

## **2 MICHEL FIRST NATION**

Michel First Nation is comprised of people of mixed Cree and Iroquois decent. Since 1985, Michel First Nation has been represented by an elected, volunteer Chief and Council. Michel members historically resided on a reserve near what is today St. Albert, Alberta and many members continue to live in and around that area today. Prior to Bill C-3 Gender Equity in Indian Registration Act, which amended the Indian Act in 2010, MFNs membership was approximately 700 members; today Michel First Nation estimates that there are upwards of 1200 MFN members on the Alberta General List (Pers Comm 2014).

Michel First Nation previously held a reserve on the Sturgeon River, northwest of Edmonton referred to as Michel Indian Reserve (IR) 132. However, due to enfranchisement and surrender this reserve land was subsequently lost.

Despite the assimilationist and colonial policies of the Canadian Government, the Indian Act, and the failure of the Crown to re-establish band status, MFN continues to identify and maintain themselves as an Aboriginal collective with Aboriginal and treaty rights.

### **2.1 BACKGROUND OF MICHEL FIRST NATION**

The historical account of Michel First Nation is a complex narrative that begins with the signing of Treaty No. 6 and continuing with ongoing legal challenges to gain recognition from the federal and provincial Crowns as an Aboriginal collective with Aboriginal and treaty rights.

#### **2.1.1 MFN GENEALOGY**

##### **Louis Callihoo c. 1782-1845**

Many of the members of the Michel First Nation can trace their ancestry to Louis Callihoo (also recorded as Calehue, Kalliou, Karhiio, Kwarakwante), an Iroquois trapper and fur trader born near Montreal at Caughnawaga (Kahnawke/Sault-Saint-Louis) Quebec in 1792. In 1800 he travelled west as an agent, and hunter, and trapper in the employ of the Northwest Company (NWCo). The Company preferably hired Iroquois as they were known to be expert canoe-men responsible for transporting European trade goods imported to Quebec west (Macpherson 1998, Dalheim 1955). Over the course of one summer, Louis paddled from Montreal to Fort Edmonton. In the prairies Louis travelled between trading posts transporting goods, building or repairing boats, and hunting for food (Macpherson 1998). In 1814 when Louis had finished his contract with the Northwest Company, he decided to become a Freeman instead of going back to Montreal. He now was independent but continued to take on odd jobs for the Northwest Company as well as Hudson's Bay Company.

After 1805, Louis Callihoo was frequently seen at Jasper House (Macpherson 1998). It was here where he most likely met his first wife, Marie Katis of the Sekani tribe, with whom he had 7 children. Marie and Louis eventually made their home in the Smoky River area, which was known for its excellent pasture land. A few years later he was introduced to the Patenaude family. He had two children with Josephte Patenaude and seven with her sister, Marie Patenaude. After his first wife's death, Louis married Marie Patenaude and spent a significant

amount of time with her and their children in the Lesser Slave Lake area. Here he continued trading from 1816 – 1825. According to Nicks (2003), fur trade journals from the period depict Callihoo as the head of a “small network of free trappers and hunters living along the Athabasca and Smoky Rivers and trading as far west as Lesser Slave Lake” (Nicks 2003). His success is evident in regular purchases recorded at various trading posts. Not only could he provide for all his children, at least fifteen by 1838, but he could also afford occasional luxury goods such as crushed sugar or earrings (MacPherson 1998).

Religion was important to Louis. Father de Smet recorded Louis’ great joy when he finally found a local priest and asked him to baptize his children, grandchildren, and himself: “How glad I am to have come here, for I have not seen a priest for many years... my heart rejoices.” (de Smet, quoted in Macpherson 1998). Church records indicate that Louis and his wife Marie Patenaude must have died around 1854 (Macpherson 1998).

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Figure 2: Homestead on Lac Ste. Anne. Glenbow Archives PA-377-20

Today, most MFN members trace their decent through Louis Callihoo or Jacques L'Hirondelle, a Métis who hunted and travelled with Louis Callihoo whose descendants intermarried with Callihoos.

### **2.1.2 TREATY NO. 6**

In August 1876, Lieutenant Governor Alexander Morris and several other Commissioners for the Crown were tasked with negotiating Treaty No. 6 in the western portion of the Northwest Territories that is now known as Saskatchewan and Alberta. With his appointment as Lieutenant Governor in 1872, Morris began making repeated requests to the Government of Canada to make a Treaty in this area, without success. The Government of Canada continued its practice of initiating Treaty making only when the situation with Aboriginal Nations in that area had become problematic or when the territory was needed for settlement or other purposes (Taylor 1985). After years of repeated requests by both Aboriginal Nations and other government officials, Morris, the other Treaty Commissioners, and a full retinue of nearly one hundred

Northwest Mounted Police met nearly two thousand Cree and other Aboriginal Nations at Fort Carlton to commence negotiations for Treaty No. 6.

