

The Fort McKay Métis Nation Position Paper on Consultation and Self-Government

By Fort McKay Métis Nation Council¹

In February 2020 the Fort McKay Métis Nation (FMMN) was the first Métis community to “credibly assert” its Métis Aboriginal rights under the process outlined by the Government of Alberta.² In so doing, it joined the Alberta Métis Settlement’s General Council as the only Métis organizations authorized to negotiate with the Crown in the province and for which consultation may be legally required.³ The decision was lauded by many in the Métis community who are also seeking to be recognized, and criticized by others who have a different conceptualization about who should represent Métis community rights.⁴ This paper is meant to share FMMN’s experience, providing their position on what they believe effective Crown consultation will look like moving forward and asserting that this recognition is a first step toward becoming a self-governing Métis Nation.

This paper is broken into three sections. First, it outlines the Fort McKay Métis Nation’s history and the process that it followed to demonstrate its status. Second, it discusses the importance of consultation for Fort McKay as a key part of the Nation’s move toward self-government. Finally, it outlines Fort McKay’s current governance structure and its vision for the future now that it has been formally recognized as a rights-bearing Métis community by the provincial government through the credible assertion process.

¹ This paper represents the position of the Fort McKay Métis Nation Council and they share it with the hope that it might spark a broader conversation about Métis governance. The Council would like to offer special thanks to Eddison Lee-Johnson and Peter Fortna who helped to organize and present these positions in this paper and Emily Boak who produced the attached map. In addition, it would like to thank the multiple reviewers for providing additional perspectives, including Clayton Leonard, Patricia McCormack, Aron Taylor, and Anjalika Rogers. While the paper represents the opinions of the Nation, it is not meant as a legal document and should be used without prejudice.

The Fort McKay Métis Nation (FMMN) has been registered as a trade name for the community and is in the process of being officially recognized by Alberta and Canada. FMMN replaces the Fort McKay Métis Community Association (FMMCA), which was the primary vehicle for representing the community from 2010 to 2020.

² Government of Alberta, “Métis Credible Assertion,” <https://www.alberta.ca/metis-credible-assertion.aspx>.

³ Alberta, “Métis Organization Establishes Right to Consultation,” 13 February 2020, <https://www.alberta.ca/release.cfm?xID=6861188357C08-C734-DA8D-FD73A149425FFE3D>.

⁴ Numerous Métis people and groups sent their congratulations, both publicly and privately through social media platforms, phone calls, and emails. In particular, a number of the future members of the Alberta Métis Federation sent their well wishes, and those conversations have led a number of those groups to explore the possibility of charting a similar path through the credible assertion process. Beyond Métis groups, the Fort McKay First Nation also offered their congratulations: “Fort McKay First Nation Congratulates Fort McKay Métis,” Media Release, 14 February 2020, <https://fortmckay.com/news/fort-mckay-first-nation-congratulates-fort-mckay-metis/>. Much of the criticism levelled against the Fort McKay Métis Nation has come from the Métis Nation of Alberta, and can be found at www.albertametis.com/about/news/current-affairs. In particular see releases from 26 February 2020; 13 February 2020; and 2 December 2019. A good summary of the current situation is provided by Shari Narine, “Metis Nation of Alberta Now Fighting on Three Fronts,” *Windspeaker*, 14 February 2020, <https://windspeaker.com/news/windspeaker-news/metis-nation-alberta-now-fighting-three-fronts>.

A Brief History of the Fort McKay Métis Nation and Métis Consultation in the Province of Alberta⁵

While a number of scholars have come to question the relevance of the *Powley* test in determining whether a specific Indigenous community belongs to a larger Métis collective, it has become a key requirement in demonstrating to governments and the courts that Métis communities have a right to be consulted with regard their section 35 Aboriginal rights.⁶ Within a legal context, the division between a “historic” and “contemporary” Métis community is often determined by the poorly defined and arbitrary term “effective control,” which refers to when the Canadian state became able to govern in a specific region. The concept is still being developed in the Métis context and was first identified in the seminal *Powley* case in 2003. While effective control can rarely be fixed to a specific date, the Stantec report, *A Historical Profile of the Northeast Alberta Area’s Mixed European–Indian or Mixed European–Inuit Ancestry Community*, originally commissioned by the federal government, makes the following assertion regarding the Métis community in northeastern Alberta:

Possible indicators of “effective European control” became more evident around the turn of the twentieth century, when the North West Mounted Police arrived in the community of Fort Chipewyan (in 1897) and began to enforce Canadian law. The supposed extinguishment of Aboriginal title in the study area took place in 1899 with the signing of treaty with the Treaty 8 Commission and the options for people to take scrip in the form of money or land certificates with the Half-breed Commission. At this point the legal dichotomies within and between the Aboriginal and mixed-ancestry populations became formalized. The lives of the mixed-ancestry populations of northeast Alberta became increasingly more controlled and influenced by outside forces with each decade of the twentieth century.⁷

Neil Reddekopp, while working for the Alberta government, similarly stated that:

There are at least two and possibly more “dates of effective European Control” in different parts of Alberta.

- As a working hypothesis, we have taken 1870 as this date in the part of Alberta covered by Treaties 4, 6, 7 and 1900 as the date for the part of Alberta covered by Treaties 8 and 10.

⁵ The summary of the community’s history draws heavily with permission from Peter Fortna, “A Genealogical Narrative of the Fort McKay Métis Community” (Report Submitted to the Alberta Government in Support of the Fort McKay Métis Nation’s Credible Assertion Claim, 2019), and many of these themes are expanded upon in Peter Fortna, *Fort McKay Métis Nation: A Community History* (Edmonton: Athabasca University Press, submitted).

⁶ Chris Andersen, *Métis: Race, Recognition, and the Struggle for Peoplehood* (Vancouver: UBC Press, 2014), esp. 137–40; Chris Andersen, “Settling for Community?: Judicial Visions of Historical Métis collectivity in and after R. v. *Powley*,” in *Contours of a People: Metis Family, Mobility, and History*, ed. Nicole St. Onge, Carolyn Podruchny, and Brenda Macdougall (Norman: University of Oklahoma Press, 2012).

⁷ Stantec, *A Historical Profile of the Northeast Alberta Area’s Mixed European–Indian or Mixed European–Inuit Ancestry Community* (Ottawa: Department of Justice, 2005), 4.

- However, in areas such as the eastern slopes north of Calgary, the interior of the Treaty 8 area and the northwest corner of the province, the date could be in the 1920s or 1930s.⁸

The Fort McKay Métis do not consider either of these documents adequate for defining “effective control.” The Canadian government did not exert any real control over the territory that was to become northeastern Alberta prior to 1899 or for some years following. Meanwhile, by 1900, the Indigenous community at what would become Fort McKay was well-established. After Treaty No. 8, government officials maintained but a small presence in northeastern Alberta, and it may be that meaningful control did not exist until the creation of the registered trap line system in the late 1940s, if then.

In earlier years, the ancestors of Fort McKay Metis lived a lifestyle that varied in the amount of movement it required annually.⁹ The first fur trade posts after the establishment of Fort Chipewyan were constructed at the confluence of the Athabasca and Clearwater Rivers (near present-day Fort McMurray) around 1790, while another post named Pierre au Calumet was built approximately twenty-five miles below present-day Fort McKay on the Athabasca River in the early 1800s.¹⁰ After Pierre au Calumet was built, the Hudson’s Bay Company established Berens House directly across the Athabasca River at the mouth of Calumet Creek.¹¹ While these posts were officially abandoned by 1840, many of the workers who had manned the posts would stay in the country, marrying Indigenous women and establishing their own local bands and independent trading networks. In approximately 1870, the Hudson’s Bay founded Fort McMurray as well as Old Red River House, sometimes referred to as Little Red River post and later renamed Fort McKay in 1911–12.¹² These new centres did little to compete with the well-established network of free traders who were now present in the region. Some of these traders were itinerants, while others had familial networks up and down the Athabasca River that had

⁸ Neil Reddekopp, “Research Summary” in Government of Alberta Sessional Paper 1044/2007, Session 3, 26th Legislature, 6 December 2006, 2. Also see Jean Teillet, *Métis Law in Canada* (Vancouver: Pape Salter Teillet, 2013), esp. 2–17 to 2–22.

