Unity, Strength and Success. When we are united, we are strong and our strength leads to success in all that we do.

Nishnawbe Aski Nation

For As Long As The Rivers Flow

ENGLISH • CREE
DEDICATION
This booklet is dedicated to our Elders who have given selflessly to serve our people,

Who possess a deeper knowing, first hand of what it is to be a free and sovereign people on the land,

Who have sustained our spirits with their wisdom, love and unfailing belief in our strength as a people and,

Who continually inspire us to remain steadfast and principled in our struggle to regain our nationhood,

"for as long as the rivers flow..."

“...This is what he said, that the government was now taking us as his own children and he (commissioner) told us about his promise, that as long as the day sun shines that he would think of (not forget) his promise and that for as long as the rivers flow his promise would be carried.”

Rev. Ellezer Beardy, interviewed by Bill Sannapwap at Muskrat Dam, 1974, translation provided by Chris Cromarty.
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FRONT COVER PICTURE: Blind Chief Daniel Missababy making a speech at Osnaburgh, July 12, 1905.
INSIDE COVER PICTURE: James Masakeyash at 104 years old gazing over Mishkeegogamang (Osnaburgh). He was 9 years old when he watched Daniel Missababy mark his “X” on Treaty No. 9. Hans Deryk Photo, Toronto Star. Reprinted by permission.
For As Long As The Rivers Flow

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THE JAMES BAY TREATY,
TREATY No. 9
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1905-2005

The Treaty Commissioners land at Long Lac, ON, 1905.
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FOREWORD
The year 2005 marks the 100th anniversary of the first signing of Treaty No. 9, known as the James Bay Treaty. One of the objectives of The Nishnawbe Aski Nation (NAN) Treaty Discussion Forum is to raise public awareness about the NAN Treaties and to assist with commemorative treaty events. In doing so, we are contributing this booklet to provide an overview of the James Bay Treaty, past, present and future.

The booklet is based primarily on Nishnawbe Aski Nation’s own research, in particular, the collection of materials kept by the Nishnawbe Aski Nation Land Rights and Treaty Research Program as well as materials made available from the Treaty Discussion Forum. The NAN historical research materials...
consist of primary sources from the National Archives of Canada, the Ontario archives and the historical collection kept by Indian and Northern Affairs Canada (INAC), as well as the invaluable and insightful oral history provided by our Elders. We have also cited research from some sources outside of NAN.

We have endeavoured to put aside political perspectives in favour of presenting a concise and factual description about the most notable aspects of the James Bay Treaty, while at the same time describing key elements of the ongoing treaty debate. We also describe how two modern day treaty partners, NAN and Canada, plan to move forward despite holding two different philosophical perspectives that are often at odds.

We hope this booklet will provide the reader with rich and inspiring food for thought about the last century of our common treaty history. As First Nation peoples, Ontarians and Canadians, we also need to look to the future of our treaty relationship and we invite you to contemplate a vision for the next 100 Years. Please join us now as we embark on an historical and fascinating odyssey through the remarkable story of the James Bay Treaty.
100 YEARS OF THE JAMES BAY TREATY

The James Bay Treaty (known as Treaty No. 9) was one of the last numbered treaties to be signed in Canada. It was first signed in 1905 and 1906 by the Canadian government, the Ontario government, and the Cree and Ojibwa nations of what is now known as Northern Ontario. The nations who signed in 1905 and 1906 generally included those people occupying the area south of the Albany River.\(^1\) Over two decades later, adhesions with the remaining Cree and Ojibwa nations north of the Albany River were signed in 1929 and 1930.

Even though 100 years has passed since it was originally signed, there is very little agreement between the parties as to what the Treaty means today. The Cree and Ojibwa people firmly believe that they signed a treaty that afforded them protection and assistance from a benevolent king as well as a land sharing and resource sharing arrangement. The NAN First Nations never understood that they gave up their land or their right to govern themselves. Nishnawbe Aski Nation (NAN) leaders, speaking on behalf of the Treaty nations and descendants of the original signatories to Treaty No. 9 (as well as Treaty No. 5) assert that entering into treaty represented an act of nationhood that endures to the present day. The NAN First Nations, through the transmission of the treaty story as passed down by the Elders to the present generation, state
that they signed the James Bay treaty strictly on the strength of oral promises made at the time of the signing, most of which do not find expression in the treaty text. The Crown, on the other hand, relied wholly on the written text of the Treaty. They saw the Treaty as a necessary step towards completely removing Indian title and relied on the sweeping surrender provisions which stated that, "the said Indians do hereby cede, release, surrender and yield up to the government of the Dominion of Canada, for His Majesty the King and His successors for ever, all their rights, titles and privileges whatsoever". The Dominion of Canada wanted to fulfill an ambitious political vision to expand its transportation, settlement and industrial networks and needed to sign treaties with the remaining Aboriginal nations who had not yet entered into these arrangements. To Canada and Ontario the most salient feature of the treaty was the purported "extinguishment" of Indian title to a land mass in Northern Ontario encompassing a vast 250,000 square miles.