Both the main text of Treaty No. 6, as well as the description outlining the boundaries of the Treaty were pre-established by Ottawa. Treaty Commissioner Morris's account of the events surrounding the negotiations and signing of Treaty No. 6 along with the accounts of others present, including a narrative of the proceedings by the Treaty Commission's secretary, A.G. Jackes, provide an account of what occurred during the negotiation process (Morris 2014 [1880]). These accounts, in combination with oral histories of Aboriginal elders provide a basis for contemporary historical interpretation of the promises within Treaty No. 6 (Taylor 1999a and b; and Hickey et al 1999).

Treaty No. 6 set out the rights of Aboriginal Nations to continue their "vocations", including hunting and fishing within the entire Treaty area. It is important to understand that this meant outside of Indian Reserve boundaries. Treaty No. 6 states:

Her Majesty further agrees with Her said Indians that they, the said Indians, shall have right to pursue their avocations of hunting and fishing throughout the tract surrendered as hereinbefore described, subject to such regulations as may from time to time be made by Her Government of Her Dominion of Canada, and saving and excepting such tracts as may from time to time be required or taken up for settlement, mining, lumbering or other purposes by Her said Government of the Dominion of Canada, or by any of the subjects thereof duly authorized therefor by the said Government (Treaty No. 6 1876).

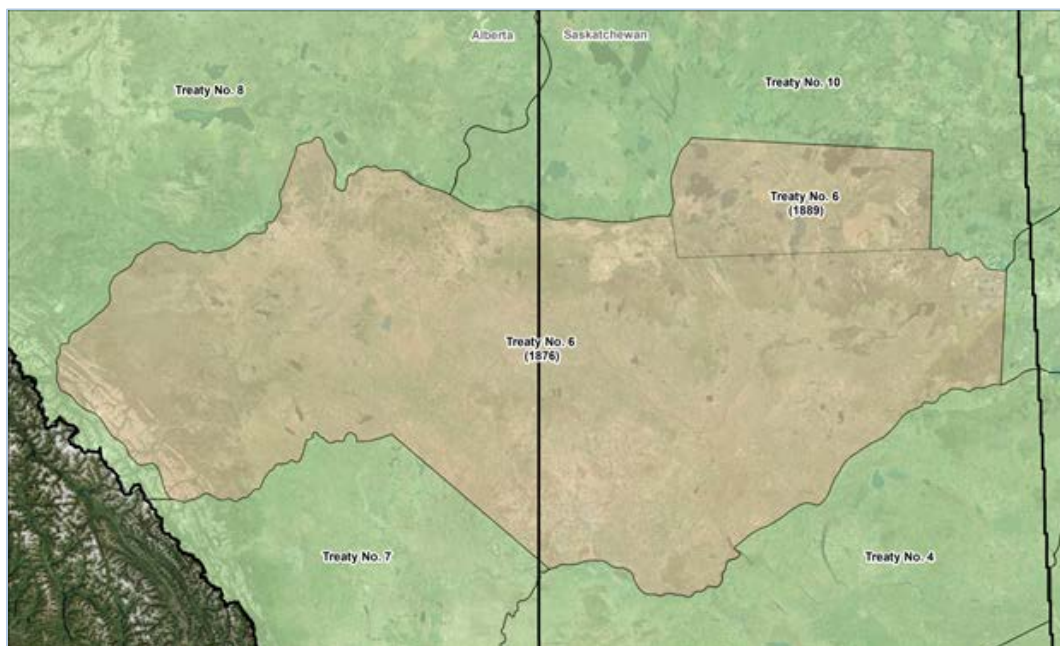


Figure 3: Treaty No. 6

### **2.1.3 TREATY NO. 6 AND THE MICHEL INDIAN RESERVE NO. 132**

Michel First Nation was signatory to Treaty No. 6 by way of an adhesion in 1878. As Chief, Michel Callihoo adhered to Treaty along with 178 others from several, large, interrelated, and inter-married families. In all, the original Michel Band consisted of 48 families (Macpherson 1998).

