canada.

Subject to subsection 17.3.3, **Chemawawin** covenants and agrees to indemnify and save harmless **Manitoba** and **Hydro** with respect to:

- (a) any amount ordered by a court of competent jurisdiction to be paid by **Manitoba** or **Hydro** to **Chemawawin** with respect to the matters addressed pursuant to subsection 17.2.1, subject to the exclusions in subsection 17.2.2; and
- (b) any amount ordered by a court of competent jurisdiction to be paid by **Manitoba** or **Hydro** to **Canada**, arising directly or indirectly out of an action brought by **Chemawawin** against **Canada** with respect to the matters addressed pursuant to subsection 17.2.1, subject to the exclusions in subsection 17.2.2.

#### 17.3.2 Indemnity re: Payments to Members.

Subject to subsection 17.3.3, **Chemawawin** covenants and agrees to indemnify and save harmless **Manitoba** and **Hydro** with respect to any amount, not to exceed in the aggregate

the amount of the payments to **Chemawawin** specified in subsections 2.2.1 and 2.2.3, that may be ordered by a court of competent jurisdiction to be paid by **Manitoba** or **Hydro** to any **Member** with respect to the matters addressed pursuant to subsection 17.2.1, subject to the exclusions in subsection 17.2.2.

### 17.3.3 Limitations on Indemnities.

- (a) The **Parties** acknowledge that the indemnities contained in subsections 17.3.1 and 17.3.2 do not extend to indemnifying the costs of **Manitoba** or **Hydro** in defending any claims.
- (b) The obligations of **Chemawawin** in connection with the indemnities referred to in section 17.3 are conditional upon **Manitoba** or **Hydro**, as the case may be:
  - (i) forthwith, upon becoming aware of such claim, giving notice to **Chemawawin**;
  - (ii) supporting any application by **Chemawawin** to be named as a party thereto; and
  - (iii) first having received from **Chemawawin** its consent to the terms of any settlement whether or not such settlement is submitted to a court of competent jurisdiction to be made an order of that Court.

## 17.4 INDEPENDENT ADVICE

### 17.4.1 Acknowledgement re: Independent Advice.

**Chemawawin** warrants that, throughout the negotiations leading to this **Agreement**:

- (a) it has been independently advised by negotiators, legal counsel, technical advisors and consultants of its choice with respect to all matters arising in connection with or dealt with in this **Agreement**;
- (b) this **Agreement** has been jointly drafted, considered and revised by representatives of all **Parties**, and duly authorized **Chemawawin** representatives have participated fully in the preparation of this **Agreement**; and

- (c) it has caused all aspects of this **Agreement** to be explained at one or more meetings of **Chemawawin**, which were open to all **Members**.

#### 17.4.2 Certificate of Independent Advice.

**Chemawawin** will, contemporaneously with the execution and delivery of this **Agreement**, provide **Manitoba** and **Hydro** with certified copies of the Certificates of Independent Advice from Hobbs and Associates Ltd. and Pitblado, in the forms attached as Schedule 17.1.

### 17.5 CANADA

#### 17.5.1 No Release of Canada.

The **Parties** acknowledge, although such acknowledgement will not constitute an indemnity on the part of **Manitoba** or **Hydro**, that none of the provisions of this **Agreement** is intended to have the effect of constituting or is intended to constitute a remission, release, acquisition or discharge of **Canada**, or is intended in any way to prejudice or affect any action, proceeding, remedy, claim or demand which **Chemawawin** or its **Members**, or any of them, may have against **Canada** in respect of its obligations and liabilities related to the **Project**, including, without limitation, any obligations or liabilities of **Canada** pursuant to the **1962 Arrangements**, any obligations or liabilities of **Canada** with respect to the use of **Reserve** lands for **Project** purposes, and any obligations or liabilities of **Canada** for **Adverse Effects** of the **Project**.

#### 17.5.2 Survival of 1962 Arrangements.

The **Parties** acknowledge that, although this **Agreement** provides for the implementation, conclusion and satisfaction of the obligations of **Manitoba** and **Hydro** contemplated by the **1962 Arrangements**, this **Agreement** does not terminate the **1962 Arrangements**.