A century later, we are still struggling with two very different philosophical perspectives on the Treaty. These two perspectives have yet to be sorted out. The task for the future will be to reconcile the conflicting interpretations of the Treaty and in doing so, arrive at a mutual understanding that will truly benefit future generations.
THE LAND AND THE PEOPLE, BEFORE CONTACT
The Cree and Ojibwa people occupying the current day tract of land encompassed by Treaty No. 9 boundaries historically lived a life intimately connected with and dependent upon the land and water in their traditional territory. The cycle of Ojibwa and Cree life was dictated by nature’s laws, such as the area’s harsh weather conditions and movement of game, either their relative abundance or their scarcity. In the time honoured oral tradition of keeping the people’s history, NAN Elders recall knowledge of the “old days” passed down to them.

"Mary Spence of Attawapiskat recalled that in the old days there was no tea, and people would drink the broth from boiling meat."

"Mary also remembered that people travelled by birch bark canoe and lived in teepees. Before the arrival of the Hudson’s Bay Company, fires were made with flint, as matches were not available. Shelters were made with brush and moss. Caribou guts were used to make pails and teapots. Clothing was made of rabbit skin, deer hide and owl feathers. Needles were made of leg bones and if no sinew was available, thread was made of fish skin."
Child in rabbit skin coat, English River

The Cree and Ojibwa people, who referred to themselves as Anishnabe (meaning the people) or sometimes as Inini, amongst the coastal Cree, lived and travelled in small family groupings within defined territories. These family collectives hunted and fished in their own specific territory which were known and respected by neighbouring groups. They also traded with other tribes and forged kinship ties through marriage.

Rabbit rope making, Fort Hope

The people had their own governance and economic systems and extensive trade routes throughout the continent. Although, subtle variations in customs and dialects emerged, the Cree and Ojibwa had a common
culture, an understanding of law and related value systems. One of the most pivotal natural laws was that the Anishnabe believed that the Creator gave them the land to take care of. This Anishnabe concept of "property" eluded western definitions. It was based on a people's intimate relationship with the land. As stewards of the land, their relationship was based on a spiritual covenant of the highest order. Accordingly the Cree and Ojibwa governed themselves under these inalienable natural laws given by the Creator.
EARLY RELATIONS WITH THE HUDSON'S BAY COMPANY

The Hudson's Bay Company (HBC) was given a royal charter by King Charles II in 1670 to all territory watered by the rivers draining into the James and Hudson's Bay for trading purposes. This area was known as Rupert's Land. The first recorded trade between First Nations and the Europeans in the James Bay area occurred during the voyage of explorer Henry Hudson in 1611 in the southern reaches of James Bay. The first trading post was established at the head of the Rupert River in 1668 on the southeast shores of James Bay near present-day Waskagash. In the next twenty years a network of coastal forts were established along the western shores of James Bay and Hudson Bay, at the mouths of the Albany, Moose, and Severn Rivers. The Cree, a name believed to originate from the French word "Kristeneaux," traded with the company men for the much sought after beaver pelts which were in demand in Europe for the manufacture of fashionable headgear. The Cree, already

The birch bark canoe, 1890
well versed in traditional trade routes and practices amongst one another and amongst other tribes prior to the fur trade, were well equipped as middlemen between the “bay men” and the tribes that were further inland. These Cree began to be known as the “homeguard” because they began to spend more and more time at the coastal forts developing kinship ties through intermarriage and supplying country food to the HBC men stationed at these posts. Over a period of several hundred years, the HBC expanded their network of inland forts to combat competition from French traders. The inland Cree and Ojibwa bands began bringing their furs to these HBC posts since it was no longer necessary to make the trip down the great rivers leading to the coastal forts to conduct trade.

