

**(4) Proposed Finding Documents**

- July 14, 2000

an

Summary under the Criteria for the  
Proposed Finding for Federal Acknowledgment

of the

Little Shell Tribe of Chippewa Indians of Montana

Prepared in response to a petition submitted to the Assistant  
Secretary - Indian Affairs for Federal acknowledgment that  
this group exists as an Indian Tribe.

Approved: JUL 14 2000  
(date)

Kevin Gover

Assistant Secretary - Indian Affairs

Proposed Finding

LITTLE SHELL TRIBE OF CHIPPEWA INDIANS OF MONTANA

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## ACRONYMS AND ABBREVIATIONS

ANA	Administration for Native Americans
BAR	Branch of Acknowledgment and Research
BLA	Bureau of Indian Affairs
CFR	<i>Code of Federal Regulations</i>
Cong.	Congress
Ct.Cl.	U.S. Court of Claims
Ex.	Documentary exhibit.
FD	Field data (research conducted by the BAR staff for the purpose of verifying and adding to the information submitted in the petition)
FR	<i>Federal Register</i>
GLO	General Land Office
GPO	Government Printing Office
H.S.	Historical Society
IHS	Indian Health Service
Ind.Cl.Comm.	U.S. Indian Claims Commission
LIM	Landless Indians of Montana
LSTCIM	Little Shell Tribe of Chippewa Indians of Montana (the petitioner)
MITPB	Montana Inter-Tribal Policy Board
MLI	Montana Landless Indians
MT	Montana
NARF	Native American Rights Fund
NTCA	National Tribal Chairmen's Association
RG	Record Group
sess.	Session
U.S.	United States

Summary under the Criteria for the Proposed Finding  
on the  
LITTLE SHELL TRIBE OF CHIPPEWA INDIANS OF MONTANA

**INTRODUCTION**

This report has been prepared in response to the petition received by the Assistant Secretary - Indian Affairs from the Little Shell Tribe of Chippewa Indians of Montana (Little Shell) seeking Federal acknowledgment as an Indian tribe under Part 83 of Title 25 of the *Code of Federal Regulations* (25 CFR Part 83).

Part 83 establishes procedures by which unrecognized Indian groups may seek Federal acknowledgment of a government-to-government relationship with the United States. To be entitled to such a political relationship with the United States, the petitioner must submit documentary evidence that the group meets the seven criteria set forth in section 83.7 of the regulations. Failure to meet any one of the seven criteria will result in a determination that the group does not exist as an Indian tribe within the meaning of Federal law.

Publication of the Assistant Secretary's proposed finding in the *Federal Register* initiates a 180-day response period during which arguments and evidence to support or rebut the evidence relied upon in the proposed finding may be submitted by the petitioner and any other interested or informed party. Such comments should be submitted in writing to the Office of the Assistant Secretary - Indian Affairs, 1849 C Street N.W., Washington, D.C. 20240, Attention: Branch of Acknowledgment and Research, Mail Stop 4660-MIB. Interested or informed parties must provide a copy of their comments to the petitioner.

The petitioner shall have a minimum of 60 days to respond to any submission by interested or informed parties during the response period. After consideration of all written arguments and evidence received during the 180-day response period, and the petitioner's comments on the responses by other parties, the Assistant Secretary will make a final determination regarding the petitioner's status, a summary of which will be published in the *Federal Register*.

The petitioner or any interested party may file a request for reconsideration with the Interior Board of Indian Appeals (IBIA) under the procedures set forth in section 83.11 of the regulations. This request must be made within 90 days of publication of the final

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determination. Unless a request for reconsideration is filed pursuant to section 83.11, the final determination will become effective 90 days from its date of publication.

### Administrative History of the Petition

The Bureau of Indian Affairs (BIA) received an initial letter petitioning for Federal acknowledgment of the Little Shell Tribe of Chippewa Indians of Montana on April 28, 1978 (Plummer 1978). This petition was transferred to the administrative process of Federal acknowledgment which became effective on October 2, 1978. The BIA received an initial partially documented petition from the Little Shell petitioner on December 15, 1982. The BIA gave this petition a preliminary technical assistance review for obvious deficiencies, and summarized its findings in a letter to the petitioner dated January 27, 1983 (BIA 1/27/1983). The Little Shell petitioner submitted additional materials in 1983 and a revised documented petition on September 22, 1984 (Morris and Van Gunten 1984). The BIA sent the petitioner a second, more detailed, technical assistance letter on April 8, 1985 (BIA 4/8/1985).

The Pembina Judgment Fund Act of 1982 (Statutes 1982, sec.6) required the Secretary of the Interior to report to Congress on the status of the Little Shell petition for acknowledgment if the group had not been recognized by September 30, 1985. The Department's report, on August 2, 1985, informed Congress that no decision would be made on the Little Shell petition before September 30, 1985, because the petition was not ready for consideration. The report noted that in 1985 the BIA had sent the Little Shell a technical assistance letter that listed the petition's obvious deficiencies, and concluded that additional work would be necessary before the petition could be placed under active consideration (Interior 8/2/1985).

The Little Shell petitioner submitted a response to the 1985 technical assistance letter in November 1987 (Campisi and Starna 1987a). In 1989, the petitioner provided additional historical documentation. After the receipt of these materials, the BIA declared the Little Shell petition to be ready for active consideration in 1989. In response to a request from the BIA, the Little Shell petitioner submitted a resolution by its governing body in January 1990 asking that its petition be placed under active consideration (LSTCIM 1/5/1990). The BIA began preliminary work to review the documented petition in July 1990 (BIA 7/19/1990). In August 1990, however, the Little Shell council voted to withdraw its petition from the status of "ready for active consideration" so that its researchers could review new documents and conduct additional research (LSTCIM 8/11/1990).

The Little Shell petitioner hired new researchers with the financial aid of the Native American Rights Fund (NARF). The BAR staff held a technical assistance meeting with the petitioner's new researchers on November 18, 1993, and on several subsequent occasions. The completed documented petition of the Little Shell petitioner, therefore, has been prepared by three separate teams of researchers. The partially-documented

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petition submitted in 1984 was prepared by C. Patrick Morris and Robert Van Gunten. The response to the BIA's review of the documented petition submitted in 1987 was prepared by Jack Campisi and William Starna. Additional research and documentation were provided from 1994 to 1997 by Robert J. Franklin and Pamela A. Bunte. Each of these three teams submitted one or more reports that provided a narrative or analysis of the evidence, as well as supporting documentation.

The petitioner requested that it be evaluated under the provisions of section 83.8 of the regulations (LSTCIM 5/17/1994; Peregoy 1994). The petitioner has claimed that it meets the requirements of section 83.8(c)(3) because it was acknowledged by the Federal Government during the late 1930's as a tribal political entity having collective rights to tribal lands (Franklin 1994). The BIA reviewed the petitioner's report on the issue of previous acknowledgment and made a preliminary determination that rejected the arguments made by the petitioner. The staff of the BIA presented its conclusions orally to the petitioner's attorney, Robert Peregoy of NARF, and its researcher, Robert Franklin, at a meeting on July 30, 1994 (BAR 7/30/1994; Peregoy 1995). The petitioner's researchers have incorrectly characterized the BIA's advice as having included a preliminary determination that the Little Shell petitioner was previously acknowledged as part of the Turtle Mountain Band as late as 1904 (Franklin and Bunte 1994, 1; 1996, n.11). A more detailed review, based on the evidence presented in the technical report, has confirmed the preliminary determination that the petitioner was not previously acknowledged by the Federal Government. Therefore, the petitioner was not evaluated under the provisions of section 83.8(d), which modify the mandatory criteria for Federal acknowledgment.

The BIA determined that the Little Shell petition was ready for active consideration on March 23, 1995 (BIA 3/23/1995). The petition was placed on active consideration on February 12, 1997 (BIA 3/14/1997). Field research for interview and documentary materials was conducted by the BAR research team in May 1998 in Montana, at the Turtle Mountain Agency in North Dakota, and at the regional branch of the National Archives in Kansas City. During the course of preparing the proposed finding, additional documentary and interview materials were obtained from NARF and the Little Shell petitioner at the request of the BAR staff. The period for active consideration was extended for 180 days, until August 11, 1998 (BIA 3/13/1998). A second extension was made until November 16, 1998 (Interior 8/28/1998).

Another petitioner for Federal acknowledgment uses the "Little Shell" name and also claims to be the continuation of Chief Little Shell's band. The Little Shell Band of North Dakota submitted a documented petition in July 1995 and received a technical assistance letter from the BIA dated November 8, 1995. The BIA has not received a response to that letter. At this time, the petition of the Little Shell Band of North Dakota is not considered to be ready for evaluation. The research on the petition of the Little Shell Tribe of Chippewa Indians of Montana did not find a present connection between this petitioner and the Little Shell Band of North Dakota petitioner.

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### Terminology

The ancestors of the petitioner were “Métis,” a people of a mixed French-Chippewa-Cree culture which developed in the early 1800’s as a result of the fur trade and marriages between Europeans or Canadians and Indians. Historically, the term “Métis” has been applied to many peoples in addition to those ancestral to the petitioner and, in the technical report for this proposed finding, the term “Métis” has not been used to refer only to the petitioner’s members and their ancestors.

The term “Métis” is used throughout the technical report to refer to groups, families, and individuals who were the offspring, or descendants of the offspring, of non-Indian fathers, usually French-Canadian fur trappers or traders, and Indian mothers, usually Cree or Chippewa women. This population in the early-19th century developed a mixed French-Chippewa-Cree culture and language which is often called “Michiff.” This term is used in the technical report to refer to the culture and language of these Métis. These Métis, in general, were socially and culturally distinct from both the European settlers and tribal Indians in the same area, but some were affiliated with or formed a part of Indian tribes. The term “Métis” has been used elsewhere by scholars, government officials, and groups themselves to refer to other peoples resulting from different patterns of intermarriage and cultural contact between Europeans and Indians, including other, and earlier, French-Indian populations in Canada.

In the technical report the term “Métis” usually refers to a population which, in the mid-19th century, was centered on the Red River Settlement in Canada and the Pembina settlement in the United States and, later, formed part of the Turtle Mountain Band. However, this Métis population included, especially after 1870, people who had been settled elsewhere in western Canada and the northern United States. It included at least some individuals with tribal backgrounds other than Chippewa and Cree, such as Assiniboine and Gros Ventre. It has not been possible for the report to determine with absolute certainty the full tribal background of all of the petitioner’s Indian and Métis ancestors.

### Overview of the Little Shell Petitioner

The evidence shows that a substantial portion of the petitioner’s members have ancestry from either the historical Pembina Band of Chippewa Indians prior to a treaty of 1863, or from a successor, the Turtle Mountain Band. The petitioner asserts to have its origins in a Chippewa band which had been led by a succession of three hereditary chiefs, all known as Little Shell. The petitioner is a combination of historical Métis groups. Before 1870, many of the petitioner’s ancestors were part of the Métis populations along the Red River of the north at the Red River Settlement (now Winnipeg) in Canada and at Pembina and St. Joseph in North Dakota. These Métis populations of the mid-19th century were described by contemporary observers as socially and culturally distinct from both the

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European settlers and tribal Indians in the same area, but also as being related to and sometimes acting together with Indian tribes. In the early 1890's, some ancestors were listed on censuses of the Turtle Mountain Band.

In Montana, the petitioner's ancestors settled originally in two regions, migrating there by different routes between the 1860's and 1930's. One settlement region was north-central Montana, including both the Lewistown area and the Highline, the area along the railroad line from Wolf Point to Havre. Some ancestors of the petitioner's members began settling this region as early as the late 1860's and early 1870's. The other settlement region was the Front Range, the area along the eastern edge of the northern Rocky Mountains. Those ancestors of the petitioner who settled in this region arrived mostly after the failure of the Métis rebellion led by Louis Riel in Saskatchewan in 1885. The petitioner's ancestors settled originally in rural areas of Montana. Beginning in the 1910's and continuing into the depression of the 1930's, some of them began moving into neighborhoods on the fringes of the rural towns on the Front Range and along the Highline, or into Great Falls and Helena. Many of the petitioner's ancestors lived in segregated areas of these towns at some time before the mid-1950's or early 1960s. Those areas were not limited to the petitioner's ancestors, except on the Front Range, and other Métis and Indians also lived in these neighborhoods.

An organization was formed in 1927 in Hays, the petitioner's first formally organized predecessor in Montana. Joseph Dussome was elected in 1927 to lead the organization formed that year, and to lead organizations of different names in 1935, 1939, and 1949. The consistent leadership of Dussome and the consistent geographical region represented by his officers and area representatives demonstrate continuity from these organizations to the petitioning group. From the mid-1930's until the mid-1950's, two organizations advocated on behalf of the Montana Métis. Dussome's organization, known as the Landless Indians of Montana after 1939, largely drew support from the Highline and Lewistown area, while the Montana Landless Indians largely drew its support from urban areas and the Front Range. Since approximately 1955, the petitioner's members and ancestors have been part of the common political process of a single organization.

The Little Shell Tribe of Chippewa Indians of Montana adopted its current organizational name and its current constitution in 1977. Its membership requirements provide membership eligibility to individuals who can trace their ancestry to the Roe Cloud Roll, a list of unenrolled Indians in Montana which was prepared by the Office of Indian Affairs about 1938. The Little Shell petitioner had 3,893 members as of 1992. Its members are now geographically dispersed, mostly within Montana. The petitioner currently maintains an office in Great Falls, Montana.

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### SUMMARY CONCLUSIONS UNDER THE CRITERIA (25 CFR 83.7)

Evidence for this proposed finding was submitted by the Little Shell petitioner and obtained through third parties and independent research by the staff of the Bureau of Indian Affairs, Branch of Acknowledgment and Research. This proposed finding is based on the available evidence, and, as such, does not preclude the submission of other evidence during the 180-day comment period that follows publication of this finding. Such new evidence may result in a modification or reversal in the conclusions reached in the proposed finding. The final determination, which will be published after the receipt of the comments, will be based on both the evidence used in formulating the proposed finding and any new evidence submitted in response to the proposed finding.