#### 17.5.3 Survival of 1990 Agreement.

Except with respect to Article 4.06 of the **1990 Agreement**, the provisions of the **1990 Agreement** continue in full force and effect.

**SCHEDULE 17.1 - CERTIFICATES OF INDEPENDENT ADVICE**

See Attached

Certificate of Independent Advice

I, ERNIE HOBBS, of HOBBS AND ASSOCIATES LTD., hereby certify that, throughout the negotiations leading to the Agreement dated the \_\_\_ day of \_\_\_\_\_, 200\_\_, between Her Majesty the Queen in Right of the Province of Manitoba, Chemawawin Cree Nation and The Manitoba Hydro-Electric Board:

- (a) Chemawawin Cree Nation has been independently advised by Hobbs and Associates Ltd. as negotiators, technical advisors and consultants, with respect to all matters arising in connection with or dealt with in that Agreement which have been brought to our notice and attention or which we were reasonably able to contemplate;
- (b) the Agreement has been drafted, considered and revised with our participation; and
- (c) we have been present at one or more meetings of Chemawawin Cree Nation, which we believe to have been open to all Members, to consider the provisions of the Agreement.

CERTIFIED this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
ERNIE HOBBS

**Certificate of Independent Advice**

I, JACK LONDON, of PITBLADO, hereby certify that, throughout the negotiations leading to the Agreement dated the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, between Her Majesty the Queen in Right of the Province of Manitoba, Chemawawin Cree Nation and The Manitoba Hydro-Electric Board:

- (a) Chemawawin Cree Nation has been independently advised by Pitblado as legal counsel, with respect to all matters arising in connection with or dealt with in that Agreement which have been brought to our notice and attention or which we were reasonably able to contemplate;
- (b) the Agreement has been drafted, considered and revised with our participation; and
- (c) we have been present at one or more meetings of Chemawawin Cree Nation, which we believe to have been open to all Members, to consider the provisions of the Agreement.

CERTIFIED this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
**JACK LONDON**

# PART XII: ABORIGINAL, TREATY AND CONSTITUTIONAL RIGHTS

## ARTICLE 18

### Aboriginal, Treaty and Constitutional Rights

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## PART XII: ABORIGINAL, TREATY AND CONSTITUTIONAL RIGHTS

### ARTICLE 18

#### 18.0 ABORIGINAL, TREATY AND CONSTITUTIONAL RIGHTS

#### 18.1 INTRODUCTION

##### 18.1.1 Introduction.

Article 18 provides for the non-derogation of rights recognized, affirmed or provided by the Constitution of Canada.

#### 18.2 NON-DEROGATION FROM ABORIGINAL, TREATY AND CONSTITUTIONAL RIGHTS

##### 18.2.1 Non-Derogation from Aboriginal, Treaty and Constitutional Rights of Chemawawin.

Nothing in this **Agreement**, including Article 17, will be construed so as to diminish, abrogate, infringe or derogate from:

- (a) the existing aboriginal rights or treaty rights of **Chemawawin** or its **Members**, as recognized and affirmed by section 35 of the *Constitution Act, 1982*, including any rights of aboriginal title that are so recognized and affirmed; and
- (b) the rights and protections of **Chemawawin** and its **Members** recognized, affirmed or provided for by the Constitution of Canada.

##### 18.2.2 Non-Derogation from Rights of other Aboriginal Peoples.

Nothing in this **Agreement** will be construed so as to diminish, abrogate, infringe or derogate from, or be used to assist in the interpretation of the existing aboriginal rights or treaty rights of any other aboriginal peoples of Canada that are recognized and affirmed by section 35 of the *Constitution Act, 1982*.