In 1880, a reserve of approximately 25,600 acres, or 40 square miles, was surveyed for the Michel Band (Ackroyd et al 1997). The reserve site chosen was on the Sturgeon River, north-west of Edmonton and in part overlapping the Lac Ste. Anne Trail, a major route for traders, missionaries and other travelers, connecting Fort Edmonton to Lac Ste. Anne. Over time the trail was interrupted by houses and fields Michel Band members had set up, possibly to emphasize their presence on the reserve (Martin-McGuire 1998, Dalheim 1955). According to Tyler and Wright (1978), Surveyor G.A. Simpson persuaded the Chief to take the land west of the 4th meridian to minimize disputes with the residents of St. Albert, who were displeased that the reserve would include prime agricultural and timber land.

### **2.1.4 SURRENDER AND ENFRANCHISEMENT**

As previously stated, the Michel Band reserve, located just outside of Edmonton, was prime agricultural land and there was a strong desire by non-Aboriginal people in the area to acquire that land. Through a series of land surrenders and the ultimate enfranchisement of Michel First Nation, the reserve was lost.

#### **2.1.4.1 SURRENDERS**

Despite Michel's intention to improve his Band's living situation, in particular food security, by acquiring prime agricultural land, the Band continued to face periods of near starvation. The food shortage did not derive from availability of crops but a lack of equipment. Twelve band members, including Michel, were taken to court because they were in debt by about \$300 for equipment purchases (Macpherson 1998). To receive cash and pay off debts, the band considered selling some of the valuable timber found on their reserve but Indian Agent James Gibbons strongly favoured the surrender of reserve land as an alternative option. This attitude to reserve lands, and the resulting desire to extinguish title to the reserve lands were not unique to the situation of Michel First Nation. Despite the promises of the treaties, the practice of government officials to have Indian reserve lands surrendered and sold, often illegally, was common and has been well documented (Martin-McGuire 1998). Requests to surrender lands in 1899 were rejected by the Michel Band on the basis that a previous surrender was made "under threats of deprivation of rations and withdrawal of government favor if they refused" (Tyler and Wright 1978:3). Nevertheless, a document signed July 20, 1903 declared the surrender of land on the western side of the reserve. Proceeds were intended to pay off a collective debt for farm equipment which had amounted to \$13,000. Once the land was up for sale, Chief Michel had great concern about the low price asked for his land. In a letter to the Department of Indian Affairs he begged to increase the advertised land value as the currently resulting profits would not improve their situation in any way. Despite the low price about eighty per cent of land remained unsold. There was much frustration as the band now had lost part of their land without the financial benefit. On January 4, 1906 Michel offered to renounce

treaty in exchange for cash for the surrendered land and clear land title assigned to individual families for the remaining reserve area. This offer was rejected by the Department of Indian Affairs.

Despite this rejection, the Michel First Nation continued to lose lands to outside development, expropriations, and land sales. Indeed, it was clear, as early as the 1880s, there were problems with the size and location of the reserve. St. Albert residents claimed that portions already deeded to them were surveyed and included with the reserve boundaries. Former band members who left and took scrip, refused to relinquish their claims, and Indian Commissioner Frank Dewdney expressed interest in reducing the size of the reserve because of the decrease in band membership (Macpherson 1998). For example, in 1910 the Canadian Northern Railway acquired land for the railroad and several times reserve land was given up for road allowances.

As regulations were changed, allowing up to 50% of the purchase price to go to the Band, sale of land became attractive again for Band members. Between 1905 and 1918 many parts of the reserve land were gradually surrendered and sold. However, those sales mainly benefitted the buyers as property was often sold at less than the original value and payments were delayed or incomplete.

By the 1900s various questionable practices were used by Canadian government officials to obtain title to the reserve land set aside for the Michel Band. For example in 1904 the Band received a quarter of the approximate land valuation on surrendered lands. Evidence suggests that land was overvalued at auction and went unsold; and alternatively was sold far below valuation to individuals with connections to Indian Affairs (see Tyler and Wright 1978 7-8). Additional surrender and sales in 1906 also failed to realize upwards of 80% of the promised valuations. Finally, Indian Affairs Secretary Frank Oliver received surrendered land that was forfeited when delinquent buyers failed to make payments. According to Tyler and Wright (1978), in 1914 Oliver also received over 3,400 acres of former Michel reserve land that was surrendered in 1906. It is estimated that their value at the time was approximately \$71,000 – over double the amount he paid.