⁹ Unless directly quoted, the we have chosen to use “Fort McKay” throughout the document instead of “Fort MacKay,” which is often used in official government documentation. This is because the community prefers the former spelling, and they are working with other levels of government to standardize this in all official correspondence. A detailed explanation about the spelling of Fort McKay can be found in Neil G. Reddekopp, “Post-1915 Additions to the Membership of the Fort McKay Band,” December 1994 (Indian Claims Commission, *Inquiry into the Treaty Land Entitlement Claim of the Fort McKay First Nation*), exhibit 18, fn2. Also see: Shari Narine, “Request Made to Change Spelling of Fort MacKay,” *Alberta Sweetgrass* 19, no. 10 (2012), <https://ammsa.com/publications/alberta-sweetgrass/request-made-change-spelling-fort-mackay>.

¹⁰ Neil G. Reddekopp, “The First Survey of Reserves for the Cree–Chipewyan Band of Fort McMurray,” January 1995 (Indian Claims Commission, *Inquiry into the Treaty Land Entitlement Claim of the Fort McKay First Nation*), exhibit 17.12.

¹¹ Craig Campbell, Alice Boucher, Mike Evans, Emma Faichney, Howard LaCorde, and Zachary Powder, *Mihkwâkamivi sîpîsis: Stories and Pictures from Metis Elders in Fort McKay* (Edmonton: Canadian Circumpolar Institute, 2005), 69, http://www.uap.ualberta.ca/book-images/Open%20Access/9781772122091_WEB.pdf.

¹² Ernest Vorrhis, *Historic Forts and Trading Posts of the French Regime and of the English Fur Trading Companies* (Ottawa: Department of the Interior, 1930), 273. It is important to note that the “Little Red River” that would become Fort McKay should not be confused with the better known Little Red River on the Peace River west of Wood Buffalo National Park.

existed in the region in some cases for generations.¹³ As such, the Hudson's Bay Company posts at Fort McMurray and Old Red River [Fort McKay] were relatively minor players in the broader trading network, and functioned more as transportation hubs, with their importance increasing as steamboats became the preferred method of transporting goods on the Athabasca and Saskatchewan River systems.¹⁴ As noted by Henry John Moberly, the founder of Fort McMurray, the new post was to serve "as a terminus for a proposed steamboat route."¹⁵ By 1900, Fort McMurray was heavily focused on its role in transport, and the majority of its fur-trading functions were transferred to Old Red River House.¹⁶ Neil Reddekopp hypothesizes that an increasing population coupled with the cyclical nature of the numbers of small fur-bearing animals led to it becoming more difficult to procure furs close to Old Red River at the turn of the century, and that this, in turn, led community members to expand their land use to the north, west, and south, which facilitated additional contact with Indigenous peoples in those areas and likely contributed to people from those regions eventually settling in Fort McKay.¹⁷ Fort McKay developed as a plural society, bringing together members from Dene, Cree, French, and English cultural groups, in a way similar to the community of Fort Chipewyan. Fort McKay community members often spoke multiple languages (though Cree would remain the *lingua franca*) and identified closely across ethnic boundaries at a kinship level. Individual and familial connections ultimately knit together an entire social community.¹⁸

¹³ In 1897 Constable Jarvis identified at least two competitors operating at Little Red River post. A.M. Jarvis, "Appendix L. Police Patrol, Athabasca District, Winter of 1896–97, North-West Mounted Police, Office of the Commissioner, Regina, 21 December, 1896," in *Report of the Commissioner of the North-West Mounted Police, 1897* (Ottawa: Queen's Printer, 1898), 160.

¹⁴ The impact of this shift was particularly felt by skilled boatmen, whose numbers decreased from one-half of the workforce between 1821 to 1858 to one-third by the 1880s, according to Philip Goldring's "Labour Records of the Hudson's Bay Company, 1821–1870, *Archivaria* 11(Winter 1980/81), 56. For more on the preferred transportation methods in the northwest in the nineteenth and early twentieth century see Gerhard J. Ens and Joe Sawchuk, *From New Peoples to New Nations: Aspects of Métis History and Identity from the Eighteenth to Twenty-First Centuries* 62–65 and for the specific impacts in northeastern Alberta see Reddekopp, "Research Summary," 15–19.

¹⁵ Henry John Moberly, in collaboration with William Bleasdel Cameron, *When Fur Was King* (London and Toronto, 1929), 141.

¹⁶ "Local," *Edmonton Bulletin*, 26 October 1899, 5.

¹⁷ Reddekopp, "The First Survey," 12–14. Expansion of the community's land-use areas, to include Moose Lake to the west, Lake Claire to the north, Willow Lake to the south, and the east side of the Athabasca River, a territory the people have maintained into the twentieth century. Fort McKay First Nations, *There Is Still Survival Out There: A Traditional Land Use and Occupancy Study of the Fort McKay First Nations* (Edmonton: Arctic Institute of North America, 1994); Fort McKay Tribal Administration, *From Where We Stand: Traditional Land Use and Occupancy Study of the Fort McKay First Nation* (Fort McKay: Fort McKay Tribal Administration, 1983); Fort McKay Industrial Relations Corporation, "The Fort McKay Cultural Heritage Assessment Baseline Pre-Development (1960s) to Current (2008), prepared as part of the Fort McKay Specific Assessment" (Fort McKay: Fort McKay Industrial Relations Corporation, 2010).

¹⁸ Kenichi Matsui and Arthur J. Ray, "Delimiting Métis Economic Communities in the Environs of Ft McMurray: A Preliminary Analysis Based on Hudson's Bay Company Records," in Tim Clark, Dermot O'Connor, and Peter Fortna, "Fort McMurray: Historic and Contemporary Rights-Bearing Métis Community" (Fort McMurray: McMurray Métis, 2015); Nicole St-Onge, "Early Forefathers to the Athabasca Métis: Long-Term North West Company Employees," in *The Long Journey Home of a Forgotten People: Métis Identities and Family Histories*, ed. Ute Lischke and David T. McNab (Waterloo: Sir Wilfred Laurier Press, 2010); Stantec, *A Historical Profile of the Northeast Alberta Area's Mixed European-Indian or Mixed European-Inuit Ancestry Community* (Ottawa: Department of Justice, 2005).

This complex pattern of pre-treaty relationships carried into the twentieth century and helps to explain why Treaty 8 had such a marginal impact on Fort McKay's way of life, even for people who opted for half-breed scrip.¹⁹ As Heather Devine notes, "Because of the continued intermarriage *à la façon du pays* between aboriginal [i.e., "Indian"] and métis groups living in the remote forests and parkland of Athabasca, the Native population outside of the large settlements was more or less homogenous culturally," with "the arbitrary ascription, and subsequent separation, of these same groups into 'Indian' and 'Métis'" not taking place until well after the negotiation and implementation of the treaties.²⁰ In Fort McKay it could even be argued that this did not happen until at least the mid-twentieth century, as community members assert that Métis and First Nations members continued to marry one another and live a very similar lifestyle, co-operating despite government attempts to divide them. In his study of the community in 1978, Edward W. Van Dyke noted that "Ft. MacKay, a settlement of 204 persons, allows literally everybody to know everybody else in a relative intensive manner. Not only that, but virtually every individual has multiple relationships within the kinship system. The entire village is inter-related."²¹ In 2016, a community Elder succinctly summed up the situation:

When I grew up in McKay everyone [Métis and First Nation] was the same. There was no reserve side, there was no Métis side, everyone lived all together. We all had the same lifestyle, we all ate basically the same food, we went to the same school, so it's hard to say different [between Métis and First Nation].²²

Members of both Fort McKay First Nations and Métis have variously confirmed this fact. Chief Phillip MacDonald in his Treaty and Aboriginal Rights Research interview stated that the Métis and First Nations in Fort McKay had always "gotten along together" because they were the same.²³ Similarly, Métis Elder Emma Faichney stated, "Treaty or Métis they're all the same, they're all people. You know. So these people here they all grow up together. Fort McKay people, they live here all their lives."²⁴

¹⁹ Ens and Sawchuk, *From New Peoples to New Nations*, 34, 201–5. Also see Ens, "Taking Treaty 8 Scrip," 252.