**PART XIII: CLOSING AND IMPLEMENTATION**

**ARTICLE 19**

**CLOSING AND IMPLEMENTATION**

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(Manitoba)

## PART XIII: CLOSING AND IMPLEMENTATION

### ARTICLE 19

#### 19.0 CLOSING AND IMPLEMENTATION

#### 19.1 INTRODUCTION

##### 19.1.1 Introduction.

Article 19 provides for the process of implementing this **Agreement**, including the execution and delivery of documents by the **Parties**.

#### 19.2 AID

##### 19.2.1 Acknowledgement.

The **Parties** acknowledge that sections 19.3 and 19.4 have been included as an aid to assist the **Parties** in determining the deliveries required after closing. The **Parties** acknowledge that sections 19.3 and 19.4 contain a restatement of some, but not all, of the deliveries contemplated in this **Agreement**. Nothing in section 19.3 or 19.4 will alter, add to or subtract from the obligations set out elsewhere in this **Agreement**. In the event of conflict between section 19.3 or 19.4 and any other provision of this **Agreement**, that other provision will prevail to the extent of such inconsistency.

#### 19.3 CLOSING

##### 19.3.1 Execution and Delivery of this Agreement.

As soon as practicable following approval of this **Agreement** in accordance with section 20.2, **Chemawawin, Manitoba** and **Hydro** will execute this **Agreement** in accordance with subsection 20.4.1 and deliver this **Agreement** contemporaneously along with the documents listed in subsections 19.3.2, 19.3.3 and 19.3.4.

##### 19.3.2 Closing Deliveries of Chemawawin.

Contemporaneously with the execution and delivery of this **Agreement** under subsection 19.3.1, and with the closing deliveries of **Manitoba** and **Hydro** under subsections 19.3.3, 19.3.4 and 19.3.5, the following documents will be delivered by **Chemawawin** to **Manitoba** and **Hydro**:

- (a) a certified copy of the **Trust Indenture** in the form attached as Schedule 2.1 (subsection 2.2.2);

- (b) a **Council Resolution** in the form attached as Schedule 2.2 settling the payments referred to in subsection 2.2.3 on the **Trustees** in accordance with the **Trust Indenture** (subsection 2.2.4);
- (c) a certified copy of the **Articles of Incorporation** (subsection 12.2.2);
- (d) a certified copy of the **Council Resolution** electing the Board of **Directors** of the **Land Corporation** (subsection 12.2.4);
- (e) a certified copy of By-law No. 1 of the **Land Corporation**, in the form attached as Schedule 12.2 (subsection 12.2.7);
- (f) a Notice of Discontinuance with respect to Suit No. CI-91-01-59643 (subsection 17.2.4);
- (g) the Certificates of Independent Advice referred to in Article 17 (subsection 17.4.2); and
- (h) a **Council Resolution** approving this **Agreement** and authorizing the **Chief and Council** to execute this **Agreement** on behalf of **Chemawawin** (paragraph 20.4.1(a)).

#### 19.3.3 Closing Deliveries of Hydro.

Contemporaneously with the execution and delivery of this **Agreement**, and with the closing deliveries of **Manitoba** and **Chemawawin** under subsections 19.3.2 and 19.3.4, **Hydro** will deliver to **Manitoba** and **Chemawawin** a certified copy of the resolution of its Board of Directors or other approval referred to in paragraph 20.4.1(b), approving this **Agreement** and authorizing the appropriate officers to execute this **Agreement** on behalf of **Hydro**.

#### 19.3.4 Closing Deliveries of Manitoba.

Contemporaneously with the execution and delivery of this **Agreement**, and with the closing deliveries of **Chemawawin** and **Hydro** under subsections 19.3.2 and 19.3.3, **Manitoba** will deliver to **Chemawawin** and **Hydro** a copy of the Order in Council referred to in paragraph 20.4.1(c), authorizing the Minister of Conservation to execute this **Agreement** on behalf of **Manitoba**.

#### 19.3.5 Payments upon Closing.

Contemporaneously with the execution and delivery of this **Agreement**, and with the closing deliveries of **Chemawawin** under subsection 19.3.2, the following items will be delivered to **Chemawawin**:

- (a) a cheque or bank draft payable to **Chemawawin** for \$310,000.00, in accordance with paragraph 2.2.3(a); and
- (b) a cheque or bank draft payable to **Chemawawin** for \$400,000.00, to be settled by **Chemawawin** upon the **Trustees** under the **Trust Indenture**, in accordance with paragraph 2.2.3(b).