[Image of a young girl at Fort Metagami]
ADAPTING THE TRADITIONAL ECONOMY TO THE FUR TRADE

Although the Cree and Ojibwa role in the fur trade had transformed many technological aspects of their traditional economy, it did not constitute a wholesale revolution in their way of life. The Cree and Ojibwa continued to practise a lifestyle based almost entirely on their traditional resources on the land and waterways. However, by the late 1800's there were signs of diminishing beavers and other wildlife largely due to over trapping by non-native "free traders." The people recognized that the future of their survival on the land was in jeopardy. This signalled the beginning of a change in their relationship with the newcomers, from one of mutually beneficial commerce in the fur trade, to one based on diplomacy and co-existence as set out in a treaty.
THE PROPHECY OF THE TREATY AND THE DECLINE OF TRADITIONAL BELIEFS

Prophecy was part of the peoples' traditional spiritual practice. The people at Winisk had an early prophecy of treaty and what it would mean for them.

"This event, like the arrival of the fur traders and priests, had been foretold (at a time when there was no one to tell them) some generations earlier. There was talk that money would be granted the moment people stood on the ground with the Governor."
The ceremony used for prophecy was known as the Shaking Tent ceremony. It also foretold the decline of the traditional beliefs and the arrival of Christianity which began to take hold in the mid-nineteenth century. The decline of traditional beliefs and the acceptance of Christianity was another important social factor that set the stage for entering treaty.

DOMESTIC CONDITIONS PRIOR TO TREATY

By the turn of the nineteenth century, it was becoming more apparent to the federal government that the Indians in the area should be brought into a treaty due to increased economic development and the potential for land use conflicts. Prime Minister Laurier was interested in the westward development of the transcontinental railroad. There were also regional aspirations for railroad development. Canada needed to remove the obstacle of Aboriginal title in Aboriginal lands, including Nishnawbe Aski Nation territory, in order to open western Canada for settlement and development. Land surveyors and other industrial entrepreneurs interested in the rich natural resources were distressed to find themselves in territories that were Indian lands which had not yet been surrendered and they began appealing to the government to intercede.
In the more southerly reaches of NAN territory, the people were experiencing greater disruption than their relatively undisturbed northern counterparts. The Canadian Pacific Railroad (CPR) had been in place since the late 1800's through the southern portion of NAN territory and was already having an impact in the migrations and occupations of the Cree and Ojibwa people. Some bands that were experiencing the loss of livelihood were already moving closer to railway lines and settlements to seek out employment as labourers. Others travelled regularly to the "line" to trade. Hydro electric projects and logging became intensive in the south eastern reaches of NAN territory. Some mineral staking and free trading was being experienced in the more northerly areas, but on a lesser scale. In the early 1900's the Cree and Ojibwa in these remote areas were not as enthusiastic about embracing a treaty. However, those First Nations who were being impacted by the growing contact with the newcomers were becoming increasingly fearful of losing their way of life completely. The government's vision of expansion, coupled with the people's fears and need for protection, set the stage for the making of the James Bay Treaty.
THE BASIS FOR TREATY MAKING

The Royal Proclamation issued by King George II of England in 1763, sometimes referred to as the magna carta of Indian rights, served as the foundation for the British treaty making process with Indian groups west of Quebec. The Royal Proclamation set out the Crown’s legal method for obtaining the surrender of Aboriginal title. It stipulated that consent of Indian nations through agreements or treaties for land surrender was required before settlement or development of Indian lands could take place. Even though the NAN territory was encompassed by Rupert's Land, it has generally been held that the treaty making provisions set out in the proclamation apply to the former HBC chartered lands. In 1870 Rupert's Land and the North West Territory (NWT) was officially transferred to Canada. With the purchase of Rupert's Land, the Dominion of Canada was now poised to fulfill its vision of political expansionism westward.

The British North America Act (BNA Act) of 1867 was also another important event that set the stage for treaty in NAN territory. It laid out the distribution of legislative powers between the two levels of government. The federal government assumed exclusive jurisdiction over Indians and lands reserved for Indians [s. 91(24)]. The Provinces retained exclusive jurisdiction for the "management and sale of public
lands belonging to the province and the wood and timber therein", [s. 92(5)] as well all mines, minerals and royalties and all sums payable for such under s. 109. Hence, the Dominion government took the lead in treaty making when it was time to sign the James Bay Treaty.

Treaty Commissioners, Lac Seul, 1905
ROLE OF THE CHURCH AND HBC IN TREATY PREPARATION

Church representatives and Hudson's Bay Company personnel proved to be quite active in the years prior to the actual signing of the Treaty. In many instances, these individuals were relaying the message to the federal and provincial governments that a treaty was needed in the NAN territory. The church and HBC frequently acted as intermediaries and facilitators in the treaty process itself. The HBC even delegated some of their own personnel and a crew of Albany River guides to accompany the first treaty party on their journey. As for the churches, their agenda included securing extra funding for building schools.