This proposed finding departs from practice in previous acknowledgment decisions in certain respects, principally in giving different amounts of weight to various types of evidence than had been done in prior determinations. Precedent from earlier decisions are not binding on Department conclusions, but are useful as guidance for interpreting the regulations.

For example, this proposed finding accepts as a reasonable likelihood that patterns of social relationships and political influence among the Métis residents of settlements in North Dakota and Canada during the mid-19th century persisted among their descendants who migrated to Montana and appeared on the Federal census records of Montana for 1910 and 1920. This conclusion departs from prior decisions for meeting criteria (b) and (c), which depended upon specific evidence showing the continuity of tribal existence substantially without interruption. Based on the entirety of the record, especially the history of the United States' dealings with the ancestors of the petitioner, the strong evidence of continuous internal social interaction, the consistent existence of the petitioner's ancestors as distinct social and cultural communities, and the understandable difficulty in completing research on a very large number of dispossessed Indians on the American frontier, the Department proposes to find that criteria (b) and (c) are met in this case.

This proposed finding also accepts as a reasonable likelihood that references to the petitioner's individual ancestors as Indians and references to portions of their ancestors as residents of Indian settlements before the 1930's are consistent with the identifications of these and other ancestors of the petitioner as Indian groups after 1935. This conclusion departs from prior decisions for meeting criterion (a), which required evidence of a specific identification of the petitioner as an Indian entity during each decade. The Department believes that, absent strong proof to the contrary, it is fair to infer a continuity of identification from the evidence presented, particularly in light of the fact that an absence of formal organization can be attributed to the United States' pursuit of a

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discredited policy of treating "full-blooded" Indians differently from those of mixed white and Indian ancestry. While past precedent for meeting criterion (a) has accepted identifications of informal groups as well as formal organizations, to rigidly impose a mechanistic burden of proof on a people whose lack of formal organization is attributable to misguided Federal policy would be manifestly unjust and inconsistent with the regulations.

Finally, this proposed finding accepts descent from a historical tribe by 62 percent of the petitioner's members as adequate for meeting criterion (e), although all previous petitioners who have met this criterion have demonstrated that at least 80 percent of their members descend from a historical tribe. In this case, there is evidence that many of this petitioner's ancestors descend from members of historical tribes of the 1800's. It is clear that a majority of the petitioner's members descend from the historical Pembina Band of Chippewa. It also is clear that some of the petitioner's ancestors were part of the Little Shell Band of Chippewa in the late 1800's. The regulations require no specific percentage in this regard and, because of the dynamic nature of tribal populations in the mid- to late-19th century, the Department proposes to find that criterion (e) is met in this case.

We believe such departures from previous practice on these matters are permissible and within the scope of the existing acknowledgment regulations. Those regulations do not specifically address these questions. Public comment is invited on these various matters, including the consistency of these proposed findings with the existing regulations. The petitioner and third parties may respond by submitting additional evidence or arguments relating to these matters during the comment period on this proposed finding. Such supplementary evidence may create a different record and a more complete factual basis for the final determination, and thus eliminate or reduce the scope of these contemplated departures from precedent.

Based on a review of the technical report, the charts prepared for each criterion, and some primary documents and background materials, and after consideration of the historical situations faced by this petitioner, the Department proposes to find that, although there is no specific evidence in the documentary record in this case for every time period, the evidence as a whole indicates that the Little Shell petitioner is a tribe.

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**Criterion (a)**

- 83.7(a) The petitioner has been identified as an American Indian entity on a substantially continuous basis since 1900. Evidence that the group's character as an Indian entity has from time to time been denied shall not be considered to be conclusive evidence that this criterion has not been met. . . .**

Introduction:

Under criterion 83.7(a), the petitioner was identified as an American Indian entity on a substantially continuous basis since 1900. Such identifications existed in Federal records, including identifications by the BIA, by local historians, and by local newspapers.

Description of the Evidence:

There are examples in the evidence available for this proposed finding of an external identification of the petitioner's ancestors as Indians in Montana from 1900 to the mid-1930's. Two modern recollections by outsiders suggest the past existence of small, local settlements that included some of the petitioner's families, although they were not contemporaneous descriptions. There is also evidence that the petitioner's individual ancestors were referred to as Indians during these years. It is possible that research at the local and state levels could discover identifications made between 1900 and 1930 of local or state Indian groups or entities associated with the petitioner's ancestors in Montana, and such research would strengthen the record for the final decision in this matter.

The first explicit identification of a portion of the petitioner's ancestors as an Indian entity by an external observer, in the evidence available for this finding, was made by the Office of Indian Affairs in 1935. In that year, the Indian Office informed Joseph Dussome that it hoped to include the "group" to which he belonged in the benefits of its land purchase program under the Indian Reorganization Act. By 1937, the Indian Office identified a "group of non-wards" represented by Dussome as a group which should be consulted in the Roe Cloud Roll enrollment process, and thus it appointed Dussome to an advisory committee. Henry Roe Cloud of the Indian Office referred to Dussome in 1938 as the leader of the "landless Cree-Chippewas" of Montana. There were two organized groups of unenrolled Indians in the state, the Indian Office noted in 1941 and 1949. The regional director of the Bureau of Indian Affairs at Billings in 1949 identified Dussome as the leader of "the predominant group" of the state's unenrolled Indians.

There are a few examples in the available evidence of an identification of the petitioner as an Indian entity by local sources between 1936 and 1950. During that period, those local sources referred to the group by a variety of names. In 1936, a Great Falls newspaper reported on the plans of a "Chippewa-Cree tribe," under the leadership of Dussome, to

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bring an Indian claims case against the United States. A Phillips County newspaper in 1941 referred to Dussome as the president of a "band" of Chippewa Indians. The first use of the term "Little Shell" for the group by an external source appeared in this 1941 article in a local newspaper, which used it to describe a statement made by Dussome. In 1950, a Havre newspaper said that an "organization of landless Indians of Montana" would file a claim with the Indian Claims Commission.

Since 1949, the petitioner has been consistently identified by various external sources as the Little Shell band or as the Landless Indians of Montana. In contrast to earlier general references to "homeless" or "landless" Indians in Montana, after 1949 observers used "Landless Indians of Montana" as a proper noun and the formal name of a specific organization. In these instances, external observers made an explicit identification of the petitioner's organization as an Indian entity. A Great Falls newspaper identified the petitioner as the Little Shell band or the Landless Indians of Montana in articles in 1955, 1956, 1959, 1972, 1981, and 1984. The Little Shell band was identified by anthropologist Verne Dusenberry, a Montana college professor, in an article published in 1958 and reprinted in 1965. Tribal identifications of the petitioner as an Indian entity consist of resolutions in support of the Federal recognition of the Little Shell band passed by the National Tribal Chairman's Association in 1985, the tribal council of the Confederated Salish and Kootenai Tribes of the Flathead Reservation in 1985, the tribal council of the Northern Cheyenne Tribe in 1985, the Chippewa Cree Tribe of Rocky Boy's Reservation in 1992, and the Turtle Mountain Band of Chippewa in 1992.

The State of Montana, through its agencies and officials, has identified the Little Shell group as an Indian entity since 1949. The Attorney General of Montana wrote to the Commissioner of Indian Affairs in 1949 to "intercede" on behalf of a "group of Indians . . . known as the 'Landless Indians of Montana'" or as the Little Shell band. By including the group, since at least 1952, as a member of the Intertribal Policy Board, which advises the state government, the state has accorded the group a status similar to that of the federally recognized Indian tribes in Montana. The state legislature of Montana passed a resolution in 1955 in support of Federal legislation for economic rehabilitation of the Landless Indians of Montana. The Inter-Tribal Policy Board passed a resolution in support of recognition of the Little Shell band in 1978. The Governor of Montana in 1992 urged the Department of the Interior to recognize the Little Shell band. An identification at the local level of government consists of a letter to the Commissioner of Indian Affairs on behalf of the Landless Indians of Montana by the chairman of the Blaine County Board of Commissioners in 1969.

Federal identifications since 1949 have been made by the Billings Area Director of the BIA in 1950 and a BIA research report in 1980 on the potential recipients of an Indian Claims Commission award. The Indian Claims Commission in 1954 accepted a "Little Shell" plaintiff as an identifiable group of Indians able to bring a claim against the United States. According to the interpretation of the Court of Claims, this was not an identification of the plaintiff as a federally recognized tribe or organized group, but as a group of descendants of an ancestral entity. Congress, in the Pembina Judgment Fund

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Act of 1982, identified the Little Shell Band as a potential recipient of the judgment funds awarded by the Indian Claims Commission. The Indian Health Service (IHS) identified the Little Shell band in 1988 and 1994 in directives concerning how to provide IHS services.

#### Evaluation:

The acknowledgment regulations require that the petitioner have been identified as an "Indian entity" for it to meet criterion (a). This language does not require the identification, in this case, to have been as "Little Shell" or as "Chippewa." Identifications of the petitioner or its organization as a "Métis" entity would be acceptable evidence to meet this criterion, because evidence of a group as consisting of people of "mixed-blood" Indian ancestry would be an identification of an Indian entity. The regulations require only an external identification of the petitioner as a collective Indian entity, and identifications of the petitioner and its organization as a "group" meets the requirement.

The acknowledgment regulations note that the evidence to be relied upon to meet criterion (a) is "evidence of identification by other than the petitioner itself or its members." The regulations provide examples of six types of external sources that may be used to meet the requirements of criterion (a). "One or a combination" of these sources may be used. Although the petitioner's researchers have emphasized identifications of the petitioner by Federal sources, this is not the only acceptable evidence for this criterion. External identifications of the petitioning group from sources at the local and state level, for example, would be appropriate evidence with which to meet this criterion.

The acknowledgment regulations say that identifications of the petitioner as an Indian entity must have been made on a "substantially continuous" basis since 1900. This language does not require the group to have been so identified at every point in time. Identifications of the petitioner as an Indian group or entity have been accepted in this case for periods of time when such identifications were made infrequently, such as the 1930's and 1940's, because such identifications were made for each decade since the mid-1930's without any lengthy periods in which such identifications were lacking. The available evidence does not reveal instances in which the petitioner's character as an Indian entity has been explicitly denied.

The more flexible interpretation of the available documentation, including limited evidence that the petitioner's ancestors were identified between 1900 and 1935 by external observers as Indians, permits a proposed finding that the petitioner meets criterion (a). In order to have this proposed finding affirmed in the final determination, it would be in the petitioner's interest to provide during the comment period further evidence that external observers identified it as an Indian entity at various times between 1900 and 1935. There are several examples of the identification of a group led by Joseph Dussome during the late 1930's and the decade of the 1940's as an Indian entity. After 1949, the Little Shell petitioner has been consistently identified by a variety of external

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observers as an Indian entity.

**Criterion (b)**

**83.7(b) A predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until the present.**

**83.1 *Community* means any group of people which can demonstrate that consistent interactions and significant social relationships exist within its membership and that its members are differentiated from and identified as distinct from nonmembers. *Community* must be understood in the context of the history, geography, culture and social organization of the group.**

Introduction

Under criterion 83.7(b), the petitioner demonstrated that a predominant portion of its membership comprised a distinct community from historical times until the present.

Description of the Evidence:

The evidence available for this proposed finding shows that a majority of the petitioner's members trace their ancestry back to Métis, or mixed-blood, families along the Red River of the north, either to a settlement in British territory in the years between 1814 and 1870 known as the Red River Settlement (Winnipeg), now in Canada, or to settlements in United States territory in 1850 and later years at Pembina and St. Joseph (Walhalla), now in North Dakota. The evidence also shows that a minority of the petitioner's members trace a line of their ancestry back to men who received land scrip as mixed-blood relatives of the Chippewa bands which made treaties with the United States in 1863 and 1864. It has not been possible for this report, however, to trace all of the Indian ancestors of all of the petitioner's members. The existing evidence indicates that more of the petitioner's members trace their ancestry to residents of Métis settlements in American territory than to the Red River Settlement in British territory. That evidence also shows that more of the petitioner's known Indian or Métis ancestors were living in the British Red River Settlement about 1870 than were receiving land scrip during the early 1870's as American relatives of the Red Lake and Pembina treaty bands.

Some of the petitioner's members descend from 46 ancestors listed among the Métis population in the British Red River Settlement about 1870. Some of the petitioner's members descend from 16 families who had been in the British Red River Settlement before 1835. The available historical record reveals that there was some movement back and forth across the international border by the petitioner's ancestors, so that these

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families may not have been exclusively Canadian. A few of these ancestors were found in both American settlements and British settlements. Another group of the petitioner's members trace their ancestry back to 25 families who resided in Pembina County in 1850, presumably in Métis settlements at Pembina or St. Joseph. Still other members descend from 28 men who were included on an 1880 list of individuals who received land scrip under the terms of the treaties of 1863 and 1864. Twenty-two of those men were identified by the report as mixed-blood individuals with Pembina Band descent. Other men on the list of scrip recipients could be ancestors of the petitioner's members as well. Many of the petitioner's members have not been traced to an ancestor in these locations.

The available evidence permits identification of many of the petitioner's Métis ancestors in locations along or near the Red River during the 19th century. Historical observers and modern scholars have noted that the Chippewa and Métis in the vicinity of Pembina were related to each other and associated with each other in various activities, although they have referred to them as separate groups with different cultures. This proposed finding concludes, based on several individual examples, that a social or political relationship among many of the petitioner's ancestors with the Pembina Band existed at the time of the treaties. The available evidence shows that the mixed-blood treaty scrip recipients formed a "distinct community" at the time of the treaties, or at the time they received the scrip, either as a part of a treaty tribe or as a separate community.

To further demonstrate tribal continuity, the petitioner could strengthen the description and analysis of the migration of its ancestors to Montana. It is clear that these ancestors, in addition to coming from somewhat diverse origins, arrived over a substantial period rather than coming all at more or less the same time. The evidence available for this proposed finding shows that individuals from the petitioner's ancestral families at Pembina / St. Joseph or the Red River Settlement, or the ancestral families who received treaty scrip, migrated to Montana. Although actual migration dates are unknown, and are represented as the first appearance of a family descendant in a Montana record, the evidence indicates that descendants of the petitioner's ancestral families began arriving in Montana as early as 1868 and continued to arrive in Montana into the 20th century.