²⁰ Heather Devine, *The People Who Own Themselves: Aboriginal Ethnogenesis in a Canadian Family, 1660–1900* (Calgary: University of Calgary Press, 2004), 140. Also see Patricia McCormack, *Fort Chipewyan and the Shaping of Canadian History, 1788–1920s* (Vancouver: UBC Press, 2010); Patricia Sawchuk, "The Creation of a Non-Status Indian Population in Alberta: The Interchangeability of Status of Métis and Indians and Its Effect on Future Métis Claims," in *Origins of the Alberta Métis: Land Claims Research Project, 1878–79* (Edmonton: Métis Association of Alberta, 1979), 93–117; Trudy Nicks, "Mary Anne's Dilemma: The Ethnohistory of an Ambivalent Identity," *Canadian Ethnic Studies* 12, no. 2 (1985): 103–14.

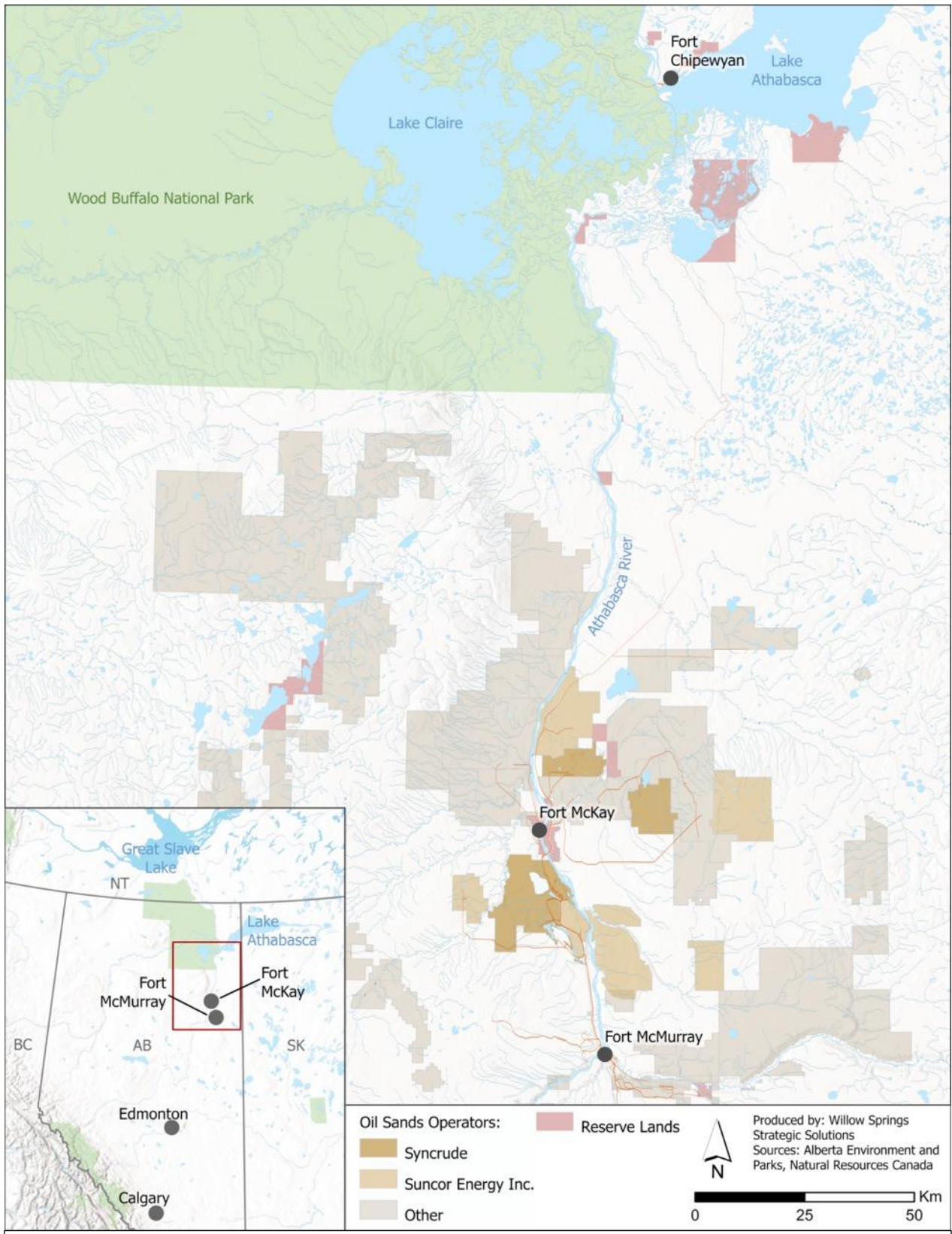
²¹ Edward W. Van Dyke, *Lives in Transition: The Ft. Mackay Case* (prepared for the Office of the Northeast Alberta Regional Commission by Applied Research Associates Ltd., Ponoka, Alberta, 1978), 98.

²² The Human Environment Group (HEG), "Teck Frontier Mine Project: Fort McKay Métis Integrated Cultural Assessment," (Fort McKay: Fort MCKay Métis Sustainability Centre, 2016), 17.

<https://www.ceaa.gc.ca/050/documents/p65505/114434E.pdf>. Further examples of community connectedness can be found in Fort McKay, *There Is Still Survival Out There* and Campbell et al., *Mihkwâkamiwi sîpîsis*.

²³ Phillip Macdonald, Treaty and Aboriginal Rights Research Interview, tape number IH-297, transcript disk 40, 1973, accessed 3 April 2017, <http://ourspace.uregina.ca/handle/10294/1564>.

²⁴ Campbell et al., *Mihkwâkamiwi sîpîsis*, 45.



Fort McKay in relation to major oil sands operations and within Alberta.