"These schools were being funded privately by the churches, which sought government assistance. However, the federal government refused to fund schools unless a treaty had been signed." 6

Aside from the benefit of treaty annuity money (4 dollars a year per person) being spent at HBC posts, some HBC personnel, like Jabez Williams at the Osnaburg Post, were enthusiastically promoting the treaty process for motives believed to be aimed at protecting their own interests in the mineral industry.” For their part the Cree and Ojibwa petitioned for treaty in order to protect their traditional
Treaty Party and Hudson Bay Company guides and canoes, Suicide River

territories from outside interests and to seek federal assistance. Petitions came from places such as Osnaburg and Abitibi. Other expressions of interest in taking treaty were relayed by Indian agents, HBC and Church intermediaries on behalf of Biscotasing, Missinabie, Brunswick House and Long Lake who were trading along the CPR line.

In preparation for the treaty, the government gathered information from the Hudson’s Bay Company posts about the numbers of various bands they were trading with. Information from HBC officials and church representatives became the sole source for identifying the groupings of Indians to be treated with.
"Most of the Treaty Nine bands were aggregations of a number of overlapping traditional bands which the Commissioner had grouped for convenience under the name of a particular Hudson's Bay trading post."  

The traditional delineations identified by the Aboriginal people themselves were largely ignored or the definitions lost to the treaty party. For instance, the Cat Lake and Slate Falls peoples were lumped with Osnaburg. Likewise five traditional groups, Webequie, Lansdowne, Summer Beaver, Whitewater, and those near Lake Nipigon were attached to Fort Hope. At Fort Albany, the English River people (Constance Lake) were attached to the Albany paylist as well as the Attawapiskat group who later received a separate reserve in the adhesion period.

Peter Long, New Brunswick House, 1906

Men at Fort Hope, 1905
ONTARIO AND CANADA FIX THE TREATY TERMS

In the making of Treaty No. 9 there would be no room for negotiation with the Cree and Ojibwa people. This was partly due to an earlier jurisdictional dispute that led Ontario and Canada to entrench the terms of the Treaty in advance of settling with the native party. The dispute occurred in the late 1800’s over the issuance of timber licences by the federal government. Ontario took the position that all natural resources were under its jurisdiction, not Canada’s, and took the matter to court. The court ruled in the Province’s favour and held that land ceded by treaty became the property of the Province, not the Dominion of Canada. As a result of this court decision, the federal government no longer had power to assign reserves unilaterally.

Ontario and Canada signed an agreement to settle issues with respect to Indian Lands in 1894. The parties agreed that Ontario would have to give its consent to any future treaties between Canada and the Indians within provincial boundaries. The new rule of provincial involvement applied when it came time for the James Bay Treaty to be signed. As a result, Treaty No. 9 became the only post-confederation, numbered treaty in which the province was fully engaged in the treaty negotiations. Unlike other numbered treaties, the terms and conditions of Treaty No. 9, including the annuities which were...
to be paid by Ontario, were agreed upon by Canada and the Province after four years of negotiations. The terms of the Treaty had been fixed prior to the commissioners setting out on the treaty voyage.

Before the Treaty, the NAN First Nations peoples held Aboriginal title to the entire watershed. After it was signed, Ontario maintained that it had acquired an unfettered right to harvest all the off-reserve resources. It also claimed a 50% interest in some on-reserve mineral resources through the 1924 Lands Agreement. Both Canada and Ontario gained immensely through the signing of the James Bay Treaty and became its prime beneficiaries.
THE SIGNING OF THE JAMES BAY TREATY IN 1905 AND 1906

Chief Missabay

".....The Chief [Missabay] said they were prepared to sign the treaty with His Majesty, 'as they believed that nothing but good was intended.'" 10

The treaty commissioners admitted that they were anxious about how the Treaty would be received on the initial stops, as this would set the tone for all who signed thereafter. At the first three treaty stops along the Albany River, (Osnaburg, Fort Hope and Marten Falls), the inquisitiveness of the signatories was indulged and many pointed and provocative questions were raised by the Cree and Ojibwa. The questions were placated with explanations that were not described in detail in the written treaty reports or diaries. The further the
Commission proceeded down the Albany River, the more the meetings changed from the candid discussion and inquisitiveness experienced at the first stops, to increasingly excessive goodwill exchanges. By the time the Commission reached Fort Albany, they were being showered with gratitude and there were very few questions. At each stop the Cree and Ojibwa reportedly expressed less and less hesitation in signing. When they reached one of the last treaty signing locations, New Brunswick House, the discussion period had become almost unnecessary.11

Duncan Campbell Scott openly admitted to explaining the treaty terms in a paternalistic manner to the Aboriginal party.