Almost all of the migration from the British Red River Settlement occurred after the 1870 Métis rebellion in Manitoba. Most of the migration to Montana of descendants of 1835 residents of the Red River Settlement occurred before the 1885 Riel rebellion in Saskatchewan, while most of the ancestors who resided in the Red River Settlement in 1870 did not have descendants arrive in Montana until after that 1885 Métis rebellion. The majority of the ancestors who resided at the Red River Settlement in 1835 (10 of 16), resided in Pembina County in 1850 (19 of 25), or received treaty scrip after 1863 (17 of 28), had descendants who arrived in Montana before the creation of the Turtle Mountain Reservation in 1884.

To strengthen the finding of continuous historical community, the petitioner may wish to evaluate the possibility that there were social ties between the residents of the new settlements in Montana which were based on the earlier residence of these immigrants in

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the same Canadian or North Dakota settlement, or in Montana originally at St. Peter's Mission. The available evidence does not show clearly that immigrants to Montana from Dakota or Canada necessarily moved together as a community or in a pattern of migration that maintained old community ties. The petition would be strengthened by such a showing.

In Montana, the petitioner's ancestors settled in two geographically separate regions, each of which covered a large expanse of territory. One settlement area was in north-central Montana, including both the Highline, the area along the railroad line across northern Montana, and the Lewistown area south of the Missouri River in central Montana. The other settlement area was the Front Range, the area along the eastern edge of the northern Rocky Mountains. Some ancestors of the petitioner's members arrived in north-central Montana as early as the late 1860's and early 1870's. The migration of some ancestors of the petitioner to the Front Range largely occurred after the failed Riel rebellion of 1885 in Saskatchewan. While descendants of Red River Settlement ancestors migrated to both regions, the descendants of only 1 of 25 ancestors at Pembina in 1850 migrated to a location on the Front Range other than St. Peter's Mission. The petitioner's ancestors settled in many different locations within each of these regions. This pattern of settlement in two geographically separate regions was revealed by the 1920 Federal census of Montana which showed households containing ancestors of the petitioner's members to have been located mostly in north-central Montana in the adjacent counties of Phillips, Fergus, and Blaine, and along the Front Range in the counties of Lewis and Clark, Teton, and Glacier.

Given the fluid political and military circumstances on the northern plains in the late 1800's, and the casual band- and family-centered organization of the Indians of this region, a single, organized migration of the entire group would have been most unlikely. Further, no evidence has been submitted in opposition to this interpretation of the migration. Still, the Department suggests that a clearer record might be established in the comment period. We recommend that the petitioner strengthen the evidence by providing a description of the communities it formed or was part of once its members moved to Montana between the 1860's and the 1920's. Hopefully, this description will account for a larger proportion of the ancestors than has been possible in the present finding. The description should consider location, kinship ties among residents, and the degree to which the settlements were made up substantially or exclusively of ancestors of the current group.

Almost all of the petitioner's adult Métis ancestors who moved into Montana were married to other ethnic Métis, and were the descendants of such marriages. Once in Montana, the petitioner's Métis families intermarried extensively with other Métis families in the state. Measurements of intermarriage among the petitioner's ancestors, both by the BIA's researchers and the petitioner's researchers, showed very high rates of Métis-to-Métis marriage between 1880 and 1940, and substantial rates afterwards. Because the evidence indicates that the petitioner's ancestors formed a community or communities when they first settled in Montana, we can infer from the partial studies of

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marriage histories that the high rate of Métis-to-Métis marriages in the first Montana generation were within that community or those communities.

A study of marriage patterns in selected family lines was made by the BIA staff. The marriage partners of selected family lines were examined to evaluate the extent of linkages of these family lines to other Métis family lines before 1940. This analysis was limited to demonstrating the extent of kinship ties established by marriages and was not undertaken together with a complete study of community in the relevant time periods. It thus did not take into account other social connections that may or may not have existed, except for the disjunction of settlement patterns between the two main regions. While this analysis provided only partial data, the analysis supports a positive finding.

An examination of five family lines from the Front Range indicated that each was directly linked to each other, or linked to a common line, by multiple marriages. Two of these family lines were linked by marriage to all of the other four family lines, two lines were linked to three of the other four, and one line was linked to two of the other four lines. There were 23 other Métis family lines which had married two or more of the five selected family lines. Another 40 Métis lines were directly linked by marriage to one of the five families.

An examination of six Highline family lines found that two of these family lines had married into each of the other five family lines, three lines had married into four of the other five, and one line was linked to two of the other five lines. The six selected family lines had between 9 and 25 marriages to additional Métis lines in common with at least one of the other selected lines. Fifty-three Métis lines which were linked by marriage to one of the six selected lines.

This limited review of marriage patterns among the Little Shell members and their ancestors, together with a review of additional family lines, indicated that in each geographical region there was at least one bloc consisting of a large number of Métis family lines that were linked with each other by marriage. What is clear is that these are marriages among people with similar origins, language and culture.

Marriages between a person from the Front Range and a person from the Highline were infrequent, although not entirely absent, among the petitioner's members and ancestors. Such marriages between individuals from these two separate geographical areas were not common during any time period. Marriages were largely localized within these geographical regions. This is especially notable given the high rate of intermarriage among the Métis within each region and the fact that there were family lines in both regions which had originated in the Red River Settlement. Thus, the available evidence about the marriages of the petitioner's members and ancestors indicates that these marriages linked numerous family lines within each of the two separate geographical regions of settlement, but not extensively across those regional boundaries.

The petitioner's 1994 report included some kinship charts and examples intended to

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demonstrate that marriages in Montana had resulted in a wide network of kinship linkages. Franklin and Bunte noted that the kinship linkages resulting from marriages between Métis families “tend to be most extensive and intensive within the two major regional settlement areas . . . as these regional community subgroups have the longest history of interaction and intermarriage” (Franklin and Bunte 1994, 43).

Although they used the term “regional network,” Franklin and Bunte did not present an analysis intended to specifically demonstrate that all or most of the Little Shell families in a region were connected by marriage. Nonetheless, the sampling made by the petitioner and additional analysis by the Department demonstrates substantial kinship ties were created by the high rates of intermarriage. There is no requirement to show that all of the group or all of a region were connected by kinship ties. They presented four charts showing marriage-based links between groups of families, focusing on the family lines of individuals they or Campisi and Starna had interviewed (Franklin and Bunte 1994, figures 1-4). Two of the charts showed that Front Range families were linked, but did not show links between the families on the different charts. The other two charts showed two different blocs of intermarried Highline / Lewistown families, from separate geographical locations, but did not show these blocs to be linked to each other. Franklin and Bunte noted correctly that on each chart only part of each listed family line was actually shown, and that only some of the marriage links for these lines were shown (Franklin and Bunte 1994, 44). Thus, there were more links, to more family lines, than were included in this analysis.

Intermarriage among Métis generated numerous kinship links within each of the two geographical regions of settlement. However, a detailed and complete description of the distribution of these linkages was not made by the petitioner and has not been made for this proposed finding. These ties through marriage are evidence for the existence of a social community among the Métis ancestral to the petitioner. This evidence has not demonstrated conclusively whether social relationships based on kinship connected the petitioner’s ancestors within either region as a whole. To strengthen the final determination, the petitioner may wish to establish, by a more extensive analysis, the extent to which the entirety of a region was linked by marriage ties, and by using other data concerning social and economic contacts, develop a more complete portrait of a historical community.

These patterns of marriage and high rates of intermarriage among the Métis in Montana indicates in itself that these marriages occurred within populations of people who had extensive social contact with each other, because it is unlikely that such extensive intermarriage would have occurred without a social context for marriage partners to become acquainted. The petition documentation includes some materials indicating that social events such as dances, and possibly hunting parties, drew people together whose residences were spread across some distance. This proposed finding could be strengthened by providing additional evidence for the social context for these marriages among the petitioner’s ancestors. The distances between the two regions tends to account for the limited marriages and indicates the importance of the evidence that there were any

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inter-regional marriages at all.

A study of marriage rates in selected family lines was made by the BIA staff. The selected lines were chosen because they had a large number of descendants in the petitioner's membership, or because members of these family lines had become leaders of the petitioner's organization or had been frequently mentioned in interviews. Six family lines were chosen from the Front Range region and six family lines from the Highline region. No attempt was made to select family lines based on their apparent point of origin outside of Montana. The marriage rates of these twelve family lines were examined between 1870 and 1940, using the database on the petitioner's ancestry developed by the BIA staff for this proposed finding. The data were derived from a partial reconstruction of the family lines of the petitioner's members, including marriages not only of the petitioner's ancestors but also their siblings as well, even if they had no descendants in the present membership, since all family members would have been part of the same group.

The earliest Montana generation, ancestors born in the late 1860's and the 1870's and estimated to have married between 1880 and 1900, almost always married other Métis, doing so in 92 percent of marriages studied. In the next generation, ancestors marrying between 1900 and 1920, 84 percent of all marriages were between two Métis. Among the last generation born in the rural areas, individuals marrying between approximately 1920 and 1939, the rate of marriage to other Métis was 48 percent. For the final cohort studied, those ancestors marrying between approximately 1940 and 1959, only 23 percent of the marriages were between Métis partners. While the rate of marriage between Métis partners appears to have dropped off rapidly among those marrying in the last ten years of this period, this pattern is consistent with marriage patterns of many Indian tribes in modern times.

Marriage rates also were evaluated by the BIA staff by examining the parentage of all members on the Little Shell roll as of 1992. By counting a marriage as existing until the birthdate of the youngest child, this study partly measured the continuation of a marriage. The rates of Métis-to-Métis intermarriage obtained in this analysis were that 45 percent of members born in 1939 and 17 percent of members born in 1959 had two Métis parents.

The petitioner's researchers made a similar review of the parentage of all individuals on the 1987 Little Shell roll. Their analysis indicated that Métis-to-Métis marriages comprised 92 percent of marriages between 1880 and 1910, 63 percent between 1911 and 1940, 22 percent between 1941 and 1970, and 12 percent between 1971 and 1987 (Franklin and Bunte 1994, 35-36). A second analysis, in which they assumed that marriages lasted 30 years, yielded a rate of Métis-to-Métis marriage of 63 percent of marriages in 1940, 51 percent in 1950, 34 percent in 1960, and 14 percent in 1987 (Franklin and Bunte 1994, table 2). While this method suggested that the rate of marriages between two Métis parents would not have fallen below 50 percent until after 1950, the more conservative measure using the date of the inception of the marriages of the parents of members indicated that the late 1930's was the earliest that this rate would

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have fallen below 50 percent.

Marriage creates close, kinship-based social ties, which form the basis for a community. These marriages created kinship ties which resulted in social cohesion within populations. Thus, much of the social cohesion among the Métis during the 20th century may have been established as a result of these intermarriages after their arrival in Montana.

The available evidence indicates that the petitioner's ancestors originally settled in rural areas of Montana. In the 1910's, the petitioner's ancestors along the Front Range began moving out of isolated settlements along the rivers and canyons of the mountains and into the rural towns of the Front Range such as Choteau and Augusta. By the agricultural depression of the 1920's and general economic depression of the 1930's, the petitioner's ancestors in north-central Montana were moving into settlements on the fringes of the rural towns along the Highline of northern Montana, while other ancestors were moving into the small cities of Great Falls and Helena. A minority of ancestors lived on the Ft. Belknap, Rocky Boy's, Blackfeet, and Ft. Peck Indian reservations. The rural towns and reservations where many Little Shell ancestors lived in the 1930's covered a very large geographical span. For example, from Wolf Point, at the east end of the Highline, to Browning, at the northern end of the Front Range, is a distance of 371 miles by road. The two geographical regions of settlement, the Highline and the Front Range, were substantially separate from each other in terms of residence and intermarriage prior to the 1950's.

Many of the petitioner's ancestors lived in segregated areas of these towns, which often were referred to as "moccasin flats." Former residents of the segregated Indian or Métis neighborhoods along the Highline described them as having been almost exclusively occupied by the petitioner's families, along with Métis from the Turtle Mountain and Rocky Boy's reservations and Indians from other Montana reservations who were not ancestral to the petitioner. The segregated neighborhoods at Augusta, Gilman, and Choteau were exclusively drawn from Front Range Métis families. Interview data indicate that these segregated areas were social communities with a substantial degree of interaction and informal knowledge among the residents. The petitioner's families, however, typically lived in several different towns, reservations, or cities between the 1930's and 1950's. At the same time, this movement resulted in the members of a family line becoming somewhat more widely distributed throughout the Highline area or the Front Range area, which indicates that social ties were being created within a portion of a given region.

There were substantial cultural differences between the French-Chippewa-Cree Michiff culture of the Métis, which the petitioner's ancestors shared, and that of their Anglo-American and reservation Indian neighbors. By most interview accounts of the petitioner's members, the last generation to fully maintain the historical Michiff culture was that of individuals born in the rural settlements, who to a large degree settled in the rural towns or cities after 1920. Accounts by individuals growing up in the 1930's consistently indicate that few of them learned the Michiff or French languages.

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Interviews indicate that the full-scale traditional New Year's celebrations, one of the most distinctive social and cultural institutions, came to an end around 1950, as the older generation was reaching the end of its lifespan. Descriptions of Métis society in the 1930's indicate that most adults in that era substantially retained the old culture, hence it is likely that most did so until at least the 1940's. Strong social distinctions from non-Indians existed before the 1950's in the form of economic discrimination, limited access to jobs, partial school segregation, and partial residential segregation.