By mid-1906 a surrender of 2,400 acres was arranged under complicated and questionable circumstances that included a surprisingly high land valuation and last minute amendment to the Indian Act, arranged six days before the surrender was accepted by Order-in-Council. After the surrender, the land was revalued and offered in a limited auction to individuals who had originally pushed for the surrender including prominent Edmonton area Liberals (Martin-McGuire 1998; Tyler and Wright 1978).





members were enfranchised in 1928 (Friends of Michel Society 1999). Members cited dreadful living conditions on reserve, and the inability to sell produce or livestock without approval of the Indian Agent as reasons for seeking enfranchisement. Of particular concern for MFN members was the compulsory attendance of Michel children in residential schools. One of the first actions the enfranchised members took in 1928 was the creation of a school (Friends of Michel 1998; Indian Claims Commission [ICC] 1996). Each of the enfranchised families received a share of the band funds which they used to buy a part of the reserve lands proportionate on the size of the family.

According to Dempsey, the Band made two unsuccessful attempts at being enfranchised collectively. Finally, in 1958, citing similar concerns to those articulated in 1928, the remaining members of the Band were enfranchised as a group under Section 112 of the Indian Act, dissolving the Band in the process. Reserve land that wasn't bought by the former occupying band members was sold at an auction. Members additionally received shares of the Band's company Michel investments (Macpherson, 1998).

The Michel Band is the only Nation in Canada to be enfranchised as a group using Section 112 of the Indian Act in 1958 which was later repealed by the Federal Government (Michel First Nation 2015).

#### **2.1.5 BILL C-31**

When Bill C-31 was passed in 1985, many members of the Michel First Nation regained Indian Status. Currently, there are at least 750 Status Indians who are members of the Michel First Nation. However, even though the individual people have Indian status, the Federal government will not restore band status to the Michel First Nation (Michel First Nation 2015). Shortly after Bill C-31 came into effect, the Friends of Michel Society was incorporated to provide the Nation with collective representation.

While Bill C-31 recognized that enfranchisement was discriminatory, restoration of status under Bill C-31 did not account for people enfranchised as a group, and failed to address the exiting collective treaty rights of Michel First Nation. Michel First Nation members maintain that the governments of Alberta and Canada are continuing to deny their rights as guaranteed by Treaty No. 6.





Figure 5: Left to right Fred L'Hirondelle, Florine, Victor Callihoo, Beatrice L'Hirondelle, Joe Mitchell and Bertha L'Hirondelle.

### 2.1.6 NEXT STEPS

The Government of Canada has taken the position that, in order to be eligible to file a Specific Land Claim and seek resolution for outstanding claims, the Michel First Nation must be recognized as an Indian Act band. The Indian Claims Commission (ICC), in 1998, heard evidence from the Crown and Michel First Nation (represented by Friends of Michel Society) regarding their status as a band under the Indian Act. The ICC found that Canada was technically correct; however they concluded that "this would result in manifest unfairness if Canada were allowed to ignore its legal obligations and not have to account for the damages suffered by the Michel Band and its descendants...[it] is unfair because it would allow Canada to benefit from past discrimination" (ICC 1998).

The ICC recommended: "That Canada grant special standing to the duly authorized representatives of the Friends of Michel Society to submit specific claims in relation to alleged invalid surrenders of reserve land for consideration of their merits under the Specific Claims Policy" (ICC 1998). Canada continues to ignore this recommendation. The Michel First Nation launched a lawsuit in 2001 to try and regain Band status under the Indian Act. At the publication of this Report, the claim has not yet gone to court and these issues remain outstanding.

## **2.2 MICHEL FIRST NATION TRADITIONAL TERRITORY**

As previously stated, Michel First Nation members have inhabited the area around Edmonton and St. Albert for generations. This included, but was not limited to, the area between Sherwood Park and Beaumont where the Project is located as well as Edmonton, Stoney Plain, St. Albert, Morinville, Hinton and Villeneuve. While MFN is currently in the process of formally mapping and identifying the full extent of its traditional territory, MFN members still extensively use these areas for the exercise of its Aboriginal and treaty rights. These activities include trapping, hunting, gathering food plants, and berries, gathering medicinal and ceremonial plants, ceremonies, and seasonal camping. Michel First Nation maintains they have existing Aboriginal and treaty rights throughout Treaty No. 6, and throughout their traditional territory on all unoccupied Crown lands.

Sites identified in previously collected data for the Kinder Morgan Canada Trans-Mountain Pipeline Study (2014), as well as the Northern Gateway Enbridge Pipeline Study (2010), indicate that MFN's territory extends, at a minimum, north to the Lesser Slave Lake area, south to the Grande Cache/Lodgepole area, east of the City of Edmonton, and west to Grande Prairie and Jasper National Park. It is likely that MFN traditional territory extended west into Jasper National Park. The creation of the Jasper Forest Park in 1907, and Jasper National Park in 1930, limited access and prohibited hunting, fishing, and gathering rights, of Michel First Nation and other First Nations.