#### 19.3.6 Letter from the Minister.

The Minister of Aboriginal and Northern Affairs (Manitoba) is, concurrent with the signing of this **Agreement**, providing to **Chemawawin** a letter in the form attached as Schedule 19.1.

### 19.4 POST-CLOSING DELIVERIES

#### 19.4.1 Post-Closing Deliveries of Manitoba.

**Manitoba** covenants and agrees to deliver to the appropriate **Party** and, where applicable, to **Canada**, the following materials at the times hereinafter specified:

- (a) upon completion of the surveys referred to in section 4.3, plans of the boundaries of the parcels of **Reversion Lands** and legal descriptions of the parcels of **Reversion Lands** (subsection 4.4.2);
- (b) following the receipt of the written assurances referred to in subsection 5.2.1, a copy of the form of Order in Council attached as Schedule 5.2 transferring the administration and control of the mines and minerals within the parcels of **Exchange Lands** identified in Schedule 5.1 to **Canada** (subsection 5.2.4);
- (c) following the receipt of the written assurances referred to in subsection 6.4.1, plans of the boundaries of the parcels of **Returned Project Lands**, legal descriptions of the parcels of **Returned Project Lands**, and legal descriptions of any portions of the parcels of **Returned Project Lands** to be subject to a **Project Easement Agreement** (subsection 6.4.3);

- (d) as soon as reasonably practicable after the **Date of this Agreement**, **Land Use Permits** issued by **Manitoba** to the **Land Corporation** in the form attached as Schedule 8.2 with respect to the **Permit and Fee Simple Lands** (subsection 8.3.1);
- (e) as soon as reasonably practicable after the **Date of this Agreement**, **Land Use Permits** issued by **Manitoba** to the **Land Corporation** in the form attached as Schedule 9.1 with respect to the **Additional Lands and Returned Project Lands** (subsection 9.2.2);
- (f) as soon as reasonably practicable after the determination of an **Easement Line** in accordance with section 10.2, copies of the explanatory plans of the **Easement Line** and a description of the land which will be subject to a **Project Easement** (subsection 10.3.1); and
- (g) within ninety (90) days following the **Date of this Agreement**, written notice of the four persons appointed by **Manitoba** to the **Cedar Lake Resource Management Board** (subsection 13.3.1).

#### 19.4.2 Post-Closing Deliveries of Chemawawin.

**Chemawawin** covenants and agrees to deliver to **Manitoba** and **Hydro** within ninety (90) days following the **Date of this Agreement**, written notice of the four persons appointed by **Chemawawin** to the **Cedar Lake Resource Management Board** in accordance with subsection 13.3.1.

### 19.5 PARTICIPATION OF CANADA

#### 19.5.1 Cooperation to Facilitate Canada's Exercise of Jurisdiction.

**Manitoba**, **Hydro** and, subject to subsection 2.3.3, **Chemawawin**, will cooperate to facilitate **Canada's** exercise of its jurisdiction, where the exercise of **Canada's** jurisdiction is required to complete the land transactions described in this **Agreement**.

#### 19.5.2 No Representation.

No representation is made by any of the **Parties** that **Canada** has agreed to exercise its jurisdiction, where such jurisdiction is required, to complete the land transactions described in this **Agreement**. However, none of the **Parties** is aware of any legal impediment to the completion of the land transactions described in this **Agreement**.

### 19.5.3 Commitment Not Diminished.

The commitment of the **Parties** in subsection 19.5.1 to cooperate to facilitate **Canada's** exercise its jurisdiction to complete the land transactions described in this **Agreement** will not diminish upon:

- (a) the issuance of a **Land Use Permit** for a parcel of land; or
- (b) the transfer of a parcel of land in fee simple to the **Land Corporation**.