The available evidence includes contemporary descriptions of the character and cohesion of social community among Little Shell members between approximately the 1950's and 1992. Present-day interviewees, in discussing their informal social contacts, demonstrated substantial social knowledge of other Little Shell members, who were not close relatives, based on informal contacts throughout their lives during the 1950 to 1992 era. This information is sufficient to demonstrate that these social relationships extended throughout a geographical region, though not across those regional boundaries. A substantial number of kin ties among the petitioner's members, based on earlier marriages, would have continued after 1950, gradually diminishing until the present. Two-thirds of the generation estimated as marrying between 1920 and 1939 married other Métis. Assuming that their children were born within the first ten years of the marriage, most of these children, who then became adults between 1940 and 1969, would have had two Métis parents. During the period between 1950 and 1992, the rate of marriage between two Métis declined sharply, with the rate of such in-marriage among new marriages dropping below 50 percent by about 1950, or somewhat earlier, and to almost none by 1992. Even with this increasingly large proportion of out-marriage, most of the petitioner's members in the latter years of this period would have had at least two Métis grandparents.

Between 1950 and 1992, cultural differences and discrimination declined steadily. The evidence indicates that separate Indian neighborhoods ended in the rural towns by the mid-1950's, while continuing, in a diminished form, in Helena and Great Falls into the 1960's. From the 1950's on, the petitioner's members increasingly moved into Montana's cities and towns. Although migration out of state became increasingly common, only 10 percent of members born in 1959 were born outside Montana. There is also evidence that social or economic discrimination continued into the 1960's, but little evidence that it continued as strongly beyond that decade. There is further evidence that some cultural differences remained among older individuals, and a decreasing proportion of younger ones, until at least the 1980's.

Today, there are no longer distinct settlement areas made up largely or exclusively of Little Shell members and other Métis. The current members have spread well beyond the traditional locations in Montana, or "home" areas, where their ancestors originally settled or relocated. Approximately 19 percent of current members live in Highline towns and reservations or in Lewistown. About 10 percent of members live along the Front Range. Some of the members living on the Front Range and the Highline, about 10 percent of all members, live on a Montana Indian reservation. The largest single concentration of

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members today is in Great Falls, with 660 members, 17 percent of the membership. A substantial proportion of members have moved to other Montana rural and urban areas.

Some small cultural differences from non-Indians survive among a large proportion of the petitioner's population, but significant differences remain among only a small portion of its members. The small differences are primarily the use of some traditional foods and the practice of some aspects of traditional New Year's celebrations. The petitioner found that there remain some fluent speakers of the Michiff language among its members, and others who are partial or passive speakers. These individuals constituted about 40 percent of the petitioner's interviewees, but the petitioner could not determine the percentage of all members who retain the Michiff language. The petitioner's interview sample, however, was weighted toward older, rural individuals, those people most likely to be culturally conservative. Most of the fluent speakers were born before 1920, and none after 1934. From other evidence, there appear today to be few young adult speakers of the language.

Kinship ties exist within portions of the petitioner's membership. The high rate of intermarriage in previous generations established a broad range of kinship connections between family lines which are still active. A substantial minority of current members have two Métis parents: 17 percent of members born in 1959 and a higher portion of members born before 1959. Kinship ties derived from past intermarriages have continued. Additional individuals have kinship ties based on marriages from the grandparental generation. Kinship ties beyond immediate primary kin are commonly maintained and are part of the basis for informal social relations among segments of the petitioner's members.

Informal social contacts exist among some of the petitioner's members. The information obtained from interviews shows that individual adult members of the Little Shell maintain informal social contact with at least some other Little Shell members outside of their immediate kin. Knowledge and acquaintance are based not only on kinship, but also on past common residence in the "moccasin flats" or other settlements, or participation in Métis social events such as the large, multi-day New Year's celebrations. Evidence concerning political conflicts since 1992, and other political processes, indicates that information, complaints, and opinions about political events are communicated among members through informal means, along kinship lines, and otherwise. Evidence concerning attendance at kinship group reunions and the annual Joe Dussome Day celebration demonstrated social community. The petitioner with further evidence may be able to strengthen this proposed finding by showing that this attendance encompassed a significant portion of the petitioner's members and thus provide additional evidence for the existence of social community.

The strongest evidence that there has been and still is a significant amount of informal social interaction among Little Shell members is in the towns and rural areas of the Highline and Lewistown region and the towns and rural areas of the Front Range. Informal social contacts, kinship based and otherwise, have extended between these rural

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areas and rural towns and the cities of Great Falls and Helena. In the city of Great Falls there has been less informal social contact among the resident population than there has been in these rural areas and rural towns.

The evidence of significant social relationships also is less extensive for out-of-state members, or for members residing within Montana but outside of the group's traditional areas of settlement and outside of Great Falls and Helena. Social contacts are likely to exist based on close kinship ties and previous residence. For example, half of the members residing in the state of Washington, which has one third of the out-of-state membership, were born in the "home" areas or in Great Falls or Helena. An indeterminate portion of the rest of the Washington residents had primary kinship ties with relatives in the "home" areas. It is thus possible that, with further analysis, social connections for many of these individuals may be more fully demonstrated. The evidence shows that a substantial proportion of them were either born within the immediate area where the membership maintains substantial cohesion, or are immediate kinsmen of individuals there.

#### Evaluation:

##### *Petitioner's Arguments:*

Section 83.7(b)(2) of the regulations outlines evidence which is sufficient by itself to meet criterion (b) for a given period of time. Franklin and Bunte attempted to show that the petitioner met criterion (b) for much of the 20th century with evidence sufficient by itself to meet the criterion. They sought to meet criterion (c) by a demonstration of evidence which was sufficient by itself to meet criterion (b), as is allowed under the regulations. Franklin and Bunte attempted to show that, at certain times in the 20th century, the petitioner met the requirements of section 83.7(b)(2) relating to rates of marriage within the group, geographical segregation of the group's members, and maintenance of distinct cultural patterns by members.

The petitioner's researchers placed great weight on a measurement of marriage rates among the ancestors of the petitioner's members to demonstrate the existence of a historical community (Franklin and Bunte 1994; Franklin 1996). Section 83.7(b)(1)(i) of the acknowledgment regulations lists as evidence for community, "Significant rates of marriage *within the group*, and/or, as may be culturally required, patterned out-marriages with other Indian populations" (emphasis added). Section 83.7(b)(2)(ii) of the regulations provides that a petitioner shall be considered to have provided sufficient evidence of the existence of a community at a particular time if, "At least 50 percent of the marriages *in the group* are between members of the group" (emphasis added). The petitioner attempted to make this case by calculating rates of Métis-to-Métis marriages among the petitioner's ancestors. Franklin and Bunte calculated such a rate of intermarriage as having been above 50 percent from the 1880's through at least 1950. The petitioner's researchers argued that this conclusion met the requirements of section 83.7(b)(2)(ii) as sufficient evidence for the existence of a historical community. They argued further that

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Métis-to-Métis marriage rates down to the present have remained at levels high enough to be considered significant evidence of the existence of a community.

This case is different from cases where the petitioner's ancestors had lived much more in a single geographic locality or had maintained a geographical core settlement, in that this petitioner's members and their ancestors lived in geographically-separate settlements across several hundred miles of territory in northern Montana, none of which were shown to be an original core settlement.

Franklin and Bunte stated that the marriages of the petitioner's ancestors in Montana were a continuation of the pre-Montana marriage patterns of the Pembina Métis, who mostly made Métis-to-Métis or Métis-to-Indian marriages (Franklin and Bunte 1994, 34-35). Therefore, they argued that Métis-to-Métis intermarriages from the beginning of the Montana period demonstrated the existence of a community.

The petitioner's researchers have also argued that the petitioner's members and their ancestors comprised a distinct community during the years from the 1930's until the 1950's because the majority of them lived in exclusive ethnic "enclaves" during that period. The interview data of both the petitioner's researchers and the BIA's researcher confirm the existence of segregated neighborhoods in some Montana towns during the 1930's, 1940's, and 1950's in which many of the petitioner's members and ancestors resided. Section 83.7(b)(2)(i) of the acknowledgment regulations provides that a petitioner shall be considered to have provided sufficient evidence of the existence of a community at a particular time if more than 50 percent of the members resided in "a geographical area exclusively or almost exclusively composed of members of the group."

Some evidence indicates that, for a period of time, clusters of the petitioner's ancestors lived in settlements in which the other inhabitants were Métis from the Turtle Mountain and Rocky Boy's reservations and Indians from other Montana reservations, not non-Indians. These neighborhoods consisted largely, but not exclusively, of Indian and Métis residents. While this fact alone does not meet the requirement of section 83.7(b)(2)(i), the demonstration that a substantial portion of the petitioner's ancestors lived in a predominantly Indian area provides strong evidence for the existence of a distinct community in that area.

The acknowledgment regulations state that evidence about cultural patterns may be sufficient by itself to demonstrate the existence of a community, if "at least 50 percent of the group members maintain distinct cultural patterns such as, but not limited to, language, kinship organization, or religious beliefs and practices" (§83.7(b)(2)(iii)). The regulations also note that shared cultural patterns may be used to demonstrate the existence of a community if those patterns are "different from those of the non-Indian populations with whom" the group interacts (§83.7(b)(1)(vii)). Franklin and Bunte argued that surviving cultural differences at the present meet the requirements in section 83.7(b)(2)(iii) for sufficient evidence to demonstrate the existence of a community (Franklin and Bunte 1994, 104). They concluded that 84 percent of the 75 individuals

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they interviewed practiced at least one of the cultural traits they examined, with the foodways and New Year's celebrations "by far the most common."

With the exception of language, the cultural differences cited by the petitioner's researchers are not significant enough to meet the requirements of section 83.7(b)(2)(iii) of the regulations. Language differences are highly significant cultural differences, but the evidence established that the Michiff language is not now spoken by 50 percent of the membership. The evidence showed that the old-style Michiff New Year's celebrations have not been carried out since approximately 1950. Since that time, celebrations of the New Year have been much more limited in character. It was not established that more than 50 percent of the present Little Shell members at present maintain cultural patterns distinct from the non-Indians with whom they primarily interact. Thus, the petitioner's argument does not meet the requirements of section 83.7(b)(2)(iii), and is not sufficient by itself to meet criterion (b).

Section 83.7(b)(1) refers to evidence that may be combined to meet the criterion. A review of Franklin and Bunte's interviews and the BIA's interviews provide evidence to indicate that a degree of discrimination or negative distinction, in relations with non-Indians, continues to exist in the rural towns. Franklin and Bunte also cited strong negative distinctions drawn between reservation Indians and the Little Shell Métis as continuing at the Fort Belknap, Blackfeet, and Rocky Boy's Reservations (Franklin and Bunte 1994, 104-105). The social distinctions with reservation Indians constitute "strong patterns of discrimination or other social distinction."

Thus, while no single form of the evidence presented by the petitioner is sufficient standing alone, the totality of the record yields a combination of evidence that is sufficient to meet criterion (b) from historical times until the present.

#### *Definitions and Forms of Evidence*

The definition of "community" in section 83.1, which requires that "consistent interactions and significant social relationships" exist within the petitioner's membership, is not a requirement that all or most of the petitioner's members be involved in such relationships with all or most other members, especially when the group is relatively large. Because of the size of the Little Shell petitioner's membership and its wide geographical distribution, there is no expectation under the regulations that any individual member would have an informal acquaintance with all or even most of the rest of the petitioner's members. On the other hand, a demonstration that most members have significant informal social contact with other members demonstrates that this petitioner's extensive membership constitutes one community.

The petitioner's members and their ancestors historically resided in two geographically separate regions of Montana, the Highline / Lewistown area of north-central Montana and the Front Range of the Rocky Mountains. Although evidence of kinship ties resulting from intermarriage, common residence in ethnically separate areas, social discrimination,

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and cultural differences were all shown for substantial portions of the petitioner's members and ancestors between the 1930's and the 1950's, and to a decreasing extent from 1950 to 1992, none of this evidence of social connection and social distinction is conclusive. In contrast to the evidence of social contacts between members and the evidence that individuals had knowledge about other members within at least parts of the two regions, there was limited social contact and personal knowledge across the boundary between the two geographical regions of historical settlement.

The evidence that some of the petitioner's members and ancestors were socially cohesive within parts of the two separate geographical regions of settlement since at least the 1930's consists largely of oral history interviews with members of the petitioning group. These interviews document the residence of many members in residentially segregated settlements in many locations, and the discrimination against them in previous decades. The interview evidence suggests that members resided in several nearby towns over time, and had kinship ties there, thus bringing separate towns together in broader patterns of social cohesion. These interviews reveal that members maintain informal social contact with some other members at present, and that they have done so for more than the last half century. In interviews, members have displayed a social knowledge of other members of the petitioning group within their geographical region. These interviews also reveal that information about recent political issues and conflicts have been communicated widely among members. This evidence reveals the existence of social cohesion among portions of the petitioner's members and ancestors, demonstrating both the existence of two regional communities and a community of all the members or ancestors connected across regional boundaries.

Further, as noted above, the historically high rates at which the petitioner's ancestors married other Métis created kinship ties that have created social cohesion among the petitioner's ancestors. Kinship charts and other evidence of the existence of kinship ties between many of the petitioner's family lines are a form of evidence which, combined with other evidence since the 1930's, demonstrates the existence of social cohesion among portions of the petitioner's membership within geographical regions. The evidence also demonstrates that disparate residential settlements were united by a single kinship bloc within each separate region. The available kinship charts, intermarriage analysis, and interview data demonstrate that kinship ties have extended beyond the boundaries of the two separate geographical areas of settlement to unite these regions into one community. This evidence under section 83.7(b)(1)(ii), when combined with other evidence in the record, is sufficient to meet criterion (b).

Evidence also exists that strong social distinctions of the Métis from non-Indians existed in the past in the form of partial residential segregation in Montana's towns and cities, partial school segregation, and job discrimination. Strong social distinctions were created by discrimination by non-Indians from the 1930's to the 1950's. The Métis were also substantially distinct socially and culturally from the reservation Indians of the state. The evidence also indicates that discrimination exists at the present. Evidence of strong social distinctions from both non-Indians and reservation Indians helps to demonstrate the

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distinctness of the petitioner's Métis members and ancestors from those groups. Because this evidence of discrimination reveals that the petitioner's members experience discrimination at present, this evidence under the provisions of section 83.7(b)(1)(v), when combined with other evidence, is sufficient to meet criterion (b).