Politically, the community remained as one entity throughout the twentieth century. In 1968, the First Nations and Métis jointly created the Fort McKay Community Association in response to the launching of the first industrial oil sands operations in the region, and in an attempt to sort out the complicated land-tenure situation with the federal and provincial governments.²⁵ The government, frustrated by its own complicated jurisdictional issues, decided to divide the community in 1971 when it signed one lease with the “Red River Point Society,” which represented Métis Fort McKay community members, and a separate land lease with the First Nation. Yet both sectors of the community continued to work together, their preferred approach. As a young administrator (and future FMFN chief) James “Jim” Boucher explained in 1979 to a local newspaper reporter, it was the community’s vision to “combine all the land [in Fort McKay] into a municipal organization with everyone getting title to land within the community.” The goal of this initiative was to “make sure we don’t go under and get lost. We want the community to stay here for the people.”²⁶

When oil sands industries began operating near Fort McKay in the 1960s, the community increasingly voiced to the provincial and federal governments and developers about how the development was affecting them, though largely to no avail. The companies did not believe it was their responsibility to mitigate the negative impacts of industrial development. In 1983, after having had very little success participating in legal and regulatory processes, the community as a whole organized a ten-day blockade that drew the attention of government, industry, and the national media.²⁷ Galvanized, the community only agreed to negotiate to remove the blockade if the government would agree to work with the entire community to mitigate the negative effects of early oil sands developments. The provincial government initially agreed to Fort McKay’s conditions but later reneged, remaining singularly focused on the needs of the industrial developers.²⁸

Shortly after the blockade, realizing that the regulatory process would not be revamped to take into account the community’s interests, Fort McKay Métis and First Nations leaders prepared to participate actively in future regulatory hearings, hiring their own lawyers and experts. The concept of “Crown Consultation” was still virtually non-existent, but the provincial energy regulator (the Alberta Energy and Resource Conservation Board) did accept it had a responsibility to take into account the concerns of Albertans, including the people at Fort McKay. Nevertheless, neither level of government nor the developers had seriously considered the potential environmental or social impacts that new industrial projects might have on the

²⁵ This topic is covered in the larger chapter in the report regarding land tenure in Fort McKay. Examples of the Fort McKay Métis and First Nation working together can be found in: L. Gareau to G.R. Sterling, “Re: Fort McKay Water Problem,” 6 July 1967, PAA, GR1979.0152 box 16, item 217; James R. Whitford to Ernie Lacorde, 16 March 1967m PAA, GR1979.0152 box 16, item 217; S.J. Sinclair to J.R. Whitford, “Re: Fort McKay,” 7 June 1967, PAA, GR1979.0152 box 16, item 217; G.W. Fyfe to F.W. Picard, “Re: Fort McKay,” 17 October 1968, PAA, GR1979.0152 box 16, item 216; Summary Minutes of Meeting between Delegates from Fort McKay and Government Representatives,” 23 October 1968, PAA, GR1979.0152 box 16, item 217; D.J. Armstrong to J.E. Oberholtzer, “Re: Temporary Committee – Fort McKay,” PAA, GR1979.0152 box 16, item 217.

²⁶ Ian Williams, “Small Alberta Community Fights for Rights,” *Edmonton Journal*, 6 June 1979. As found in Rod Hyde Newspaper Collection. Also see: Dorothy McDonald to Marvin Moore, Minister of Municipal Affairs, 10 July 1981. PAA, Acc PR1993.0362, file 1081.

²⁷ Fortna, “Fort McKay Métis Nation,” 97–100.

²⁸ *Ibid.*, 98–99. Also see Doug Tattrie, “Tentative Pact OK’d: Protestors to Vote on Offer,” *Fort McMurray Today*, 20 January 1983.

community.²⁹ The questions that Fort McKay people raised, with the help of their experts, could not easily be answered by the proponent in the context of the Syncrude Mildred Lake Project. It forced the regulator to delay the project hearing by months and put time-sensitive investments at risk.³⁰ Thereafter, Syncrude and the Alberta regulator agreed to work with Fort McKay to establish and fund a community-directed review group that could identify and address concerns as they arose, hoping that it would help avoid future project delays. Thus, Fort McKay began to develop its own systems of consultation and research to address its concerns, beyond the legal or regulatory avenues that were available at the time.

These processes started in the mid-1980s and culminated in the forming of the Fort McKay Industrial Relations Corporation in 1998. The IRC was co-owned by the Métis and First Nation and was meant to represent the community's interests in negotiations with government and industry partners who were planning major new developments for the early 2000s.³¹ The new corporation worked so well that the model was adopted by other First Nations in the region. In addition to establishing the Fort McKay IRC, the Fort McKay First Nation and Métis jointly became founding members of a number of regional monitoring and policy groups to help manage industrial incursions on the Fort McKay homeland.

Fort McKay's ability to maintain community unity through the twentieth century is somewhat unique in the region and demonstrates the strength of the community's kinship networks. Elsewhere in the Treaty No. 8 territories, as Patricia Sawchuk has described, the artificial difference of "status" and "Métis"—which was created by the government—put extreme pressure on communities acting "to destroy alliances between individuals, families, bands and nations and thus to alienate many native people, Status and Non-Status alike, to such a degree that political cooperation has become difficult if not impossible in some cases."³² While they remained allies, the two groups in Fort McKay have felt this strain over the years, due largely to differential treatment afforded Métis and First Nations. For example, the policy of the provincial government and industrial developers was that there was a "duty to consult" with First Nations in the region, but not necessarily with the Métis.³³

²⁹ Fortna, "Fort McKay Métis Nation," 100–3.

³⁰ Ibid. Also see: Michael Board, "ERCB Move Will Stall Expansion," *Fort McMurray Today*, 22 August 1984; Michael Board, "ERCB Approves Syncrude Expansion," *Fort McMurray Today*, 5 October 1984.

³¹ The founding of the organization was described in a memorandum signed in 2008: "The IRC was created in the 1998 by the Fort McKay First Nation and the Fort McKay Métis for the purpose of representing them in consultation; negotiations with third parties to limit and mitigate the adverse effects of development on the community and to ensure the community benefits from the economic development occurring on the resident's traditional lands; it is the intent of existing Métis Local #63 to ensure industry accommodates the impacts of industry upon its members." Fort McKay Industrial Relations Corporation, "Memorandum of Understanding between Fort McKay Industry Relations Corporation and Fort McKay Métis Local 63" (October 2008).

³² Sawchuk, "The Creation of a Non-Status Indian Population in Alberta," 107. Also see: Patricia K. Sawchuk, "The Historic Interchangeability of Status of Métis and Indians: An Alberta Example," *The Recognition of Aboriginal Rights: Case Studies 1*, ed. Samuel W. Corrigan and Joe Sawchuk (Brandon: Bearpaw Publishing, 1996).

³³ The Government of Alberta first issued *The Government of Alberta's First Nations Consultation Policy on Land Management and Resource Development* in 2005. The policy underwent a series of revisions over the years, and was finally replaced by *The Government of Alberta's Policy on Consultation with First Nations on Land and Natural Resource Management* (2013). In 2016 the government released *The Government of Alberta's Policy on Consultation with Metis Settlements on Land and Natural Resource Management*, dealing with Crown consultation with Alberta's Métis settlements. At the time of writing, there was not an off-settlement provincial Métis

Fort McKay chose to manage this legislative blind spot through mandating the jointly owned IRC to work with industrial developers on behalf of the whole community. Other Métis groups in the province were not so lucky. In the mid-2000s, on the heels of a number of key court decisions, the Alberta government issued *The Government of Alberta's First Nations Consultation Policy on Land Management and Resource Development*.³⁴ While the policy was received skeptically by the province's First Nations, it said nothing about government's position on consultation with Métis. As a result, industrial developers increasingly sought to address First Nations' concerns within their development applications, providing an estimated \$22 million dollars between 2007–9 for consultations in northeastern Alberta. At the same time, virtually no funding was provided to Métis groups, outside of the support provided to the Fort McKay Industrial Relations Corporation, which represented both Métis and First Nations in the community.³⁵

Since at least the mid-2000s, the issue of Métis consultation in the province remained ambiguous. In its 2008–2011 Strategic Business Plan, Alberta's Ministry of Aboriginal Relations affirmed that it would "work with Alberta ministries, the Métis Settlements General Council and the Métis Nation of Alberta Association to clarify Alberta's responsibilities with respect to consultation with Métis people."³⁶ Alberta voiced this position in 2008 on its "Frequently Asked Questions" page:

The Government of Alberta's First Nations Policy and Consultation Guidelines are specific to First Nations. Alberta is, however, aware that Métis consultation is an emerging issue in Canada. The requirements of Métis consultation have yet to be clarified, and Alberta does not have a specific mandate to develop a consultation process with the Métis. Until such time, the government encourages project proponents, as a matter of best practice, to engage Métis communities through a good-neighbor approach to doing business. The core concepts and principals outlined in the Policy and Guidelines may offer guidance to proponents during this interim period.³⁷

In late 2010 the government clarified its position, stating that the province would "determine, on a case-by-case basis, whether consultation is necessary with Métis communities who may credibly assert constitutionally protected rights."³⁸ Over a decade later, the province has still not developed a policy for Métis who do not live in Settlements. Instead of guaranteeing that Métis rights would be considered in the industrial consultation and development process, the province

consultation policy. For a detailed history of First Nation's consultation in Alberta see Neil Reddekopp, "Theory and Practice in the Government of Alberta's Consultation Policy," *Constitutional Forum* 22, no. 1 (2013).