## 19.6 **THREE-PARTY MEETING**

### 19.6.1 Three-Party Meeting.

Any **Party** may, at any time, convene a meeting of the **Parties**, who will attend, for purposes relating to this **Agreement**, by providing not less than thirty (30) days written notice setting forth the purpose, date, time and place in Winnipeg, or any other agreed place in Manitoba, for such meeting.

SCHEDULE 19.1 - FORM OF LETTER FROM THE MINISTER OF ABORIGINAL AND  
NORTHERN AFFAIRS (MANITOBA)



MINISTER OF ABORIGINAL AND NORTHERN AFFAIRS  
MINISTER RESPONSIBLE FOR  
COMMUNITIES ECONOMIC DEVELOPMENT FUND

Room 544  
Legislative Building  
Winnipeg MB R3C 0V8  
CANADA

Chief Clarence Easter  
Chemawawin Cree Nation  
P.O. Box 9  
Easterville MB R0C 0V0

Dear Chief Easter:

I am writing to you to advise of the approach favoured by the Government of Manitoba relating to the establishment of a reserve under the *Indian Act* by your First Nation in an urban area. We recognize that Chemawawin Cree are interested in establishing a reserve in an urban area in Manitoba at some time in the future, but do not presently have a proposed location for such a reserve.

The Government of Manitoba is considering this issue at this time at your request, because your First Nation, Manitoba and Manitoba Hydro are now in the process of concluding the negotiations of a Comprehensive Forebay Agreement to address outstanding issues relating to arrangements made in 1962, involving your First Nation, associated with the development of the Grand Rapids Generating Station.

An Agreement in Principle between Chemawawin Cree Nation, the Government of Manitoba and Manitoba Hydro was signed in April 2000, which now serves as the basis for the conclusion of the Comprehensive Forebay Agreement. The Agreement in Principle involved a number of items for the benefit of Chemawawin Cree Nation and its members, including resource management arrangements, payments to be held by Chemawawin and provision of certain additional lands to Chemawawin Cree Nation, some parcels of which are intended to be set apart as reserve. None of these parcels are located in an urban area.

Nevertheless, I can advise that the Government of Manitoba will support a proposal by Chemawawin Cree Nation for a reserve to be set apart in an urban area for their use and benefit where the following conditions are met:

- CCN obtains title to a parcel of land for that purpose, which it has transferred, or proposes to transfer, to Canada to be set apart as reserve;
- The land must be acceptable to the Government of Canada to be set apart by Canada as reserve;

.../2

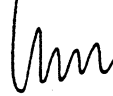


2

- The land is identified for specific economic development purposes of value to CCN, but not for residential purposes;
- CCN and the urban municipality complete a Municipal Development and Services Agreement satisfactory to each of them;
- The Government of Manitoba is not responsible for any costs associated with the acquisition of the parcel, the establishment of the reserve or any buildings or infrastructure located on the reserve;
- All third party interests on the property, including interests of public utilities, are addressed in a manner satisfactory to those third parties;
- The land is not required for public purposes;
- The land must be of reasonable size for the intended purposes.

I am providing this letter on behalf of the Government of Manitoba in conjunction with the completion of the Comprehensive Forebay Agreement. This letter expresses the policy of the Government of Manitoba on this matter and does not constitute a legal agreement or a legally binding or enforceable commitment of the Government of Manitoba.

Sincerely,



Oscar Lathlin  
Minister

**PART XIV: APPROVAL AND EXECUTION**

**ARTICLE 20**

**Approval and Execution**

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## PART XIV: APPROVAL AND EXECUTION

### ARTICLE 20

#### 20.0 APPROVAL AND EXECUTION

##### 20.1 INTRODUCTION

###### 20.1.1 Introduction.

Article 20 provides for confirmation by each of the Parties as to the process followed by each of the Parties in connection with the approval and execution of this **Agreement**.