The cultural differences that existed between the Métis and their Anglo-American and reservation Indian neighbors until the 1930's or 1940's provide substantial evidence for demonstrating the existence of communities in the past among subgroups of the petitioner's ancestors. For the contemporary period, cultural foodways have been accepted as evidence of distinct cultural differences. The use of the Michiff language by a significant portion of the petitioner's members or ancestors also is evidence of a distinct cultural difference, even though there appear to be few young adult speakers. Such is the case with many recognized tribes. The evidence about past and current cultural differences under the provisions of section 83.7(b)(1)(viii), when combined with other evidence, is sufficient to meet criterion (b).

This review of evidence listed in section 83.7(b)(1) or other evidence suitable for criterion 83.7(b) reveals that a variety of evidence indicates that there has been social cohesion among many of the petitioner's members and ancestors in the form of blocs of families linked by marriage, sub-regional or localized social communities, or even continued geographical distinctions in the Highline / Lewistown area.

#### *Chronological Survey*

A chronological review "from historical times until the present" reveals that the available evidence is sufficient to conclude that a distinct community, or communities that later amalgamated, existed among the petitioner's ancestors prior to the 1930's, in Montana or earlier. The evidence available indicates that the ancestry of a majority of the petitioner's members traces back to two separate geographical areas in the mid-19th century, the Red River Settlement in British territory and the Pembina / St. Joseph settlement in American territory.

The available evidence reveals that the petitioner's ancestors settled in Montana in two geographically separate parts of the state, the Lewistown and Highline region of north-central Montana and the Front Range region, and that they settled in those separate regions at different times by different patterns of migration from the earlier Métis settlements. Additional evidence that distinct local communities existed in the years before the 1930's, and had relationships to the historical Pembina and Red River Métis, would solidify the proposed finding of the existence of historical community.

In the period between the 1930's and 1950's, there is substantial evidence for social connection within various portions of the Métis populations ancestral to the petitioner, and for their respective social and cultural distinction from surrounding populations. This conclusion is based on their residence in exclusively Métis and Indian neighborhoods, their substantial ties to each other through intermarriage, their distinct culture, and the

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social discrimination against them. While the evidence indicates the existence of some social interaction and social cohesion within various portions of the petitioner's ancestral populations, the information and analyses presented for this proposed finding can be further refined to establish whether this was as two regional communities or as smaller social units within those regions, or what the scope and character of such social communities may have been.

From the 1950's until 1992, the petitioner's cultural differences from non-Indians diminished gradually, the rate of Métis in-marriage continued to decline until by 1970 few new marriages by the petitioner's members were with other Métis, and migration of the petitioner's members out of the two traditional areas of settlement began and steadily increased. However, a substantial portion of the petitioner's adult population in these years were former residents of distinct Indian neighborhoods, substantial kinship ties continued to exist in the adult population which was to a large degree the children of two Métis parents, and out-migration was recent enough to consider the migrants likely still to be in contact with members in the "home" areas. From 1993 to the present, the petitioner has demonstrated that within these respective regions, there is informal social contact which, together with evidence of cultural differences, demonstrates the existence of social cohesion within portions of the rural populations.

In addition to the evidence of social cohesion within portions of the traditional rural regions, there is evidence to suggest that members in Great Falls and Helena form a community. Evidence indicates that urban residents of Great Falls and Helena maintain contact with residents of the traditional rural regions through kinship as a result of recent and past migration back and forth. There is some evidence that Little Shell members living either in the two traditional rural regions or the two main urban centers maintain social ties with the 49 percent of the members living either in the balance of the state or outside of the state. There is also evidence that members outside the traditional regions of settlement are largely migrants from those areas or immediate kinsmen of individuals there. They are therefore are likely to remain in contact with residents of those areas.

### *Conclusion*

The petitioner has shown by the evidence available for this proposed finding that it derives as a community from a continuously existing historical community, or from amalgamated communities, which evolved from historical tribes. The evidence is sufficient to show that the petitioner's ancestors in Montana have formed a distinct community or communities. The present-day membership residing within each of the two traditional rural regions of settlement in Montana have been demonstrated to have social cohesion among themselves, and to have their respective ties to the members residing within the two major urban centers of settlement in the state. It has been demonstrated that the petitioner's members who live elsewhere maintain social ties with the cohesive portions of the membership.

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**Criterion (c)**

- 83.7(c) The petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present.**
- 83.1 *Political influence or authority means a tribal council, leadership, internal process or other mechanism which the group has used as a means of influencing or controlling the behavior of its members in significant respects, and/or making decisions for the group which substantially affect its members, and/or representing the group in dealing with outsiders in matters of consequence. This process is to be understood in the context of the history, culture and social organization of the group.***

Introduction

Under criterion 83.7(c), the petitioner demonstrated that it has maintained political influence or authority over its members as an autonomous entity from historical times until the present.

Description of the Evidence:

There is evidence that some of the petitioner's ancestors were members of federally recognized tribes during the 19th century, or received treaty benefits as relatives of members of a treaty tribe. In 1851 and 1863 the United States Government negotiated treaties with the Pembina Band and considered Little Shell II one of its leaders. The Pembina Band of Chippewa Indians was accepted by the Government as a functioning political entity with identified leaders with whom it dealt as representatives of the band. By the ratified treaty of 1863 and its 1864 supplement, the Pembina Chippewa made provisions for their Métis relatives to receive benefits from the treaty. A minority of the petitioner's members descend from at least 22 men who received land scrip under that treaty as relatives of the Pembina Band. From 1876 until 1892, the Government consulted with a Turtle Mountain Band and treated Little Shell III as its leader, at least until 1891. The available evidence indicates that a minority of the petitioner's members trace their ancestry back to a member of the Turtle Mountain Band prior to the 1892 agreement.

The evidence available for this proposed finding indicates that about half of the petitioner's members trace their ancestry back to a Métis resident of Pembina County, Minnesota Territory, on the Federal census of 1850. Census enumerators were not to count "Indians not taxed" for the 1850 census, so the census taker who listed these

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individuals on that Federal census did not identify them as members of an Indian tribe. Both some contemporary observers and some modern historians have referred to the Métis in the mid-19th century as a group which was separate from the Indian as well as the white society.

There is also evidence from the mid-19th century that some Métis residents of the settlements of Pembina and St. Joseph were related to, allied with, or associated with the Pembina Band of Chippewa. Observers noted that some Chippewa accompanied the Métis on their buffalo-hunting expeditions. The Government's treaty negotiator said that the Métis accompanied the Chippewa to the treaty negotiations of 1851 and 1863, even in violation of his specific instructions. There also is evidence from the mid-19th century which indicates that the Métis chose leaders for themselves separate from recognized Chippewa leaders. The Métis began the buffalo-hunting expeditions of the 19th century by electing their leaders for the hunt. In 1849, the Métis in Pembina elected a council of their leaders, and the Governor of Minnesota Territory in 1850 dealt with these men as the legitimate leaders of the Métis settlement at Pembina. Many of the descendants of the treaty scrip recipients migrated to Montana before the creation of the Turtle Mountain Reservation. Memoirs which recollect the Métis settlement of Lewistown, Montana, in 1879 imply that the traditional leadership practices of Métis buffalo-hunting expeditions were followed by these settlers.

There is some evidence that political leadership was exercised by certain Métis individuals within local settlements of the petitioner's ancestors in Montana. Although each of these accounts was vague about the years during which this leadership was exercised, in general they described Métis settlements during the first quarter of the 20th century. A non-Indian recalled that in the area just north of the Missouri River in central Montana, the Doney brothers exercised political authority over a group of Métis families. An oral history of another non-Indian stated that in the Métis settlement in Dearborn Canyon on the Front Range, Jack Swan acted as the community leader. A memoir by another non-Indian who was raised in the Dupuyer Creek area recalled that his father knew a man known as "Chief Salois" who may have been an ancestor of the petitioner's members. The area settled by the Doney family was separated from the settlements at Dearborn Canyon and Dupuyer Creek by more than 200 miles.

An organization was formed in 1927 in Hays as the petitioner's first formally organized predecessor in Montana. The leaders of this organization, which called itself the "lost band" of the Chippewa, all came from the area north of the Missouri River and east of Rocky Boy's Reservation. None of the attendees appears to have been from the Front Range. There is little available evidence which describes the activities of this organization, or its relation to its members, but "Chief Headman" Joseph Dussome represented the group by writing letters to advocate its interests. Leadership elections were held in 1935 for the "Non-Treaty Chippewa-Cree Indians of Northern Montana," in 1939 for the "Pembina Band of Chippewa Indians who were under the leadership of Chief Thomas Little Shell," and in 1949 for the "Little Shell Band of Chippewa Indians, known as the Landless Indians of Montana." While none of these organizations explicitly

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described itself as the continuation of a previous organization of a different name, the choice of Dussome as a leader in each of these elections provides the continuity between these organizations and, along with the consistent geographical region represented by his officers and area representatives, demonstrates the continuity between these organizations and the petitioning group.

The consistent leadership of Joseph Dussome of organizations from 1927 to 1963 and the consistent geographical region represented by his officers and area representatives imply the continuity of these organizations with the petitioning group. The petitioner is the successor of organizations which Joseph Dussome was elected to lead in 1927, 1935, 1939, and 1949. Beginning at least in 1935, Dussome's organization used a system of area representatives. Examples of the existence of an internal political process within the organization include evidence of Dussome assigning area representatives to advise a governmental commission and of the area representatives assisting applicants to the commission in 1937, and evidence of fund raising and communications in support of the political activities of Dussome during the 1930's. There is evidence that Dussome and his area representatives undertook activities from the mid-1930's through the 1950's to obtain land and other economic benefits for their members, and that these actions were of importance to a portion of the membership because they were responsive to members' concerns and economic needs.

There is no available evidence which describes how the electoral process worked in these various leadership elections. These organizations appear not to have had membership requirements or membership lists, and the payment of dues appears to have been voluntary. Thus, the available evidence does not fully reveal how many supporters these organizations had, or where they were located. The organization formed in 1935 created the positions of district or area representatives. In 1935, these districts extended from Wolf Point on the east to Helena on the west, but there were no districts on the Front Range. The officers of the organization were mostly from north-central Montana, but one officer was from the Front Range. The 1939 elections were the first clear attempt to unite Highline leaders with Front Range and urban leaders to bring a common claim against the United States.

Two organizations advocating on behalf of Montana's Chippewa-Cree population existed from the 1930's into the 1950's, reflecting the residence of the petitioner's ancestors in two geographically separate areas of Montana and involving many of them in one organization or the other. This development appeared to continue a conflict between organizations led by Joseph Dussome and Raymond Gray which had existed since about 1935. After 1939, the rival organizations were known as the Landless Indians of Montana, led by Dussome, and the Montana Landless Indians. The area representatives of Dussome's organization represented the Highline and Lewistown area, but the organization did not include representatives of the Front Range ancestors of the petitioner's current members prior to 1939. The Montana Landless Indians also had the support of and advocated on behalf of some of the petitioner's ancestors, especially those in urban areas and along the Front Range. In 1941, an Indian Office employee observed

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that there were two groups of unenrolled Indians in the state “who recognize separate leadership.” As was to be expected, neither organization was very active during the years of World War II. Competition and conflict between these two organizations persisted into the mid-1950's.

In oral interviews, some of the petitioner's members recall activities as far back as the 1930's in which they worked to support Dussome's efforts by holding box socials as fund-raising activities. Dussome acted to represent his members during the 1930's by developing a case to bring against the Government for claims to compensation for lost aboriginal territory in northern Montana. Dussome and some of his area representatives also played a role in advising the Government's enrollment committee which was preparing the roll of Montana's unenrolled Chippewa-Cree Indians, and in helping individuals to apply to the committee. The attempt of the Little Shell group in Montana to achieve IRA status during the 1930's is important evidence because it indicates the desire of the Little Shell group to obtain recognized status when the “landless” policies of the Federal Government were prohibitive. During the 1930's and 1940's, Dussome advocated for plans to obtain a Federal reservation for his members or land through Federal agencies, as well as loans and other economic support to develop it. Interviewees described the purpose of meetings in the 1930's as “to organize people so they could get land and money.” Thus, members suggested that these efforts by their leadership in the 1930's and 1940's had been responsive to their needs.

In the early 1950's, the rival Landless Indians of Montana and the Montana Landless Indians contended for recognition as the group which would represent the claims of the Little Shell Band against the United States. The two organizations and their supporters contested over the issue, with the Landless Indians of Montana prevailing in 1955. They also made parallel efforts to obtain approval of an economic rehabilitation program by the Government. The division between the two organizations was not as clearly a geographical one in the 1950's as it had been in the 1930's and 1940's. In the 1950's, the Montana Landless Indians was supported at times by leaders from the Highline and Lewistown who previously had supported Dussome, while Dussome had allies and support in Great Falls and at Browning on the Front Range, although those locations remained the center of support for the Montana Landless Indians. Attempts in 1955 to combine the two organizations failed. The evidence is that substantial support for the Montana Landless Indians was short-lived. Although the Montana Landless Indians continued to exist until 1969, after 1955 it functioned only on a small scale, while the Landless Indians of Montana has continued to the present, with support from both the Highline and Front Range regions.

Between 1949 and 1992, the Landless Indians of Montana, or Little Shell Band, utilized several methods to maintain political contact between its leaders and its members who were drawn from a number of widely separated settlements. One means of maintaining contact between the organization's officers and members was an annual meeting at which the officers were elected. Up until at least 1961, the annual meetings were two-day affairs to which members traveled long distances. They were social as well as political

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gatherings. Only a small proportion of the members attended a given meeting. The geographical rotation of quarterly council meetings, which were public meetings of the membership, also was used as a means of communicating information and generating support for the group's activities over a wide area. In Joe Dussome's day, he was widely reported to have traveled, usually with other officers, to hold meetings in different areas to provide information and develop funds. Since his death, the leadership has generally continued the practice of rotating the location of meetings. The failure to do so has resulted in some instances of complaints from members that meetings were not being held in their areas and, consequently, that information was not being received.