³⁴ Reddekopp, "Theory and Practice."

³⁵ Shell Pierre River Mine Supplementary Information Request Response, appendix 8, pp. 6–7; appendix 8, pp.18–19, http://www.ceaa-acee.gc.ca/050/documents_staticpost/59539/95925/Appendix_8.pdf

³⁶ Alberta Finance, Government of Alberta's Strategic Business Plan, 2008–2011, April 2008, 11, <http://web.archive.org/web/20150422210403/http://finance.alberta.ca/publications/budget/budget2008/aborig.pdf>
Also see Reddekopp, "Theory and Practice," 52.

³⁷ Government of Alberta, Aboriginal Relations, "Consultation Guidelines, FAQ," 18 September 2008, <https://web.archive.org/web/20080918234252/http://www.aboriginal.alberta.ca/573.cfm>.

³⁸ Government of Alberta, Aboriginal Relations, "Consultation Guidelines, FAQ," 4 December 2010, <https://web.archive.org/web/20101204175855/http://www.aboriginal.alberta.ca/573.cfm>.

has placed the onus on the communities to meet an ill-defined test to determine whether they were even legitimate Métis communities and could demonstrate further that industrial development would infringe on their constitutionally protected rights.³⁹

Meanwhile, First Nations in the region have leveraged their recognition in negotiations for impact benefit agreements and business opportunities. Although the Fort McKay Métis and First Nation did choose to work together, industrial developers felt legally at risk only in regard to the First Nation, and as such, they signed a series of lucrative business deals with companies owned by the First Nation.⁴⁰ Thus, while the Fort McKay Métis continued to benefit from new community infrastructure, they were unable to keep up with the First Nation in other areas such as housing, health care, education, and developing capacity. That situation has led many Fort McKay Métis members to apply for legal Indian status through the provisions offered by Bill C-31 and Bill C-3 and to claim the benefits afforded by membership in the First Nation. While these moves temporarily bridged the growing inequity in the community, the shifting of legal status does not provide a long-term solution, thanks to provisions in the Indian Act that outline how Indian status can be passed down only under certain circumstances, which increasingly Fort McKay First Nation members cannot meet. The children and grandchildren of Fort McKay First Nation members who can no longer qualify for “status” now are joining the Fort McKay Métis Nation. These changes in legal status have continued to weave together the two different sectors of the community’s Indigenous population. The better solution, and the one being pursued by the Fort McKay Métis, is to improve the opportunities for their members and ensure that everyone in the community is recognized equally by all levels of government—although the Alberta government in other contexts has made pursuing the recognition of rights-holding Métis communities an uphill battle.⁴¹ The credible assertion recognition is one important step in this quest.

Evolution of Fort McKay Métis Governance and Credible Assertion

Métis members in Fort McKay have organized themselves in a number of ways since the 1960s. They have been members of the Fort McKay Community Association, they created the Red River Point Society, and lastly they constituted Métis Local 122, which was superseded by Métis Local 63 in 2005 within the Métis Nation of Alberta. Yet none of these societies provided the tools necessary for the Fort McKay Métis to effectively govern themselves. This is perhaps not surprising, given that many of the problems experienced in Fort McKay were relatively new. The Métis Nation of Alberta bylaws were originally “formed to provide unified political advocacy on behalf of Métis communities in the face of Crown intransigence.”⁴² The MNA was initially imagined as an advocacy organization, not one meant to deliver the structures of self-government. Therefore, the MNA’s bylaws fail to effectively explain the roles and

³⁹ The Métis Settlement Consultation Policy was finalized in 2016 and applies to all Métis people who live on settlement. Also see: Reddekopp, “Theory and Practice”; Cathleen Bell and Paul Seaman, “A New Era for Métis Constitutional Rights: Consultation, Negotiation, and Reconciliation” *Manitoba Law Journal* 38, no. 1 (2014): 29–72.

⁴⁰ These benefits are described at length in Tom Flanagan, *The Community Capitalism of the Fort McKay First Nation: A Case Study* (Vancouver: Fraser Institute: 2018), esp. 10–12, <https://www.fraserinstitute.org/sites/default/files/community-capitalism-of-the-fort-mckay-first-nation.pdf>.

⁴¹ Heather Devine, “The Alberta Dis-Advantage: Métis Issues and the Public Discourse in Wild Rose Country,” *London Journal of Canadian Studies* 26 (2010–11): 26–62.

⁴² Lavoie, “The Right to Be Heard,” 1215.

responsibilities for the different levels of MNA government, meaning that at various times, all the levels have attempted to speak for local people in Métis communities.⁴³ While there have been conversations about establishing a new set of MNA bylaws or even a new constitution in order to clarify these (and other) deficiencies, those conversations have been ongoing since at least the 1980s, and the governing bylaws have not changed substantively since 1984.⁴⁴

By 2010, the Fort McKay Métis had found that the MNA bylaws precluded their own effective management of the community. As a result, that year they established the Fort McKay Métis Community Association (FMMCA), the precursor to today's Fort McKay Métis Nation. Throughout the process of creating the FMMCA, leadership undertook a deep engagement with community members, ensuring the new organization's bylaws met customary and conventional good-governance codes and enshrining the community's Métis identity and rights. Additionally, the leadership met with interested outside groups, most importantly the Fort McKay First Nation, in order to maintain the important connectedness within the larger Indigenous community of Fort McKay. This set the groundwork for the community as a whole to meet the varied and difficult challenges brought by 120 years of government interference, ensuring that "no one is left behind."

When the FMMCA was established, it was the community's hope that focusing on effective governance at the grassroots level might spark a revitalization of the MNA, encouraging the provincial organization to refocus its attention on issues of provincial importance and to support local communities in a federated governance model, where the majority of legislative power decision-making power stayed local. It was their view that Fort McKay should continue to be one of the *Otipemisiwak*, "the people who own themselves," and not beholden to rules designed by people who did not understand the unique history and culture of the Fort McKay Métis.⁴⁵

From 2010 to 2019, the Métis of Fort McKay remained members of the MNA, though the local governance functions of the community—including the management of leased land and financial agreements—were moved over to the FMMCA. Since the mid-2000s, the Fort McKay Métis (through Métis Local 63) participated in a number of initiatives in support of its vision for a decentralized Métis governance structure.⁴⁶ They also participated in regional Métis groups with other like-minded Métis organizations with the hope of uplifting all the members, while not

⁴³ This point was made explicit in *Fort Chipewyan*, para. 423.

⁴⁴ For example see: Metis Association of Alberta, "Principles & Parameters of Metis Self-Government in Alberta, (1986); Metis Nation of Alberta Association, "Final Report Metis Nation of Alberta Association: Royal Commission on Aboriginal People, (1995); Alberta Metis Otipemisiwak Commission, "Final Report," (1995); Alberta Metis Association, "'A New Direction:' A Metis Governance Plan for Alberta (2008) and Jobin, Lindquist, and Letendre, "Métis Nation of Alberta Governance Framework Review Community Report," (2017). A good summary of the situation is provided in Shari Narine, "MNA Member Not Confident Review of Structure Will Bring Necessary Changes," *Alberta Sweetgrass* 24, no. 4 (2016). More recently, the MNA has begun the push toward an Alberta Métis Constitution, the details of which can be reviewed at www.albertametisgov.com. It is as yet unclear whether this latest process will have more success than others launched over the last thirty-plus years.