"So there was no basis for argument. The simple facts had to be stated, and the parental idea developed that the King is the great father of the Indians, watchful over their interests, and ever compassionate."12

At the end of the 1905-1906 treaty voyage, the government had secured a massive land surrender which encompassed 90,000 square miles within the boundaries of Ontario and another 40,000 square miles within the Dominion Lands north of the Albany River.
THE ADHESIONS OF 1929 AND 1930

In 1929 and 1930 adhesions were made to Treaty No. 9 which encompassed additional Cree and Ojibwa territory amounting to 128,000 square miles north of the Albany River. Discussions began in 1923 between the federal and provincial governments regarding the desirability of entering into an adhesion of the James Bay Treaty. The Aboriginal people cited hardships brought on by restrictive game laws, which had been instituted by the Province of Ontario, as well as diminishing hunts and high prices for alternative food supplies, as reasons why they needed assistance from the government through a treaty process.

Portage on way to Trout Lake from Round Lake, 1924

"We are receiving no treaty and only a very little help from the Government, which does not go very far amongst so large a band of Indians... Since these laws [Provincial Game Laws] have been laid upon our
people their circumstances have become worse and worse, until now it seems some will hardly survive the winter. This is a very hard place to live in. It is the most inaccessible Post in the country. Therefore the price of all store goods is very high."

The adhesions to Treaty No. 9 were signed in Big Trout Lake in 1929 and in Windigo River, Fort Severn and Winisk in 1930. Elder Alex Barkman of Sachigo Lake explains the conditions of the people which compelled them to sign the Treaty.

"I know only this, that the native people were poor at that time, and because they were poor they did not have any power or a strong voice over anything. There was no doctor to look after them and no welfare or assistance. And what made those promises sound good was that they would be good for as long as the sun shone, as long as we were alive, and as long as the world was here. That's why they signed."
THE BENEFITS OF TREATY EXPLAINED

The terms of the Treaty were explained as simply as possibly to the Cree and Ojibwa signatories. Many of the explanations that were offered were not elaborated upon in great detail in any of the written records by the Crown representatives. Commissioner Stewart noted in his diary,

"Some of the Indians seemed to think that there must be something behind the offer of the Gov't of which they were not aware. It seemed to them that an offer was being made to give them something for which they were not expected to make any return. The explanation, however, eventually put at rest the fears they appeared to entertain, and the money paid to them was accepted with gratitude."

Commissioners, Stewart, McMartin and party.
Chief Esau, New Post, 1906

As recounted in this excerpt from a research document produced by the Nishnawbe Aski Nation Claims Research Unit, many Elders recall what was actually said at the time the Treaty was signed.

"Two Elders discussed the surrender aspect of the treaty. Both stated that their Elders had told them that the government came to "ask the people for their land." According to one Elder, the government claimed that it would take the land in guardianship for the Indians, in another that the government would buy the rocks, the trees, the mud but not the birds and animals."
If there were omissions or gaps in conveying the finer points, especially on the substantial matter of exchanging their land rights for certain benefits, Treaty Commissioner Duncan Campbell Scott, in later writings, rhetorically asked,

"What could they (the Cree and Ojibwa) grasp of the pronouncement on the Indian tenure which had been delivered by the law lords of the crown?"

Scott recognized that they had created two different understandings of the Treaty when he stated,

"They were to make certain promises and we were to make certain promises but our purpose and our reasons were alike unknowable."

The most commonly repeated themes that emerged from the Treaty No. 9 dialogue included:

- That the Cree and Ojibwa peoples’ way of life would endure, which is the basic human right to maintain an identity as a distinct people.
- The Cree and Ojibwa were not to be restricted as to territory. They were to enjoy the freedom to conduct their traditional activities throughout their territories and not to be confined to the reserves set out for them."
• That there would remain a viable economic base. They were told that the traditional commerce of hunting and trapping were more suitable than agriculture and had better prospects for sustaining them.

• That reserves were set aside for them as sanctuaries akin to political or diplomatic immunity, "where no white man could interfere or trespass upon".

• That they were not extinguishing their land rights because when the land was used for government purposes, it would be properly looked after to protect First Nation interests.

• That the land and resources would be shared for the benefit of all parties. As stated by Elder Juliet Duncan of Muskat Dam, "The land was never surrendered, but rather it was agreed upon that Indians would share their land as long as the Treaty existed." On the Hudson Bay coast, Elder David Sutherland of Winisk also concurred that the land surrender was omitted from the treaty explanation.

• That government assistance would be provided to the people to alleviate their hardships as well as to afford their protection.