In order to maintain political contact between leaders and members, the Little Shell organization also has used district or area representatives, officers who represented particular localities and were, much of the time, locally elected. After 1949, there were area representatives for different locations along the Highline and the Front Range, as well as Lewistown, Helena, and Great Falls. Since the 1970's, some area representatives have been established for other locations in Montana as well. The district or area representatives served to carry information from the council and officers to the members, and they hosted and organized local meetings. There is good evidence, from meeting minutes and interviews with present and recent political leaders, that the Little Shell Band fairly consistently conducted a variety of fund-raising efforts from 1949 through the present, and that the organization in general depended on fund raising from and by its members rather than on grant money or other external sources. Present and past leaders, however, consistently described these efforts as small scale activities which raised only small sums. Area representatives have been expected to play a role in bringing membership views and opinions to meetings of the organization. Among the instances in which they did so were the conflicts with the rival Montana Landless Indians organization during the 1950's, the internal political conflicts during the early 1980's, and the revision of the Little Shell political organization in the early 1990's as a result of membership unhappiness with the leadership and election procedures of the organization.

Between 1949 and the early 1970's, the Little Shell organization attempted to address the economic needs of its membership. In a continuation of the efforts of Joe Dussome and the Montana Landless Indians in the latter 1930's and early 1940's, the organization sought to obtain land or other Federal assistance to alleviate the poor educational and economic circumstances of its members. State and local assistance also were sought. During the early 1950's, there did not appear to have been conflicts between the rival Landless Indians of Montana and the Montana Landless Indians over rehabilitation efforts. The Little Shell obtained resolutions from the Montana legislature in 1949, 1951, and 1955 supporting efforts to get Federal help. It was able to have introduced Federal legislation to provide "rehabilitation" of the landless Indians in 1949-1950 and 1955 with funding to purchase and develop land or to provide other aid. The issue was raised at the convention of the Landless Indians of Montana in 1957. Through the Montana Intertribal Policy Board, the group obtained the Governor's support for a rehabilitation program in 1959. None of this legislation was successful. The basis for members' political discontent with Joe Dussome in the 1950's, as expressed by interviewees who were adults

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in the 1930's and afterwards, was that, after so many attempts to get land, he had failed to deliver. That the issue of economic rehabilitation was of political significance to members was borne out by interview data.

Much of the organization's efforts between 1949 and the 1990's concerned claims before the Indian Claims Commission. The claims activity, beyond hiring an attorney, included efforts begun in 1960 under Dussome to develop a revised roll, based on the Roe Cloud enrollment. The Landless Indians of Montana anticipated, incorrectly, that its membership list would become the list of individuals to be paid when the Indian Claims Commission awards were made. The organization, however, passed on to members information about deadlines and requirements for applying to the Bureau of Indian Affairs to receive a share of the awards. Arguing with the Bureau over the compilation of a judgment roll constituted another form of claims activity. The Little Shell office helped the Bureau to compile the Little Shell portion of the judgment roll, completed in 1994, for the payment for the 1905 cession.

The available evidence indicates that the petitioner's members and ancestors have been part of one common political process since the mid-1950's, when the Landless Indians of Montana rather than the Montana Landless Indians were designated to represent a claims plaintiff before the Indian Claims Commission. Between 1955 and 1972, and to a lesser degree afterwards, the Landless Indians of Montana continued to address the economic needs of its members, a political issue of continued importance to them. One of its primary political goals was to get land and services for its largely impoverished membership, an objective of the organization since the 1930's. There is some evidence that political conflicts within the Landless Indians of Montana in the 1970's and early 1980's generated strong political opinion within the Landless Indians of Montana and were conflicts that went beyond the officers of the organization, involving substantial portions of the general membership. Some geographical rivalries were evident from time to time in these conflicts. A system of area representatives served as a means of political communication between the council and the membership. Area representatives also played a role in political conflicts, in bringing local opinion to bear on political decisions.

Between 1963 and 1992, there were several periods lasting one or two years when records of meetings and activities by officers of the Landless Indians of Montana, or Little Shell Band, were limited or absent. There was no evidence that there had been significant breaks in the functioning of the organization, but it is likely that these were periods when formal activity was limited. In some instances, scheduled elections were not held. A new, younger group of leaders became active in the middle to late 1970's, however, revitalizing the organization. Among their efforts was the adoption of a constitution in 1977. There have been no inactive periods for the petitioner's organization since that time.

Economic development and rehabilitation have appeared as political issues for the Little Shell organization in some instances since the early 1970's. These issues were no longer a consistent focus of the band after 1971, however, when the group's last substantial

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legislative effort to obtain a Federal economic rehabilitation program was made. This shift may reflect an improving economic status of members. However, the Little Shell Band sought unsuccessfully in 1971 to have a portion of the 1863 Pembina award funds set aside for group economic and educational projects. In 1982, the Little Shell Band took a similar position with regard to the 1905 Pembina judgment and was successful in having money set aside, subject to the group becoming federally recognized.

Access to services has been an important concern periodically expressed by members to the council, from at least 1970 until the present. This concern reflects a continuation of economic needs as a political issue. The organization began to seek Federal services in the late 1960's, but was initially rebuffed. From approximately 1970 until the present the petitioner's members have received, as individuals, some educational services from the Bureau of Indian Affairs and some health services from the Indian Health Service. One of the activities of the Little Shell council has been dealing with these Federal agencies on service questions such as how blood degree eligibility for services would be determined and what priority the group's members would have in relation to other Montana Indians. At the present time, the issue of access to Federal services continues to be an important concern expressed by members to the council.

Since 1993, there have been several political conflicts within the Little Shell organization which provide evidence of the political functioning of the petitioner. The limited voting in the elections which were held at the annual meetings of 1990 and 1992 generated sustained membership discontent which led to a change in 1994 to voting by ballots cast at polling places around the state or by absentee ballots. A mobilization of political sentiment brought about this change in election procedures, in part through the process of area representatives bringing these concerns of members to the Little Shell council in 1994, and in part through the response of members to the efforts of James Parker Shield to achieve such a change. Political discontent among the membership with the functioning of the tribal office and the actions of the leadership, which resulted in part from geographical rivalry between members living in Great Falls and along the Highline, led to a move of the Little Shell office from Havre to Great Falls in 1995. This discontent also led to the removal of the chairman from office in 1995. The area representatives again were involved in bringing about these two changes, by acting as a channel through which members' discontent with the handling of the office was funneled.

The conduct of the 1996 election generated a substantial protest which resulted in petitions from a considerable fraction of the number of members who had voted in that election. In addition, the removal from office in 1997 of the controversial individual who had been elected as chairman in 1996 was the result of substantial protests by members. The area representatives, reflecting membership opinion, again played a significant role in removing the chairman in 1997. This conflict demonstrated mobilization of public sentiment on a broad scale, indicating that the behavior of the chairman, James Parker Shield, and his election were matters of importance to members. It also showed communication within the group. Strong political opinions about this individual, and his removal, existed among the membership and resulted in abundant communication

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between members and political leaders.

Area representatives have thus played an important political role in political communication, voicing membership opinion. Current leaders report that, as in the past, there presently is a need to rotate the location of quarterly meetings and to use other means to maintain communication with members, for the failure to do so generates protests about the council acting without having communicated with the members.

The political processes of the petitioner's organization at present draw interest and support from both geographical regions of traditional settlement as well as the two main cities where members reside, including them within a single framework. There is evidence from several recent political conflicts that a substantial portion of members are aware of the actions of the council and officers and consider them important. Those conflicts generated extensive and strong political opinion, and there is evidence of the communication of these political issues throughout a substantial portion of the membership. The area representatives played an important role in each of those political conflicts, by providing a means of channeling political opinion concerning the conflicts and the need for reform of the electoral system. Group activity by the petitioner's members was evident in their involvement to remove the group's officers and to change the group's governing procedures during the 1990's. There is evidence of social cohesion for at least portions of the contemporary group which provides supporting evidence for the existence of political processes within portions of the petitioning group. There is some evidence that continued kinship ties provide a major means of political communication among the petitioner's members.

#### Evaluation:

The petitioner has argued that it meets criterion 83.7(c), for the "historic period" before 1927 as well as for "much if not all of the 1927-94 period" (Franklin and Bunte 1994, 109, 123), because section 83.7(c)(3) of the acknowledgment regulations provides that when the petitioner's existence as a distinct community has been established by one of the forms of evidence that are sufficient in themselves to meet criterion 83.7(b), this evidence also shall be considered to have provided sufficient evidence to meet criterion 83.7(c) for the same period of time. Franklin and Bunte argued that they had "provided sufficient evidence for criterion c" by a demonstration of high rates of marriages within the group, exclusive enclave settlements, and "data on present-day cultural persistence" (Franklin and Bunte 1994, 123). The analysis of community in the previous discussion of criterion 83.7(b), however, demonstrated that the petitioner had not shown that it met the requirements of any of the three forms of evidence which are sufficient by themselves to demonstrate that the petitioner comprised a distinct community under the provisions of section 83.7(b)(2). Therefore, that evidence does not provide, by itself, evidence that the petitioner meets criterion 83.7(c).

Nevertheless, the Department concludes that criterion (c) is met on the following record. The available evidence shows that some of the petitioner's ancestors received benefits of

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treaties as relatives of the treaty band of Pembina Chippewa. The available evidence shows that some of the petitioner's ancestors had been a part of Little Shell's band until 1892. Franklin and Bunte contended that the petitioner's ancestors were followers of Chief Little Shell or of his attorney J.B. Bottineau until 1911 (Franklin and Bunte 1994, 109-111). They noted that the names of some of the ancestors of the petitioner's members were associated with Little Shell III: one ancestor on an 1881 report, ten ancestors on an 1885 petition, and one ancestor on an 1893 petition. Franklin and Bunte contended that the petitioner's ancestors considered themselves to be under the authority of the Turtle Mountain Agency until the 1920's (Franklin and Bunte 1994, 113, 119). The evidence the researchers cited for agency jurisdiction was that an unknown number of ancestors were said to have applied for public domain allotments through the agency about 1910, and that a council member of the "lost band" in Montana, who was also an enrolled member at the Fort Peck Reservation, gave congressional testimony about those allotments on behalf of the petitioning group in 1927.

Franklin and Bunte noted leadership in the settlement of Lewistown in 1879, in a buffalo camp on the Musselshell River in 1880, and in the election of a local leader at St. Peter's in the 1880's. They noted that outsiders referred to leaders in the early 20th century at Dearborn Canyon, at Dupuyer Creek, and in the Doney family. The recollections about "Chief Salois" at Dupuyer were those of a young boy. The evidence of the substantive leadership activities of making farm labor contracts on behalf of others applied to Jack Swan at Dearborn in the 1910's. The evidence of this local leadership applied to only a few of the local settlements of the petitioner's ancestors.

The acknowledgment regulations require the petitioner to have maintained political influence and authority over its members "from historical times until the present" (§83.7(c)). To accept the more flexible interpretation of the available documentation prior to the 1930's, this proposed finding concludes that evidence of some local leadership among a minority of the petitioner's ancestors in the past demonstrates a reasonable likelihood that patterns of political influence existed among many of the petitioner's ancestors before the 1930's. The petitioner is encouraged to provide additional evidence to more fully demonstrate its political influence or authority over its members from historical times until the 1930's for the final determination.

While the continuous existence of a group which evolved from a historical tribe is required, it is acceptable for other peoples to have merged into that group over time to form the modern petitioner. The regulations do not address clearly the circumstance in which a petitioner's political entity unites two or more separate social communities. This proposed finding concludes that it is acceptable under the regulations for the petitioner's current political organization to be a confederation of previously or currently separate social communities.

The petitioner devoted most of its attention to the period since 1927, the years in which it had a formal political organization, or organizations. Some of the evidence described in section 83.7(c)(1) exists for portions of the petitioner's members and ancestors for limited

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periods of time. From the mid-1930's through the 1950's, the evidence indicates that many members of Joseph Dussome's organization, which represented a portion of the petitioner's ancestors, considered the organization's efforts to obtain land or other economic benefits to be "of importance" to them (§83.7(c)(1)(ii)), and that many members were involved in "political processes" (§83.7(c)(1)(iii)) through the activities of area representatives or fund raising activities. After 1955 there is evidence that "political processes" (§83.7(c)(1)(iii)) continued with area representatives communicating local opinion on political issues to the council and information from the council to members, and with members being politically involved in important "internal conflicts" (§83.7(c)(1)(v)) during the 1990's by removing the organization's officers and changing its electoral procedures. Since about 1970, many members have considered the organization's efforts to obtain Federal services to be "of importance" to them (§83.7(c)(1)(ii)).

#### **Criterion (d)**

**83.7(d) A copy of the group's present governing document, including its membership criteria. In the absence of a written document, the petitioner must provide a statement describing in full its membership criteria and current governing procedures.**

The petitioner submitted a constitution dated September 10, 1977, as its governing document. Article V of the 1977 constitution states that all members of the group must have an application for membership which has been approved by the executive committee. Membership, as defined in the constitution, is open to any Indian of Pembina descent and 1/4 degree Indian blood, and to all the children of such members.

The petitioner also submitted a resolution passed in 1987, Resolution 87-01, which interprets sections I, II, and III of Article V of the 1977 constitution by clarifying the membership criteria to make them consistent with what the petitioner viewed as the "historical and contemporary understanding" of its members. Resolution 87-01 states that its membership consists of "those Little Shell Chippewa Indians, also referred to as Pembina Indians," who were listed on or eligible for enlistment on the Roe Cloud Roll, or the descendants of those members. That resolution also clarified that the intent of the constitution was to make eligible for membership any member's child who possessed a minimum of 1/8 Indian blood. The petitioner appears to meet its own requirements for membership under its 1977 constitution and membership resolutions.

The constitution also describes the duties of the executive board, executive committee, officers, secretary-treasurer, and district council members. The constitution calls for elections to be held every two years for each council member and every four years for the executive board.