#### 20.2 APPROVAL PROCESS

##### 20.2.1 Approval of Agreement.

Prior to the execution of this **Agreement**, the **Agreement** was considered, in accordance with processes agreed upon by the Parties, for approval by each of the **Parties** as follows:

- (a) by **Chemawawin** in accordance with section 20.3;
- (b) by The Manitoba Hydro-Electric Board on behalf of **Hydro**; and
- (c) by the Lieutenant Governor-in-Council on behalf of **Manitoba**.

#### 20.3 REFERENDUM

##### 20.3.1 Referendum.

On August 12, 2003, **Chemawawin** held a **Referendum**, in accordance with processes agreed upon by the Parties, to determine if the majority of **Electors** voting in respect of the Referendum approved this **Agreement**.

##### 20.3.2 Ballot Question.

The ballot question for the **Referendum** was as set out in Schedule 20.1.

##### 20.3.3 Referendum Results.

The **Parties** have received confirmation from the electoral officers appointed by **Chemawawin** to conduct the **Referendum** that, of the **Electors** who voted on the ballot question, a majority voted to approve the **Agreement**.

##### 20.3.4 Referendum Results Final and Binding.

The **Parties** acknowledge and agree that, except as provided in section 20.4, no further approvals are required from **Chemawawin** or **Members** with respect to the execution and delivery of the **Agreement**.

## 20.4 EXECUTION

### 20.4.1 Authorization for Execution.

Each of the **Parties** acknowledge that prior to the execution of this **Agreement**:

- (a) **Chemawawin** has, by **Council Resolution**, formally approved this **Agreement** and authorized the **Chief and Council** to execute the **Agreement** on behalf of **Chemawawin**, and has delivered to **Manitoba** and **Hydro** a certified copy of such **Council Resolution**;
- (b) **Hydro** has, by resolution of its Board of Directors or other requisite approval, authorized its appropriate officers to execute this **Agreement** on behalf of **Hydro**, and has delivered to **Chemawawin** and **Manitoba** a certified copy of such resolution or other requisite approval; and
- (c) **Manitoba** has, by Order in Council, authorized the Minister of Conservation to execute this **Agreement** on behalf of **Manitoba**, and has delivered to **Chemawawin** and **Hydro** a certified copy of such Order in Council.

**SCHEDULE 20.1 – BALLOT QUESTION**

Do you approve the proposed Comprehensive Forebay Agreement among Chemawawin Cree Nation, the Government of Manitoba and Manitoba Hydro relating to the Grand Rapids Hydro-Electric Generating Station?

YES

NO

Please mark your choice with an X.

# PART XV: GENERAL

## ARTICLE 21

### General Provisions

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**PART XV: GENERAL**

**ARTICLE 21**

**General Provisions**

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### 21.2.5 No Presumptions.

The **Parties** have endeavoured to ensure that the terms of this **Agreement** are as clear as possible and, except as otherwise provided, there will be no presumption or canon of interpretation in favour of or against any **Party**.

## 21.3 VALIDITY OF PROVISIONS

### 21.3.1 Powers and Prerogatives.

Nothing in this **Agreement** will be interpreted to bind or infringe upon the powers and prerogatives of the Legislative Assembly of Manitoba or any legislative powers of **Chief and Council**.

### 21.3.2 Statutory and Other Requirements.

Except as provided herein, nothing in this **Agreement** is intended to detract from, or relieve any **Party** from, any obligations under any statute or regulation or under any approval, licence or other authority under which a **Party** operates.

## 21.4 PARTIES

### 21.4.1 Binding on Parties.

This **Agreement** will be binding upon and enure to the benefit of the **Parties** and their respective successors and permitted assigns. Nothing in this **Agreement** is intended to confer upon any person who is not a **Party** to this **Agreement** any rights or remedies under or by reason of this **Agreement**.

## 21.5 NOTICE

### 21.5.1 Notices.

Whenever in this **Agreement** it is required or permitted that notice be given by any **Party** to this **Agreement** to any other **Party**, such notice will be given in writing and forwarded by registered mail or transmitted by facsimile confirmed by telephone, addressed to the applicable **Party** as set out in subsection 21.5.2.