Even though these promises are not found in the Treaty text, the Elders maintain that they are still a part of the Treaty bargain and they continue to await their fulfilment. Consistent with what the Elders say, current day NAN leaders assert that...
treaty rights encompass much more than what is contained in the treaty text. These rights are derived from promises made during the signing. The Cree word for treaty, “shatamakaywina”, literally means promises. Many of the promises included the treaty right to health care, self government, justice, housing, social services, the portability of treaty rights, land management, resource control, and resource royalties. Evidence of these verbal promises is contained in the treaty diaries of the commissioners and the oral testimonies of Elders. Elder John Baptiste explained some of the promised benefits:

"It was said, you will be given a house, you will be provided what to plant with, you will be given materials for your house, you will be given from which you will maintain your land. You will pay nothing."**

The NAN signatories relied on these verbal promises as their basis for agreeing to sign Treaty No. 9 with the Crown. They did not read the Treaty No. 9 documents, nor could the terminology be literally translated into Cree or Ojibwa. There was no terminology for the concept of land surrender. According to Elder testimony, many of the signatories were not told they were surrendering their land. This observation is consistent with some of the early "treaty sceptics" such as Chief Moonias who was puzzled and suspicious of the
explanations that amounted to "getting something for nothing". To this day there is no equivalent Cree or Ojibwa terminology for the hefty concept of land surrender.

The Crown governments have not denied that these promises were made, but they have not conceded that they are the basis for treaty rights. The Crown relies on the written text of the Treaty, even though it is uncertain how completely the written terms were explained to the Cree and Ojibwa. The rights from the text include hunting and fishing rights, treaty land rights (1 square mile for 5 people), treaty annuities (four dollars per person per year), and education provisions. These rights are recognized in the Canadian Constitution of 1982 and are thereby enshrined in the highest law of Canada.
The Treaty also created undertakings for the Cree and Ojibwa signatories. These undertakings included the promise to obey the laws and be of good behaviour, not to molest or disturb any settlers or government officials and to permit land use sanctioned by the government.
THE REAL IMPACT OF THE TREATY
As the Cree and Ojibwa people were setting their signatures to Treaty No. 9, the very promises that were being made to them by the treaty commissioners were already being violated.

"During the very summer that the Treaty Nine Commissioners were making their way down the Albany River to James Bay, provincial constables and game wardens were raiding fur trade posts along the line of the Canadian Pacific Railway and seizing beaver and otter pelts trapped in violation of provincial government regulations."
Within a few years of the signing of Treaty No. 9, complaints were being received that the Ontario government was restricting the types of furs the traders could buy from the Indians. In 1913 the Chief at Osnaburg recognized this as a flagrant violation of the treaty right to hunt, trap and fish. Peter Taylor from Longlac was openly defiant of these restrictive game laws and was told that he was "a bad example to the Indians." The Indians were also told they could no longer barter their country food to the fur traders, despite two centuries of practise. Other government legislation created more land restrictions, such as the establishment of the Chapleau Game Preserve in 1925, which removed from the people over 6000 square miles of traditional Cree hunting territory. The impacts of these activities were contradictory to the Treaty and would eventually decimate the Aboriginal economies.

Many treaty promises of assistance did not materialize. Elder James Wesley of Attawapiskat "observed that it was not until 1949 that a doctor visited the communities regularly, and that a hospital was built at Moose Factory. Finally, in 1975, a school was erected at Attawapiskat and people began to live in the community year round. Welfare and housing was not provided until 1965." However, once introduced, welfare grew steadily and has now become entrenched in most NAN First Nation communities.
Today game laws and other legislation, such as the Firearms Act, continue to prevent the people from fully exercising their treaty rights to live off the land. Many more treaty promises continue to go unfulfilled, such as adequate reserve land allocations. To this day many reserves remain deficient in terms of the correct acreage due under Treaty No. 9, while some NAN First Nations lack a reserve land base altogether.
SIGNIFICANCE OF THE TREATY PROCESS

To the NAN First Nations, the treaties represent the nation-to-nation relationship between themselves and the Crown governments. For this reason, the treaties have enormous significance to First Nations in the assertion of their nationhood. Moreover, the treaties are viewed as sacred covenants. The Cree and Ojibwa were well versed in Christian understandings and principles at the time The James Bay Treaty was signed. They noticed that the commissioners carried bibles with them wherever they signed the Treaty. The Treaty No. 9 promises and undertakings were regarded as highly spiritual because they would safeguard the future of generations yet unborn. This was seen as a sacred trust. The treaty rights were to endure in perpetuity. Chief Missabey stated at the signing at Osnaburgh,

"We are willing to join with you and make promises which will last as long as the air is above the water, as long as our children remain who come after us."
THE STATE OF THE TREATY NO. 9 PEOPLE TODAY

Treaty No. 9 was signed at sixteen locations. Reserves were set aside in almost every place visited by the commissioners. Today there are 49 NAN First Nations. There are 41 First Nations belonging to Treaty No. 9 and eight First Nations belonging to Treaty No. 5.