⁴⁵ Jen Gerson, "Métis Have Long Fared Better than Status Indians, So Why Do They Want to be Treated the Same?," *National Post*, 26 January 2013, <https://www.metisnation.ca/index.php/news/the-people-who-own-themselves>.

⁴⁶ Committees to which the Fort McKay Métis participated included: The Métis Nation of Alberta Region 1, Consultation Protocol Committee (2012–2014), the MNA Consultation Technical Committee (2016–2017).

replacing any member's "institutional independence."⁴⁷ Unfortunately, their call for a federated governance model was largely ignored, and the MNA moved forward with its negotiations with the Alberta government based on the idea that it was the only Métis organization with the ability to represent Métis people in the province. On 1 February 2017, in an effort to enshrine this idea, the MNA signed a Framework Agreement with the province, with a key purpose of developing a provincial Métis consultation policy.⁴⁸

In its negotiations with the Alberta government, the MNA claimed that it was the only rights-holding body in the province and that no other individual group or organization could represent Métis rights without oversight from the parent organization. In preparation for the negotiations, the MNA began to amend its bylaws to reflect this centralized vision. For example, in 2016 the MNA passed a new "oath of membership" that required members to swear:

I agree to the Métis Nation's Bylaws and policies, as amended from time to time, and, voluntarily authorize the Métis Nation to assert and advance collectively-held Métis rights, interests, and claims on behalf of myself, my community and the Métis in Alberta, including negotiating and arriving at agreements that advance, determine, recognize, and respect Métis rights. In signing this oath, I also recognize that I have the right to end this authorization, at any time, by terminating my membership within the Métis Nation.⁴⁹

The new Oath makes the MNA the only administrative body that could represent individual Métis people or a community's rights, and suggests, that if individuals (or communities) disagree with it, their only means to seek redress would be to "terminate" their membership. The oath was thrust upon the membership despite opposition from a number of individuals and from smaller dissenting Métis communities, including Fort McKay.⁵⁰ The oath also failed to recognize the authority of the Métis Settlements General Council, which had signed a consultation agreement

⁴⁷ Fort McKay helped to reinitiate the Wood Buffalo Métis Corporation as a group to advocate for the rights of Métis people in the Regional Municipality of Wood Buffalo. The group's founding memorandum of understanding can be found here: <https://documents.in/download/memorandum-of-understanding-wood-buffalo-metis>.

⁴⁸ Métis Nation of Alberta – Government of Alberta, Framework Agreement, 1 February 2017, <https://open.alberta.ca/dataset/eac3e6c9-e54f-4d4c-81f7-a47b8e39d7e9/resource/de6ebd40-9bbb-41ea-8ec2-fa4f06ebf607/download/mna-framework-agreement-jan-31-2017.pdf>. The framework agreement was followed by a series of meetings where the development of the Alberta Métis consultation policy was discussed. A summary of these meetings can be found at Métis Nation of Alberta, "Developing a Métis Consultation Policy: Key highlights from meeting with Métis Nation of Alberta and Minister of Indigenous Relations," 6 October 2017, <http://albertametis.com/2017/10/developing-metis-consultation-policy-key-highlights-meeting-metis-nation-alberta-minister-indigenous-relations/>. Authors Kelly Saunders and Janique Dubois discuss how the question of how power should be centralized or decentralized within Métis governments has remained a "point of contention in Métis political circles." *Métis Politics and Governance in Canada* (Vancouver: UBC Press, 2019), 58–59.

⁴⁹ Métis Nation of Alberta, *Advancing Métis Rights and Claims in Alberta: Understanding the New Objective and Oath of Membership in the Métis Nation of Alberta's Bylaws* (Edmonton: Métis Nation of Alberta, 2017), <http://albertametis.com/wp-content/uploads/2013/08/Advancing-M%C3%A9tis-Rights-and-Claims-in-Alberta.pdf>

⁵⁰ For example, see Donald McCargar, "Donald McCargar speaks out on case that proved Métis Nation of Alberta (MNA) neither a nation nor a governing body—launches further appeal to further define the limited role of the MNA," 30 August 2018, <https://www.newswire.ca/news-releases/donald-mccargar-speaks-out-on-case-that-proved-metis-nation-of-alberta-mnaa-neither-a-nation-nor-a-governing-body---launches-further-appeal-to-further-define-the-limited-role-of-the-mnaa-692081591.html>. A number of communities, including Fort McKay, expressed concern with the oath at the 2016 Métis Nation of Alberta general assembly, where ultimately a majority of the .5% of the membership that were present passed the changes to the bylaws.

with the province a few months earlier and which was recognized as a separate Métis rights-holding body.⁵¹

This move to consolidate power within the MNA continued in the “Framework Agreement for Advancing Reconciliation between the Métis Nation of Alberta and Her Majesty the Queen in Right of Canada.” In the document, the MNA asserted that they were the only administrative organization able to represent “collectively held Métis rights, interests and outstanding claims against the Crown” in Alberta. However, *Powley*, and nearly every court decision thereafter, has determined that Métis communities—much like Indigenous communities throughout Canada—are better understood as small and regional in scale and organization.⁵² It is not surprising that the federal government and MNA would propose such a solution, for, as demonstrated through the specific claims process, Crown negotiations with multiple groups representing First Nation’s rights can be time-consuming and challenging.⁵³ The agreement has the potential to exclude from reconciliation with the Crown the Métis groups in the province that have long and verifiable histories—groups like the Fort McKay Métis Nation. It is Fort McKay Métis Nation’s belief that such a move risks replacing a colonial master with a new, neo-colonial one. Their concern is that the MNA will not recognize the inherent rights-holding communities and will deny them the ability to negotiate directly with the Crown in order to remedy historical wrongs.

Fort McKay also believes that if Métis collectives choose to represent themselves, the Crown needs to recognize that choice and work with those groups: for, as was explicitly stated by the Supreme Court of Canada in the seminal *Powley* decision, “a Métis community is a group of Métis with a distinctive collective identity, living together in the same geographical area and sharing a common way of life.” Such an approach aligns with jurisprudence that has continued to accept that Métis s.35 rights are held by local and regional communities that have a distinctive collective identity, live together in the same space, and share a common way of life.⁵⁴

Furthermore, the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) repeatedly affirms that Indigenous peoples have the right to “self-determination,” “self-government,” and the right to a “nationality.” As per the *Declaration*, the Fort McKay Métis Nation has an inherent right to exist and to defend their own Indigenous rights; such rights cannot, and should be allowed to, “belong to an indigenous community or nation, in accordance

⁵¹ For more on the early history of Métis Settlement governance in the province see: Thomas C. Pocklington, *The Government and Politics of the Alberta Métis Settlements* (Regina: Canadian Plains Research Center, Regina); Catherine Bell, *Alberta’s Metis Settlements Legislation: An Overview of Ownership and Management of Settlement Lands* (Regina: Canadian Plains Research Centre, 1994); and Nicole O’Byrne, “‘No other weapon except organization’: The Métis Association of Alberta and the 1938 *Métis Population Betterment Act*,” *Journal of the Canadian Historical Association* 24, no. 2 (2013): 311–52.

⁵² Patricia McCormack provides a good summary of the Court decisions in “The Willow Lake Métis: A Distinctive Métis Community.” (Edmonton: Native Bridges Consulting Inc., 2020).

⁵³ See: Jane E. Dickson, *By Law or In Justice: The Indian Specific Claims Commission and the Struggle for Indigenous Justice* (Vancouver: Purich Books, 2018).