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Therefore, the petitioner has submitted a constitution and resolutions which describe the membership criteria and the procedures by which it governs its affairs and its members.

#### Criterion (e)

**83.7(e) The petitioner's membership consists of individuals who descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity.**

**(2) The petitioner must provide an official membership list, separately certified by the group's governing body, of all known current members of the group. . . . The petitioner must also provide a copy of each available former list of members. . . .**

#### Introduction

The petitioner has demonstrated that its members descend from a historical Indian tribe.

#### Description of the Evidence:

The petitioner submitted an official membership list, dated 1987, and subsequent supplemental lists of 1990, 1991, and 1992. These membership lists were certified by the group's council. The membership records in the petitioner's office contain applications for membership and copies of documents which record the descent of each applicant. The petitioner also submitted, as the group's previous membership lists, a list of 258 applicants dated April 1978 and a membership list of 1,871 names dated September 25, 1984. As a result of the petitioner's re-enrollment program in the 1980's, individuals on the earlier lists who were members of federally recognized tribes, who were deceased, or who did not fill out an application were removed from the membership list. However, children, parents, and siblings of members, as well as other individuals not previously enrolled, were added to the membership list. There were 3,366 names on the 1987 list. The BIA staff combined the lists of 1987, 1990, 1991, and 1992, eliminated duplicate names and deceased individuals, and concluded that there are 3,893 members of the petitioner's organization.

The petitioner has not updated its membership list since 1992. However, it accepts new applications, and maintains them in a pending file, which it proposes to have its council act upon after the Department of the Interior's "decision" on the acknowledgment petition. The petitioner's enrollment committee continues to update these files and request additional documents from the applicants. The enrollment committee was reviewing the pending files in 1998 for completeness. It found that over 200 of the pending applications had all of the documentation necessary to meet its membership

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requirements.

The petitioner's governing document cites as evidence of descent from the Pembina Band of Chippewa the ability to trace one's ancestry to the Roe Cloud Roll of unenrolled Indians, which was prepared by the BIA in 1938 and approved in the 1940's. About 66 percent of the petitioner's members are direct descendants of an individual on the Roe Cloud Roll, or were themselves on that list. Another 11 percent of members are closely related to someone on that roll. Although the Roe Cloud Roll was not a tribal roll and did not identify members of a historical tribe, the Department finds that it did identify a significant portion of the petitioner's ancestors as half-blood Indians of Chippewa-Cree descent.

Some of the sources submitted by the petitioner or found by the BIA identified some of the petitioner's ancestors who were members of a historical tribe or were relatives of tribal members. The treaties with the Red Lake and Pembina Bands in 1863 and 1864 and the subsequent annuity lists of the recipients of the benefits of those treaties revealed the members of the Pembina Band in that era. Métis relatives of the Pembina and Red Lake Bands who received land scrip in the early 1870's as a benefit of those treaties were identified in the 1880 McIntyre report on treaty scrip recipients. The records which identified members of the Turtle Mountain Band of Chippewa Indians and some of their Métis relatives included the 1890 census by the Mahone Commission, the 1892 McCumber roll, and the 1884-1900 family registers and the 1906 family history books of the Turtle Mountain Agency.

Other sources which identified some of the petitioner's ancestors did not relate to specific historical tribes or did not identify tribal members. These sources included records of the Métis settlers in the British Red River Settlement in 1835 and 1870; the 1850 Federal census of Pembina County, Minnesota Territory; a list of the 1873-1874 taxpayers in Pembina County, Dakota Territory; and the 1880 Federal census of Montana Territory.

Some of the petitioner's ancestors were part of the two pre-treaty Métis populations that resided in the British Red River Settlement (Winnipeg, Canada) in 1835, and in Pembina County, Minnesota Territory (probably near modern Walhalla and Pembina, North Dakota) in 1850. The Métis population in both settlements included persons of mixed European and Indian ancestry, some of whom were Chippewa by descent, though no specific band of Chippewa was cited in the records. The Red River Settlement probably included Métis of Chippewa, Cree, Chippewa-Cree, Assiniboine, and other tribal descent. Thus, not all of these Métis were of Chippewa descent, and not all of the Métis in these two settlements were ancestral to the petitioner.

The historical evidence available for this proposed finding indicates that about 27 percent (1,067 of 3,893) of the petitioner's members descend from 16 families in the British Red River Settlement in 1835. About 48 percent (1,850 of 3,893) of the petitioner's members descend from the 25 families of its ancestors who were in Pembina County in 1850. Five of the families in the Red River Settlement in 1835 were later residing in Pembina

### **Little Shell (MT): Summary for the Proposed Finding**

County in 1850. The petitioner's members with ancestry from one of these sources, therefore, often can trace their ancestry to both of these historical populations.

Although these pre-treaty sources did not identify a historical tribe, the available evidence indicates that some of these ancestors did have ties to the historical Pembina Band, or to the band's Métis relatives. At least three and possibly five of the sixteen ancestors in the Red River Settlement in 1835 are the fathers of men who were listed in McIntyre's 1880 report as recipients of, or applicants for, Chippewa treaty scrip. About two-thirds of the current members who descend from the residents of the Red River Settlement in 1835 descend from the five men whose sons received or applied for treaty scrip. Although McIntyre found that only one of these five men was clearly eligible for scrip, one had been born at Pembina of parents born at Pembina, one was from a family line which included eligible individuals, and the other two had married women who appear to be from families with Pembina origins. Ten, and perhaps 12, of the 25 ancestors on the census of Pembina County in 1850 received treaty scrip, or had a son who received treaty scrip.

The petitioner's ancestors who were considered to be part of the Pembina Band in the treaty era, or to be the mixed-blood relatives of that band, can be identified as the signers for the Pembina Band of the 1863 and 1864 treaties, as the individuals on the annuity list of 1864 or later treaty annuity lists, and as the recipients of treaty scrip as Métis relatives of the Pembina Band who were listed in McIntyre's 1880 report. Only 2 percent (74 of 3,893) of the petitioner's members appear to descend from a treaty signer, Joseph Gourneau, who signed the 1863 treaty but not the 1864 treaty. Gourneau, however, also was on McIntyre's list of treaty scrip recipients. A series of treaty annuity lists exist, one of which the petitioner submitted as part of its petition documentation. Subsequent annuity lists may have more names, or may have both the Indian and European names. Neither the petitioner nor the BIA researched the names on subsequent annuity lists to determine whether the petitioner's known ancestors received treaty annuities in the 1860's, 1870's, or 1880's.

The available evidence indicates that 28 of the petitioner's ancestors were included on the 1880 McIntyre list of Red Lake and Pembina treaty scrip recipients. Approximately 33 percent (1,293 of 3,893) of the petitioner's members descend from 22 men who were identified in McIntyre's report as scrip recipients with Pembina Band descent. The remaining six scrip recipients who were clearly ancestral to the petitioner were found by McIntyre to be either from Red Lake or of Cree, Assiniboine, or other non-Chippewa descent. An additional 134 people on the petitioner's membership list descend from at least one of these six men. Although these ancestors may not have been Pembina Chippewa or Pembina Métis, the evidence shows that either they, or some of their children or grandchildren, married into the Pembina Métis population. Further research during the comment period may identify other ancestors on the scrip list or annuity lists, or connect other members on the current membership list to these known ancestors, and thus increase the number of the petitioner's members who descend from the treaty-era ancestors.

### **Little Shell (MT): Summary for the Proposed Finding**

In addition to the ancestors identified on McIntyre's two lists of the recipients of scrip and the applicants who had applied for scrip after the closing date, there were another eight men on the two lists who have the same name as men in the petitioner's ancestry. Although they may not have qualified for scrip themselves, these eight families appear to have had close connections to the Pembina Chippewa Métis through their own marriages or through the marriages of their children to Pembina Chippewa Métis families. At least three of the eight men were living in Pembina County in 1850. If additional evidence establishes that these "same-name" men are indeed the petitioner's ancestors, then about 200 more of the petitioner's members would have descent from the Pembina Band's mixed-blood relatives who were identified in McIntyre's report.

When the Bureau of Indian Affairs prepared a roll for the distribution of an Indian Claims Commission judgment award for the Government's taking of Indian territory by the 1863 treaty, it included descendants of the "mixed-blood" element of the Pembina population who received benefits provided by the treaty. The Government thus treated Métis descendants of scrip recipients, who had at least 1/4 Pembina Chippewa ancestry, as having equal rights to receive judgment funds with the descendants who were members of the successor tribes of the Pembina Band of Chippewa. Individuals who received a judgment award were considered to be descendants of a member or relative of a member of the Pembina Band as it had been constituted in 1863. The judgment award for the Government's taking of Indian lands ceded by the McCumber Agreement also required recipients to have at least 1/4 Pembina Chippewa ancestry. Both judgment awards were made on the basis of lineal descent. About 38 percent (1,482 of 3,893) of the petitioner's current members were recipients of the 1994 judgment award.

Some of the petitioner's ancestors were found in records which were contemporaneous with the treaty, such as the records of Métis settlers at the Red River Settlement about 1870 and the 1873 and 1874 tax lists of Pembina County. The petitioner had 46 ancestors listed among the Métis population in the British Red River Settlement about 1870. About 38 percent (1,469 of 3,893) of the petitioner's members descend from those 46 ancestors. Of this number, however, only 362 members descend solely from an 1870 Red River Settlement ancestor. Some of the men found in the records of this settlement in British territory in 1835 or 1870 had ties across the international border to the treaty tribe. For example, five of the petitioner's ancestors who received treaty scrip had a father who resided in the Red River Settlement in either 1835 or 1870. Only about 5 percent of the petitioner's members descend from six of their ancestors who were on the 1873 and 1874 tax lists of Pembina County. This source put these ancestors in the vicinity of Turtle Mountain.

The evidence indicates that about 26 percent (1,017 of 3,893) of the petitioner's current members descend from the historical Turtle Mountain Band because they have an ancestor who was listed on a roll prepared for either the Mahone Commission in 1890 or the McCumber Commission in 1892. A total of 31 ancestors of the petitioner's members were included on one of these lists and thus were accepted by one of the Federal commissions as a member of the Turtle Mountain Band prior to the negotiation of the

### **Little Shell (MT): Summary for the Proposed Finding**

1892 agreement. At least an additional 9 percent (362 of 3,893) of the petitioner's members descend from individuals who were on the 1884-1900 family registers or the 1906 family history books of the Turtle Mountain Agency. Thus, at least 35 percent of the petitioner's members descend from an ancestor who can be considered a member of the Turtle Mountain Band at some time during the period from 1884 to 1906. However, these records do not provide a complete accounting of all of the petitioner's ancestors who may have been a part of the historical Turtle Mountain Band. A more thorough search of the Indian census records after 1885, for example, may identify additional ancestors living at Turtle Mountain in this era.

The available evidence indicates that approximately 24 percent (922 of 3,893) of the petitioner's members have an ancestor who appeared on either the 1909 or 1917 rolls of Rocky Boy's Band of Chippewa Cree. According to Indian Inspector McLaughlin's 1917 report, all of these ancestors claimed Chippewa ancestry. Nine of the ancestors at Rocky Boy's stated that they were Turtle Mountain or Pembina Chippewa, or were born at St. Joseph or Walhalla, North Dakota, and three stated they were Chippewa from Red Lake, Minnesota. The other ancestors claiming Chippewa or Chippewa-Cree descent did not specifically claim Pembina or Turtle Mountain Band descent. Pembina Chippewa ancestry was attributed to the Rocky Boy's Chippewa Indians by the Indian Claims Commission, and the BIA's 1994 judgment roll for the award included the Chippewa element of the Rocky Boy's Chippewa-Cree as a partial successor to the Pembina Band. For this current report, the BIA staff did not re-evaluate all of the sources used in the Pembina judgment award to determine how the Chippewa at Rocky Boy's were determined to be eligible as descendants of the Pembina Band. From the evidence currently available, however, it appears that at least a portion of the Chippewa at Rocky Boy's had Pembina Band descent.

#### Evaluation:

##### *Petitioner's Arguments:*

The petitioner has made two claims for its descent from a historical tribe. Throughout its petition narrative, it repeated statements that its membership descends from followers of Chief Little Shell who were forced off, or who left, the Turtle Mountain Reservation in North Dakota after the McCumber Agreement of 1892. The petitioner's researchers also have argued that the group's members descend from the earlier Pembina Band of Chippewa and from a Chippewa-Cree Métis aboriginal community along the Red River.

The petitioner claims descent from the followers of Chief Little Shell who had been part of the Turtle Mountain Band prior to the 1892 McCumber Agreement. The evidence submitted with the petition and the evidence discovered in the research process substantiates that some of the petitioner's members descend from a group that was excluded from the Turtle Mountain Band in 1892. Thirty of the petitioner's ancestors were on the Mahone census of Turtle Mountain Indians in 1890. In 1892, 20 of these same ancestors were still on the McCumber roll of the Turtle Mountain Band. Thus, only

### **Little Shell (MT): Summary for the Proposed Finding**

ten individual ancestors could be said to have been excluded from the tribe by the McCumber Commission. About 6 percent (246 of 3,893) of the petitioner's members descend from those ten individuals who were on the Turtle Mountain census in 1890 but were not on the 1892 McCumber roll. The evidence also shows that some of the petitioner's members descend from individuals who were Turtle Mountain Band members prior to the McCumber Agreement; 26 percent (1,017 of 3,893) of members descend from an ancestor on the membership lists of the 1890 or 1892 commissions.

This proposed finding accepts the petitioner's claim that its members derive from "the historic Turtle Mountain Chippewa Band and its immediate precursor group, the Pembina Chippewa Tribe, and ultimately from the Red River/Pembina Chippewa-Cree Métis aboriginal community that made up the majority of the historic Pembina and the historic and present day Turtle Mountain Bands" (Franklin 1995, 2).