### 21.5.2 Addresses.

The addresses for the **Parties** are as follows:

- (a) to **Chemawawin** addressed to the Chief at the Band Office;
- (b) to **Hydro** at the office of the General Counsel of Manitoba Hydro; and



(c) to **Manitoba** at the office of the Deputy Minister of Conservation.

## 21.6 ENTIRE AGREEMENT

### 21.6.1 Agreement Supersedes.

Except as otherwise provided in this **Agreement**, this **Agreement** supersedes all prior understandings, negotiations and discussions, whether oral or written, among the **Parties**, in relation to matters dealt with in this **Agreement**. There are no representations, warranties or conditions to this **Agreement** except as expressly stated in this **Agreement**.

### 21.6.2 No Merger with Other Agreements.

Except as expressly provided in this **Agreement** or in any other agreement between the **Parties**, no provision of any other agreement will merge with this **Agreement**.

### 21.6.3 Assignment.

Except as expressly provided in this **Agreement**, neither this **Agreement** nor any portion or provision of this **Agreement** may be assigned without prior written permission of all of the **Parties**.

### 21.6.4 Further Action.

Subject to subsection 2.3.3 in the case of **Chemawawin**, each of the **Parties** to this **Agreement** will, from time to time, and without further consideration, execute and deliver such other instruments of transfer, conveyance and assignment, and take such further action as required, to complete more effectively any matter provided for in this **Agreement**.

## 21.7 GOVERNING LAW

### 21.7.1 Laws in Manitoba.

This **Agreement** will be governed by, and construed in accordance with, the federal and provincial laws from time to time in force in the Province of Manitoba.

## 21.8 GENERAL

### 21.8.1 No Admission.

Nothing in this **Agreement** will constitute an admission of liability on the part of any **Party**.

### 21.8.2 Amendment.

This **Agreement** may only be amended in whole or in part by written agreement among the **Parties**.

### 21.8.3 Assumption of Liability.

If **Hydro** ceases:

- (a) to be an agent of **Manitoba**;
- (b) to have legal authority and control over the operation of the **Project**; or
- (c) to have legal authority and control over the operation of any major work or structure constituting part of the **Project**, the operation of which could affect inundation or storage of water for purposes of the **Project** in the **Cedar Lake Resource Management Area**;

**Manitoba** will:

- (d) where paragraph (a) or paragraph (b) applies, assume all of the rights and obligations of **Hydro** under this **Agreement**; or
- (e) where paragraph (c) applies, assume the rights and obligations of **Hydro** under this **Agreement**, as such rights and obligations relate to the works or structures over which **Hydro** no longer has legal authority and control;

in which case, this **Agreement** will be read with the necessary modifications to reflect the assumption of rights and obligations by **Manitoba**, but such assumption will not relieve **Hydro**, or any successor of **Hydro**, of its obligations under this **Agreement**.

### 21.8.4 Notice of Change.

**Manitoba** will give immediate notice to the other **Parties** where an event specified in paragraph 21.8.3(a), (b) or (c) occurs.

21.8.5 Non-Merger.

The covenants under this Agreement will not merge with the transfer of lands to or for the benefit of Chemawawin.

IN WITNESS WHEREOF the Parties have executed this Agreement on the dates indicated below.

**CHEMAWAWIN CREE NATION**

Per: *Chief Clarence Easter*  
Chief Clarence Easter

*Albert Young*  
Councillor Albert Young

*Alvin Lavallee*  
Councillor Alvin Lavallee

*Richard Bourassa*  
Councillor Richard Bourassa

*Sam George*  
Councillor Sam George

*Albert Packo*  
Councillor Albert Packo

On the 14<sup>th</sup> day of November,  
2003

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF MANITOBA**

Per: *Stuart Struthers*  
Minister of Conservation

On the 16<sup>th</sup> day of JANUARY,  
2004

**THE MANITOBA HYDRO-ELECTRIC BOARD**

Per: *[Signature]*

Per: \_\_\_\_\_

On the 5<sup>th</sup> day of JANUARY,  
2004