⁵⁴ In the cases of *Gooden and Hirsekorn*, the Courts found Métis communities existed in clearly defined regions, even as the defendants’ pushed for the acceptance of “the entire northwest” or the “entire western plains and prairies” in their claims. Furthermore, as demonstrated in *Lizotte 2009 ABPC 287* asserted that Métis communities that have organized themselves and that meet the conditions laid out in *Powley* should be recognized as being a rights holder. For a more in-depth discussion on this topic see McCormack, “The Willow Lake Métis,” 15-49.

with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.”⁵⁵

Together these moves seem to foreshadow the MNA’s preference for a governance structure mirroring that of the Métis Nation of Ontario, where local and regional offices ultimately report to the provincial office and powers are largely centralized.⁵⁶ In comparison to the MNA, however, the Métis Nation of Ontario had a relatively shallow history (the organization was only founded in 1993) without legacy governance structures similar to those that exist in the MNA.⁵⁷ Furthermore, the Métis of Fort McKay believe it absurd that a new centralized government model might be foisted upon them and other Métis in northeastern Alberta, particularly when the proposed centralized system failed to take into account the fact that communities like Fort McKay have been governing their own affairs throughout the community’s history. In Fort McKay’s view, the current governance model being proposed by the MNA, if recognized by either the federal or provincial government, would mean local communities would no longer be *Otipemisiwak* and would instead be placed under the thumb of a centralized provincial office that purports to govern previously autonomous communities.

This stark shift in the vision of the MNA was accompanied by an increasingly interventionist stance. The MNA was beginning to participate in regulatory processes, government monitoring initiatives, and industrial negotiations that historically had never been part of its mandate.⁵⁸ Both the provincial negotiations and interventions created a great amount of uncertainty regarding how Métis consultation within the Fort McKay’s traditional territory should proceed, and they undoubtedly caused challenges and additional uncertainty for industry and government, delaying decision-making processes for everyone involved.

Shortly after the MNA instituted its new oath of membership, the Court of Queen’s Bench in Alberta issued its *Fort Chipewyan* decision.⁵⁹ Prior to 2016, the Government of Alberta had provided little direction to Métis groups seeking formal recognition. *Fort Chipewyan* helped to lift the veil regarding how a community might go about making a credible assertion claim, as noted by legal scholar Moira Lavoie:

The Court in *Fort Chipewyan* set out two requirements for Métis organizations seeking to enforce the duty to consult under the Haida test, but whose governance structures are not statutorily recognized by the Crown. First, the organization must provide credible evidence that the organization’s members meet the requirements of the Powley test for Métis

⁵⁵ While these statements are found throughout the document, in particular see articles 1-9. UN General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples : resolution / adopted by the General Assembly*, 2 October 2007, A/RES/61/295, : <https://www.refworld.org/docid/471355a82.html>.

⁵⁶ Lavoie, “The Right to Be Heard,” 1222.

⁵⁷ Joe Sawchuk, *The Dynamics of Native Politics: The Alberta Metis Experience* (Saskatoon: Purich Publishing, 1998); Joe Sawchuk, Patricia Sawchuk, and Theresa Ferguson, *Métis Land Rights in Alberta: A Political History* (Métis Association of Alberta: Edmonton, 1981).

⁵⁸ For example see: Mix 103.7, “Fort McKay Metis React to Alberta Court Lawsuit Dismissal against MNA,” 3 December 2019, <https://www.mix1037fm.com/2019/12/03/80552/>

⁵⁹ *Fort Chipewyan Métis Nation of Alberta Local #125 v Alberta*, 2016 ABQB 713. <https://www.canlii.org/en/ab/abqb/doc/2016/2016abqb713/2016abqb713.html>

identification. Second, the organization must provide credible evidence of its representative authority to enforce the duty to consult.⁶⁰

Upon reviewing the decision, Fort McKay—unsure how the MNA’s negotiations with the province might proceed—commissioned two reports. The first provided a thorough genealogical assessment of the Métis community, and the second reviewed the community’s history. Upon receiving the reports, the community directed the FMMCA’s membership registrar to undertake a comprehensive review of membership information (primarily birth records and other collected genealogical data) in order to compare it to the two research reports’ findings. The comparison confirmed what the community members already knew: that the FMMCA members were clearly connected through kinship to the historic community of Fort McKay, and that, together with their Fort McKay First Nations relations, the group had a long history of governing themselves and representing their own Indigenous rights.

Between 2017 and 2018, and after consultation with their members, the FMMCA board took steps to formalize its governance structure so that it could become a self-governing nation. That included developing a Fort McKay Métis Nation constitution. It also ramped up negotiations with the Alberta government to secure its land base and entered into a conversation with Alberta to determine the process by which the Nation could submit its own credible assertion claim. Through these actions the FMMCA hoped to actualize what their research and members were telling them: that they were their own people, capable of governing themselves, and that they were unwilling to relinquish their personal and community autonomy to the MNA or anyone else.

As the Fort McKay Métis undertook these initiatives and began to assert their independence, they realized that their vision was not compatible with that of MNA, which continued in its attempt to centralize governance structures in the province. By late November 2019, the community collectively made the difficult decision to sever their relationship with the MNA.⁶¹ Subsequently, the FMMCA’s bylaws clarified that they were the only group that could represent Fort McKay Métis community members’ rights. This is in contrast to the MNA bylaws, where, as the *Fort Chipewyan* court case demonstrated, it remains unclear whether members’ rights are represented at the local, regional, or provincial level. The FMMCA’s bylaws helped the community to satisfy one of the more challenging aspects of Alberta’s credible assertion test, demonstrating that only it was authorized to represent the contemporary Metis community in Fort McKay. This authorization, coupled with the commissioned research—which demonstrated that the vast majority (upwards of 90 percent) of members could trace their ancestry to the pre-1900 Indigenous community of Fort McKay—cemented the community’s claim.⁶² The evidence

⁶⁰ Lavoie, “The Right to Be Heard,” 1213.

⁶¹ At a community meeting on 28 November 2019, 7 of the 10 members in attendance at the last meeting of the Fort McKay Métis Local 63 unanimously voted to dissolve the organization. Shari Narine, “Metis Local in Limbo as Government Policy Forces Members to Choose Who Represents Them,” *Windspeaker*, 1 April 2019. <https://windspeaker.com/news/windspeaker-news/metis-local-limbo-government-policy-forces-members-choose-who-represents-them>.

⁶² Fortna, “Genealogical Narrative,” 17.

was reviewed by the government, which granted the Fort McKay Métis’s credible assertion claim on February 13, 2020.⁶³

Otipemisiwak: The People Who Govern Themselves

The major tension experienced by the Fort McKay Métis as they moved toward nationhood was the lack of clarity regarding who can represent a Métis community. The tension had existed due to the lack of federal or provincial statutes recognizing Métis governance structures.⁶⁴ While Fort McKay does not advocate for a colonial “rubber stamp” from the Canadian or Albertan government, it does believe it is necessary that the governance structures developed by any group wanting to represent a Métis collective in fact reflect the historical reality of the community over which they claim authority. As Fort McKay demonstrated, they have a long history of unique Métis governance that has persisted from the mid-nineteenth century to the present-day. As such, Fort McKay agrees with Lavoie when she states that “we should look to the Métis communities themselves for guidance on what constitutes proper Métis representative authority, not simply the preferences of the courts or the Crown,” while adding that a larger Indigenous governmental body should never be able to claim or appropriate the rights of a smaller grassroots organization. This position is not unique to Fort McKay, and has been implemented by the courts who have consistently, and without exception, found that s.35 Métis rights are held locally by communities and not by national or provincial organizations. It is also worth noting that this position is a key tenet of UNDRIP which recognizes the authority of Indigenous communities to represent themselves. As such, when a group such as Fort McKay provides credible evidence that it exists and represents the majority of its ancestors, that authority must be recognized. It should not be subject to challenge by other groups whose claims are not as strong.⁶⁵

Furthermore, Fort McKay also believes strongly that nationhood is something that is practiced, not something imagined in Vancouver and Toronto law offices, far from the Métis homeland. As such, the Fort McKay Métis Nation has worked hard to develop a modern governance structure that meets the needs of the membership. The community’s membership code pays special attention to the unique history and culture of the community. It ensures that each member has a verifiable connection to the historic Fort McKay community or has passed a vigorous acceptance process that replicates how members would have been accepted into the community in the past. The constitution has carefully incorporated direct democracy and transparency, with members meeting quarterly to vote on key issues such as constitutional amendments, community direction, and agreements negotiated with industrial developers. Elections are carefully managed through an election code, and impartiality is maintained by an independent election officer.