The population in the NAN territory has grown from, what was initially estimated at first contact to be 3000, to over 30,000 today. A growing percentage of the population lives off reserve. Traditional practises on the land still play a part in NAN First Nations' economy. However, few people live off the land in the same manner as their ancestors. The traditional Aboriginal economic systems, political organization, and culture have been seriously eroded by the Indian Act and by other federal and provincial government policies and laws.

Joe Koosies, the last man to travel from James Bay to Winnipeg by Canoe
Unemployment rates are as high as 80% in many First Nations. Programs, services and infrastructure that other Canadians take for granted remain chronically under funded. This is partly due to jurisdictional disputes over which level of government is responsible for what services. The cost of living, especially at remote First Nations, is extremely high due to transportation costs for goods. The reserve system and the residential school system, rather than benefiting the people, has led to dependence, illness, acute social problems, high mortality rates and the serious decline of culture and language. The people have not shared equally in the prosperity created by the harvesting of resources on their traditional lands. Some progress has been made in securing better infrastructure, schools, political and civil institutions, transportation and communication networks and some limited
economic development. However, First Nations in NAN continue to struggle with the basic issues of housing, economic development, lands and resources, social services and health issues.

By contrast, the descendants of the Treaty signatories for the Crown, both Canada and Ontario, have fared well. The natural resource development that was ushered in as a result of Treaty No. 9 helped Ontario to become an industrial and economic powerhouse. The signing of treaties in Northwestern and Northeastern Ontario opened up the area for western expansion and thereby fulfilled a Canadian political vision to carry the industrial and economic dream all the way to the Pacific Ocean.
THE CURRENT DAY STATUS OF THE TREATY

Unresolved treaty issues and differing treaty understandings continue to plague relations and block progress on matters between NAN First Nations and the federal and provincial governments. From time to time these issues have also impeded positive relations with municipalities, recreational hunting and fishing groups, and the resource industry.

Treaty No. 9 was made between two very different nations whose different perspectives and world views have produced conflicting treaty interpretations. The impact of the unresolved nature of Treaty No. 9 has led to events that have shaped the political and economic landscape in northern Ontario. Some of the most significant events came about due to lands and resources issues. Massive resource development schemes which threatened to dispossess NAN First Nations of huge tracts of land in the early 1970’s, accelerated the political development of the NAN people who banded together under Grand Council Treaty Nine to defend their Aboriginal and treaty rights. This led to the formation of a Royal Commission on the Northern Environment, the Nishnawbe Nation Proclamation of 1977 and to the tripartite based Indian Commission of Ontario. In more recent years, resource development schemes have been introduced less dramatically by proceeding initiative by initiative, as opposed to grandiose
developments. Treaty issues continue to influence and impact policy and initiatives in NAN territory. Recognizing the ongoing problems that have evolved due to the different understandings of Treaty No. 9, NAN sought a process with the Crown governments to discuss and resolve treaty understandings and outcomes. After years of negotiation and lobbying, NAN was successful in securing support for such a forum.

"To fight together, means to be stronger together. To be stronger together means to command respect from our friends and foes alike. Governments will start listening. When they start listening, our communities will start to improve for the better. This is the only way it can be now."

Andrew Rickard, founding father of Nishnawbe Aski Nation, 1977
THE ESTABLISHMENT OF THE TREATY DISCUSSION FORUM

On May 14, 2003, NAN and Canada launched a new process called the NAN Treaty Discussion Forum (TDF). The forum is designed to bring together NAN, Canada and Ontario to identify, research, and discuss issues related to Treaty No. 9 and Treaty No. 5, in Ontario. Once a common understanding is reached on an issue, the Treaty Discussion Forum will look for ways to give practical expression to the understandings through existing processes. Another objective of the forum is to develop a public education program aimed at raising awareness of the treaties and treaty issues among Native and non-native people living in the NAN territory. The TDF also assists with treaty commemoration activities.

The forum is structured to allow treaty discussion teams for NAN, Canada and Ontario, to meet and discuss treaty issues and to execute necessary research. The NAN Treaty Forum committee gives advice to the NAN discussion team. The committee is made up of Elders, First Nation Chiefs, and Tribal Council representatives. The Treaty Discussion Forum holds meetings at NAN First Nations where it gains input and feedback at the community level from Elders and other community members.
Currently the Province of Ontario is not involved in the process, but NAN and Canada are working to find ways to bring Ontario into the forum, especially for the issues that fall under provincial jurisdiction. Treaty No. 9 is unique in that it is the only treaty in Canada where a provincial government is a signatory.

