

The Saskatchewan (1976) Agreement

Treaty Land Entitlement was initially determined by the federal government by multiplying the population of a First Nation by the number of acres promised in the Treaties. Except for Treaties 2 and 5, the Treaties covering Saskatchewan provided for one square mile per family of five or 128 acres per person. Treaties 2 and 5 provided for 160 acres per family of five in most cases.

Under this agreement the amount of land owed to First Nations was determined based on their population as of December 31, 1976

First Nations were aware that they had not received all the land promised under the Treaties and wanted governments to fulfill the promises they had made in the Treaties. During the 1970s the Federation of Saskatchewan Indians (FSI), the precursor group to the current Federation of Saskatchewan Indian Nations (FSIN), researched and negotiated an agreement known as The Saskatchewan Agreement in 1976. The Agreement was not a formal agreement but was based on exchange of letters.

Under this agreement the amount of land owed to First Nations was determined based on their population as of December 31, 1976. This formula was agreed to

by the province, the federal government and the FSI. When the FSI accepted this cut-off date it was in the hope that within five years land entitlement under the Treaties would be largely satisfied.

After the Agreement was reached further research was done and eventually 30 First Nations in Saskatchewan were recognized as being owed land under the Treaties. These First Nations are called Entitlement

First Nations or Bands. The final total of land required to fulfill this debt exceeded 1.2 million acres.

Under the Agreement the land made available to fulfill the Treaty promises was Crown land, owned by the government. There was no provision for government to purchase private land to fulfill the Treaty debt. This meant that the land had to come from Crown land that government had available. For land to be available it would have to be land that was essentially not being used. Land that was not being used tended to be non-productive land.

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As well under this agreement First Nations had to deal with people who had an interest in the Crown land that was needed to settle the treaty debt. There was considerable hostility from people who depended on Crown lands for their livelihood. While for the most part these people felt that the Treaty land debt should be satisfied, they did not feel it was fair for them to have to suffer financial losses so the debt could be satisfied. There were no provisions in the Agreement for compensation for third party interests.

As the years went by very little land was transferred to First Nations to satisfy outstanding Treaty obligations. Almost all of the few transfers that were made were in the north of the province where existing third party and government interests posed no serious problems.

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The FSIN was frustrated by the slow pace of land settlements. They saw the province as giving into pressures from rural populations, such as those who leased Crown land as pasture and rural municipalities, and the federal government

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as neglecting their obligations by remaining silent and letting the province develop their own position. For land of some

intent of the Treaties and the Saskatchewan Agreement.

A group of First Nations started a legal action taking the position that the Saskatchewan Agreement was a binding legal agreement and not just a statement of policy. As far as the First Nations and the FSIN were concerned the

at the time the entitlement was settled. Between 1976 and 1989 when the action was started many First Nations' populations had grown considerably. For example, the Starblanket First Nation had gone from 196 to around 300. It was also a compromise for governments because they would

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Both levels of government eventually backed away from the Saskatchewan Agreement and moved in the direction of determining entitlements based on the date of first survey. The FSIN rejected this idea because it ignored the terms, spirit and

Saskatchewan Agreement was a negotiated agreement based on the interpretation of the Treaties. To them it represented a compromise between all three parties (First Nations, Government of Saskatchewan, Government of Canada) and was binding on all three parties.

It was a compromise for the First Nations because it used a cut-off date of 1976 instead of what the First Nations had argued for which was the current population

have liked to use the population as of the date of the first survey.

The launching of this lawsuit and the opinion of some government representatives that this lawsuit could be successful were catalysts that prompted the parties to find another solution.

Questions for Consideration

1. How was the amount of land to be set aside under the Treaties calculated?
2. What arguments were there for and against using 1976 as the cut-off date for determining population size?
3. What problems existed with using Crown land to fulfill the requirements for Treaty Land Entitlement?
4. What effect did the Government not honouring The Saskatchewan (1976) Agreement have on settling Treaty Land Entitlement issues?