In addition to enshrining the structures of good governance, the Nation takes its fiduciary responsibilities to its members extremely seriously. Annual budgets are audited by an independent third party and approved by the membership at every annual general meeting, and budgetary priorities are determined through community strategic planning on a yearly basis. Priorities in the areas of culture, health, education, land, and housing are carried out by an

⁶³ Alberta, “Métis Organization Establishes Right to Consultation,” 13 February 2020, <https://www.alberta.ca/release.cfm?xID=6861188357C08-C734-DA8D-FD73A149425FFE3D>

⁶⁴ Lavoie, “The Right to Be Heard,” 1216.

⁶⁵ Lavoie, “The Right to Be Heard,” 1219.

independent and qualified professional bureaucracy. Funding for these initiatives comes primarily from the McKay Métis Group of Companies, a social enterprise owned by community members.⁶⁶ The profits that these companies generate is reinvested in the Métis community, making it possible to provide all members with a supplemental group health plan, access to affordable housing, and bursaries for post-secondary education. The Fort McKay Métis Nation has also signed multiple agreements with the Fort McKay First Nation, and many of the services—including a daycare, a nursing home, and in the long-term, a community-managed charter school—will be jointly owned and operated by the two entities. These partnerships extend to emergency services and have allowed the community to respond in a coordinated and effective way to disasters such as the 2016 wildfire and the 2020 Covid-19 pandemic, keeping members safe regardless of whether they are deemed by governments to be legally First Nation or Métis. In all these ways, the Fort McKay Métis leadership is fulfilling the vision of past community leaders to lift up the community as a whole and ensure that no one is left behind.

As Fort McKay’s history demonstrates, the community has had, at best, only weak connections to a larger regional Métis political body or a pan-Métis consciousness that seems to be much more a product of the twenty-first century than the nineteenth or twentieth.⁶⁷ Furthermore, it has been the community’s unique kinship connections and cultural history that have persisted and made the formal establishment of Fort McKay Métis Nation possible. It was the local leaders who defended the community throughout the twentieth century. Thus, it is Fort McKay’s position that while a larger Métis Nation may exist, it exists in the same way that a Cree or Dene Nation exists in northern Alberta: as a broad group of people connected through culture, language, and kinship, but politically represented by a number of independent First Nations in the province. The idea that the specific interests and negotiations of the Fort McKay First Nation could be taken up by a regional or provincial First Nations office would seem ludicrous to most observers, and the Fort McKay Métis Nation posits that the same level of skepticism should be levelled toward any provincial group that asserts it has the authority to represent Fort McKay Métis Nation members. In short, local communities are best positioned to represent themselves, and though regional and provincial organizations can support this work, they cannot and should not be allowed to supplant it.

In 1983, when the Métis National Council was formed, it was structured as a federation, where each member maintained its own autonomy to negotiate independently with other levels of government and each other.⁶⁸ This is the governance model that the Fort McKay Métis Nation supports and believes should be extended throughout the Métis Nation, with communities who are able to demonstrate through history, genealogy, kinship, and culture that they are *Otipemisiwak* assuming the authority to self-govern. Having their status now recognized by the Alberta government, Fort McKay is poised to continue implementing its plans for self-

⁶⁶ To learn more about the McKay Métis Group please visit <http://mckaymetisgroup.ca/about.html>. A good definition of “social enterprise” is provided by Adam Barone, “Social Enterprise” *Investopedia*, 3 February 2020, <https://www.investopedia.com/terms/s/social-enterprise.asp#:~:text=A%20social%20enterprise%20or%20social,used%20to%20fund%20social%20programs>

⁶⁷ Fortna, *Fort McKay Métis Nation*,” esp. 108–10. Also see Ens and Sawchuk, *From New People to New Nations*, 2016; Sawchuk, “Negotiating an Identity: Metis Political Organizations, the Canadian Government, and Competing Concepts of Aboriginality.” *American Indian Quarterly* 25, no. 1 (Winter 2001): 73-92.

⁶⁸ Mary Agnes Welch with updates by David Gallant, “Métis National Council,” *The Canadian Encyclopedia*, 2019, <https://www.thecanadianencyclopedia.ca/en/article/metis-national-council> .

government.⁶⁹ The Métis community has already purchased land, passed a community constitution, solidified its nation-to-nation relationship with the Fort McKay First Nation and other Indigenous groups, built a structured administration that provides services to its members, and confirmed the legitimacy of the multiple community benefit agreements it had negotiated (and continues to negotiate) with oil sands operators in the region.

The affirmation of the Fort McKay Métis Nation's status in both the eyes of the Métis national governing body and the province of Alberta has opened multiple doors for the community's future growth and prosperity. The primary purpose for this paper was to briefly provide the background regarding the Nation's journey, as a model for others who may wish to undertake a similar path. Recently, Fort McKay became a founding member of the Alberta Métis Federation, which recognizes the autonomy of its member communities to represent themselves with governments, other Indigenous groups, and industrial partners.⁷⁰ Through the AMF, Fort McKay hopes to continue on its path toward Métis self-government with other like-minded communities who believe they too are *Otipemisiwak* and who wish to represent themselves. While it is understandable that governments and provincial groups may find it more politically expedient to deal with a single organization claiming to represent all Métis citizens and rights, this claim does not effectively take into account Fort McKay's unique history and their constitutional right to Indigenous self-government. Furthermore, this position does not face the reality that many other groups in the Métis homeland may similarly wish to become self-governing entities within the broader nation: just as many First Nations make up the Assembly of First Nations, many *Otipemisiwak* are part of the larger Métis Nation. While there can be little doubt that a larger Métis Nation of some type exists in Western Canada, it must be recognized that this nation is made up of the *Otipemisiwak*—the people who own themselves—and they will be the ones who will effectively establish new forms of Métis self-government in the twenty-first century.

⁶⁹ Justin Giovannetti, "Alberta Métis Community Declares Self-Government," *The Globe and Mail*, 24 May 2019. <https://www.theglobeandmail.com/canada/alberta/article-alberta-metis-community-declares-self-government/>. FMMN President Ron Quintal spoke on this topic at the Metis National Council organized "Building Wealth for the Métis Nation" conference held March 3–5, 2020 <https://www.metisnation.ca/index.php/news/conference-on-building-wealth-for-the-metis-nation-pushes-economic-development-strategy-forward>, and the Fort McKay Métis Nation were active participants at the most recent MNC National Convention, held in Saskatoon, Saskatchewan, March 9–10, 2020.

⁷⁰ Vincent McDermott, "Six Métis Communities Form Alberta Métis Federation, Breaking from the Métis Nation of Alberta," 27 February 2020, <https://www.fortmcmurraytoday.com/news/local-news/six-metis-communities-form-alberta-metis-federation-breaking-from-metis-nation-of-alberta>.