Women and Children, Osnaburgh, 1905
THE FUTURE OF THE JAMES BAY TREATY

The NAN/Canada Treaty Discussion Forum is only one of the initiatives NAN is undertaking to improve the lives of its people and ensure a better future for NAN First Nations. NAN and Canada are currently negotiating a self-governance agreement. The Economic Development and Lands and Resources department at NAN is working to create a more equitable sharing of the benefits derived from resource.
development in NAN territory. Education, health, and justice initiatives are also ongoing. NAN has developed a constitution based on the natural and spiritual law. All the programs, services and initiatives undertaken by Nishnawbe Aski Nation, the Tribal Councils and First Nations are rooted in the Treaty. Treaty No. 9 is a living treaty. It is an agreement that has endured for 100 years. It is the hope of Nishnawbe Aski Nation that the new millennium will bring a renewed enthusiasm on the part of the Treaty signatories to work diligently towards a common understanding of Treaty No 9.

The year 2005 marks the 100th anniversary of a special Treaty relationship between two nations. The common good of the people of Nishnawbe Aski Nation, Ontario and Canada depends on how the Treaty will be honoured and respected as we move into the next 100 years. It is imperative that the signatories to Treaty No. 9 find a mutual understanding of the Treaty that will fully embrace its significance, its promises and its expression as a true sacred agreement between two peoples, with an equal and mutual benefit to both "for as long as the rivers flow."
1. The 1905-06 treaty also encompassed people whose hunting grounds were north of the Albany River and who were trading at the HBC Posts along the river.
3. Commonly referred to as "bands" by historians, a term which is refuted by the Elders. The terms usage in this document appears only where, for ease of use, it is being cited by others such as academics, and in historical references.
4. Believed to be a derivative of the French word for Christian.
6. Armstrong, p.11.
8. The Cree and Ojibway situated in more remote areas along the Albany did not express any known interest in treaty during the 1900's as discussed in detail in the above noted Report on the Spirit and Intent of the Treaty.
15. Ibid., p. 257.
16. By the time the adhesions were being entertained, confusion over government policy was apparent. Certain arms of the government began encouraging the notion of farming while other government officials recognized that farming was clearly unfeasible and advocated exclusive NAN hunting and fishing tracts instead.
18. According to Cree translator Greg Spence, this term is an older Cree term for treaty as cited in Long p. 27.
19. Elder John Baptiste of Ogoki Post who was 15 years old when the treaty was signed at Ogoki Post, as cited in Armstrong, p. 11.
20. Morrison, p. 49.
24. GCT#9 was the forerunner of NAN, formed in 1973 and reorganized and renamed Nishnawbe Aski Nation in 1981.
Nishnawbe Aski Nation

1. Albany River, 1905
2. Commissioners' Tents at Chapleau
3. Women and Children, Fort Hope, 1905
4. Chief Cheesquicini, Chapleau, 1906
5. Feast at Matagami, 1906
7. Chief Michel and Wife, Fort Metachewan, 1906
8. Native Encampment, Fort Metachewan, 1906
Unity, Strength and Success. When we are united, we are strong and our strength leads to success in all that we do.

Nishnawbe Aski Nation

Helen Sky, New Post, 1906
Unity, Strength and Success. When we are united, we are strong and our strength leads to success in all that we do.

Nishnawbe Aski Nation

Union Jack, Matagami Feast, 1906
Chief Missabay, standing in front row holding his hat, and a group of people gathered for feast, Osnaburgh, 1905.
James Masakeyash, pictured here at 104 years of age, gazing over Mishkeegogamang. He was nine years old when he witnessed the blind chief Daniel Missabay mark his ‘X’ on Treaty No. 9.
Unity, Strength and Success. When we are united, we are strong and our strength leads to success in all that we do.

Nishnawbe Aski Nation

Group of Ojibwa people at Osnaburgh, 1905.
Treaty Signing Locations

- Treaty No. 9 1905-1906
- Treaty No. 9 Adhesions 1929-1930
- Treaty No. 5 1876 Adhesions
- Treaty No. 5 1910 Adhesions
- Robinson Superior Treaty First Nations
- Treaty Signing Location
Unity, Strength and Success. When we are united, we are strong and our strength leads to success in all that we do.

Nishnawbe Aski Nation

"for as long as the rivers flow..."

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