Other evidence available about this petitioner offers some support for the petitioner's contention of the existence of a historical Chippewa-Cree tribe. There is evidence from the Pembina County census of 1850 and the treaty scrip list of 1880 that some Cree and other Indians married Pembina Indians or Pembina Métis prior to the treaty, as well as in later generations. The General Land Office found that four of the petitioner's ancestors were not eligible for scrip under the treaty of 1863 because they were Cree or "Cree ½ Breed." These records show that the Cree were not considered beneficiaries of the Chippewa treaties. Although the records show some marriage between the Pembina Chippewa or their Métis relatives and the Cree or Cree-Métis at Pembina, as well as at the Red River Settlement in Canada and later in Montana.

#### *Membership Lists*

The petitioner submitted its most current membership lists, and those lists were certified by its governing body as being accurate and complete. The petitioner also submitted its available previous membership lists. Therefore, the petitioner meets the requirements of section 83.7(e)(2) of the acknowledgment regulations.

The petitioner has indicated that it has a large number of pending applications for membership which it does not plan to act upon until after the Department of the Interior has made a "decision" on its petition for acknowledgment. The petitioner is advised that it should prepare its complete and final membership list prior to a final determination on its petition. The final determination will consider that list and, if the petitioner is acknowledged, that membership list will form the base roll of its tribal members.

#### *Definitions and Forms of Evidence*

Information about the petitioner's ancestors was gathered from many historical sources. Only some of these sources, however, identified members of historical tribes, or their relatives, at certain times in the past. Some sources provided information about the lines of descent of the petitioner's members, and identified their ancestors. Other sources

### **Little Shell (MT): Summary for the Proposed Finding**

provided information about where some of those ancestors of the petitioner's members were located at specific historical times.

Section 83.7(e)(1) lists several types of evidence which may be used to demonstrate that the petitioner's membership descends from a historical tribe. Documentation listed in parts (i) and (ii) of section 83.7(e)(1) has been accepted as providing information about the ancestry of the petitioner's members. Evidence which has been accepted as evidence of membership in, or affiliation with, or descent from the historical tribe of the Pembina Band of Chippewa includes the lists of tribal leaders who signed for the Pembina Band on the treaties of 1863 and 1864 and the list of individuals who received land scrip as relatives of members of the Pembina Band under the terms of those treaties. A listing on one of the annuity rolls of the beneficiaries of the treaties of 1863 and 1864 would be accepted as evidence of tribal membership.

Evidence which has been accepted as evidence of membership in the historical tribe of the Turtle Mountain Band of Chippewa includes the censuses of tribal members produced by the Mahone Commission in 1890 and the McCumber Commission in 1892, and the lists of families in the Turtle Mountain Agency's family registers and family history books. A listing on one of the Indian census rolls of the Turtle Mountain reservation prepared after 1885 by the Office of Indian Affairs would be accepted as evidence of tribal membership. The descent of some of the petitioner's members from the Indians on the Rocky Boy's Reservation was established by the census of the Indians of Rocky Boy's band in 1909 and the report by Indian Inspector McLaughlin in 1917 on the members of the new reservation. In some instances, those records specifically attributed Pembina or Turtle Mountain descent.

Other sources have been accepted as providing useful information about the ancestors of the petitioner's include the Federal censuses of 1850 for Pembina County, Minnesota Territory, 1880 for Montana Territory, and 1910 and 1920 for the State of Montana. Those census records identified many of the petitioner's ancestors and provided information about their family relationships, but did not identify them as members of a tribe. The Roe Cloud Roll which was prepared by the Office of Indian Affairs about 1938 identified some of the petitioner's present members or their ancestors as unenrolled Indians.

Non-federal sources which have been accepted as providing information about an individual's tribal background, whether Chippewa or otherwise, include the published abstracts of records relating to the Métis population of the Red River Settlement in Canada. Those sources identified many of the petitioner's ancestors who were living at the Red River Settlement in 1835 or 1870. The 1873 and 1874 tax lists of Pembina County, Dakota Territory, placed some of the petitioner's ancestors in the vicinity of the Turtle Mountain Reservation. Abstracts of the marriage and baptismal records of St. Peter's Mission in Montana identified many of the petitioner's ancestors.

## **Little Shell (MT): Summary for the Proposed Finding**

### *Descent*

A majority of the petitioner's members trace their descent to an ancestor at a 19th century settlement at modern Pembina or St. Joseph, North Dakota, or Winnipeg, Canada. Those records established the presence of those ancestors in specific geographical settlements.

The available evidence indicates that a minority (33 percent) of the petitioner's members descend from ancestors who were related to members of the Pembina Band of Chippewa during the era of the treaty of 1863. Because these mixed-blood relatives of the treaty band were descendants of someone who had been a member of the band at an earlier time, the petitioner's members who descend from men who received treaty scrip as a relative of the Pembina Band therefore descend from a member of the band in a generation earlier than the treaty. The evidence also indicates that a minority (26 percent) of the petitioner's members descend from ancestors who were members of the Turtle Mountain Band during the era of the McCumber Agreement of 1892.

Some of the petitioner's members descend both from an ancestor who was a relative of a member of the Pembina Band and an ancestor who belonged to the Turtle Mountain Band. Because of marriages between the petitioner's family lines, there are multiple lines of descent and duplication of points of origin for the petitioner's ancestors. These measurements of descent from these two historical tribes, therefore, are not exclusive of each other.

If this duplication and double counting is eliminated in a way that gives priority to descent from the Pembina Band, which is the historical tribe cited in the petitioner's governing document, and next adds descent from the Turtle Mountain Band, its partial successor according to the Indian Claims Commission, then 33 percent (1,293 of 3,893) of the petitioner's members descend from the historical Pembina Band (based on the treaty of 1863 and McIntyre's report of 1880 on treaty scrip recipients) and an additional 15 percent (582 of 3,893) of the petitioner's members descend exclusively from the successor Turtle Mountain Band (based on an additional 395 members having descent from individuals on the 1890 and 1892 commission censuses and another 187 members having descent from individuals who were on the 1884-1900 family registers or the 1906 family history books of the Turtle Mountain Agency). Because the Turtle Mountain Band evolved from the Pembina Band, these exclusive lines of descent can be totaled to show that 48 percent (1,875 of 3,893) of the petitioner's members trace their ancestry back to the Pembina Band of Chippewa and its related Métis families, or to its successor.

If Pembina ancestry is assumed for the Chippewa element of the Rocky Boy's Band of Chippewa-Cree, as was done by the Indian Claims Commission and by the Bureau of Indian Affairs in preparing the 1994 judgment roll for the distribution of the Commission's award, then an additional 14 percent (543 of 3,893) of the petitioner's members with descent from a Rocky Boy's member of Chippewa ancestry, but not demonstrated descent from a Pembina Band or Turtle Mountain Band ancestor, could be included as individuals of Pembina Chippewa descent, bringing the total of members with

### **Little Shell (MT): Summary for the Proposed Finding**

Pembina Band ancestry to 62 percent (2,418 of 3,893).

If all of the descendants of the eight men on McIntyre's report who may be ancestors of some of the petitioner's members were counted, then potentially another 7 percent (289 of 3,893) could be added to the computation of the petitioner's members with Pembina Chippewa descent.

There are at least 433 individuals on the petitioner's membership list, about 11 percent of its members, who descend from an ancestor who was at the Red River Settlement in 1835 or 1870, but not from any of the ancestors identified as having had ancestry from the Pembina Band, Turtle Mountain Band, or Rocky Boy's Band. Almost all of these 433 individuals have at least one ancestor who was on the Roe Cloud Roll in 1938.

The petitioner did not submit genealogical charts for all of the new members on the 1987 membership list, or for any of the new members on its 1990, 1991, and 1992 supplemental membership lists. For individuals who were the children of individuals already in the genealogical database, the BIA's researchers attached that existing genealogical information to the new members who lacked a genealogical chart. In this fashion it was possible to connect some of these new members to their ancestors. However, the descent of many individuals on the 1987-1992 membership lists could not be attached to existing genealogical information. For example, about 900 individuals with 1987, 1990, 1991, or 1992 membership numbers have not shown descent from, or close collateral relationships to, someone on the Roe Cloud Roll. Because of this missing data, many of the petitioner's most recent members could not be counted as members who have descent from a historical tribe. It is possible that the petitioner will be able to show that a significant number of these individuals also descend from ancestors with established Pembina Chippewa descent.

#### *Conclusion*

The evidence establishes a reasonable probability that a strong majority of the petitioner's members descend from individuals with Pembina Chippewa ancestry.

#### **Criterion (f)**

- 83.7(f) The membership of the petitioning group is composed principally of persons who are not members of any acknowledged North American Indian tribe. . . .**

The BIA's review of the membership records in the Billings Area Office of the federally recognized tribes in that jurisdiction shows that 15 of the petitioner's members appear on the membership records of the tribes of the Rocky Boy's, Fort Belknap, or Blackfeet Reservations. These individuals appear to have one parent who is a member of the federally recognized tribe and one parent who is a member of the Little Shell petitioner.

**Little Shell (MT): Summary for the Proposed Finding**

Thus, less than 1 percent of the members of the petitioning group are members of any acknowledged North American Indian tribe.

Because very few of the petitioner's members are enrolled as members of a federally recognized tribe, its membership is composed principally of persons who are not members of any acknowledged Indian tribe.

**Criterion (g)**

**83.7(g) Neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship.**

No evidence available for this proposed finding indicates that the petitioning group was the subject of congressional legislation that prohibited or terminated a relationship between it and the Federal Government.

**Summary Conclusion**

For these reasons, the petitioner should be acknowledged to exist as an Indian tribe.

cc: SecySurname;SecyRF(2)  
BLASurname;Chron;101A;BureauRF;600(2);IAO;400;Hold  
440B:JohnDibbern/LeeFleming/GeorgeRoth/RitaSouther/jd/5/22/00/x3592/  
jkc:A:\SUMMARY.wpd  
revised 7/12/00  
A:\SUMMARY.wpd

Proposed Finding

LITTLE SHELL TRIBE OF CHIPPEWA INDIANS OF MONTANA

TECHNICAL REPORT

Technical Report for the Proposed Finding  
on the  
LITTLE SHELL TRIBE OF CHIPPEWA INDIANS OF MONTANA

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Technical Report for the Proposed Finding  
on the  
LITTLE SHELL TRIBE OF CHIPPEWA INDIANS OF MONTANA

INTRODUCTION

**Summary of the Evidence:**

The Little Shell Tribe of Chippewa Indians of Montana has petitioned for Federal acknowledgment that it is an Indian tribe. The Little Shell petitioner has used three separate teams of researchers to prepare its documented petition. Each of these three teams submitted one or more reports which provided a narrative or analysis of the evidence, plus supporting documentation. A petition narrative and documents were submitted in 1984 by C. Patrick Morris and Robert Van Gunten. A response to the Bureau of Indian Affairs' review of the petitioner's original documented petition was submitted in 1987 by Jack Campisi and William Starna. Additional research and documentation was provided from 1994 to 1997 by the team of Robert J. Franklin and Pamela A. Bunte.

The petitioner's essential argument, first set forth by Morris and Van Gunten in their narrative, is that the petitioner is the successor to the Little Shell Band of Chippewa Indians of the Turtle Mountain Reservation in North Dakota.<sup>1</sup> In addition, Morris and Van Gunten argued that the Turtle Mountain Band itself was a partial successor to the Pembina Band of Chippewa Indians which had negotiated treaties with the United States in 1851 and 1863. In their view, the Little Shell Band had been led by a succession of three hereditary chiefs known as Little Shell. Although the Turtle Mountain Band remains a federally recognized tribe today, Morris and Van Gunten argued that the third Chief Little Shell and his followers were purged from the tribe's membership rolls and forced off its reservation because the chief refused to sign the McCumber Agreement of 1892, by which the tribe agreed to cede its claim to territory in northern North Dakota in exchange for compensation from the United States. Morris and Van Gunten argued that in the years after 1892 Little Shell's band migrated to its buffalo-hunting territory in Montana and established a series of settlements across northern Montana which have persisted until the present.

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<sup>1</sup> Chippewa Indians are also referred to as the Ojibwa or Anishinabe. Because the petitioner calls itself "Chippewa," this report follows the petitioner's usage.

## Little Shell (MT): Proposed Finding - Technical Report

The petitioner has made two claims for its descent from a historical tribe. It has contended that its membership descends from the Turtle Mountain Band of Chippewa through the followers of Chief Little Shell. It also has argued, through researcher Franklin, that the group's members descend from the earlier Pembina Band of Chippewa, which he contended had included Cree ancestry as well as Chippewa ancestry, and from a Chippewa-Cree Métis aboriginal community along the Red River of the north. In contrast to Morris and Van Gunten's claim that Little Shell's Band was the full-blood Chippewa portion of the Turtle Mountain Band, Franklin and Bunte consistently referred to the petitioner's ethnic group as Métis, or individuals of mixed-blood Chippewa-Cree and French descent. The petitioner, however, offered no evidence of a historical tribe of Chippewa-Cree or Métis along the Red River at Pembina or in British territory.

Franklin and Bunte acknowledged that the migration of the ancestors of the petitioner's members to Montana had a more complex history than that presented by the original petition. Franklin and Bunte noted that ancestors of the petitioner's members were in Montana before 1892, especially at Lewistown and St. Peter's Mission before 1880. They emphasized the link of these early settlers of Montana to the Pembina Band rather than the Turtle Mountain Band. Without attempting to trace this migration over time in any detail, they asserted that these settlements were Pembina Métis communities because they contained an individual, or individuals, from Pembina. Franklin and Bunte also noted that the ancestors of the petitioner's members settled in Montana in two geographically separate areas: a triangular area of northern Montana between Havre, Lewistown, and Wolf Point, and an area along the Front Range of the Rocky Mountains south of the Canadian border. They recognized that the petitioner's ancestors lived, and its current members live, in geographically separate towns or areas spread for hundreds of miles across Montana. They argued that the petitioner's members and ancestors maintained social cohesion during the 20th century with high rates of intermarriage, residence in segregated neighborhoods of rural towns, and maintenance of a distinctive culture.

In contrast to Morris and Van Gunten's emphasis on an 1892 expulsion from the Turtle Mountain Band, Franklin and Bunte asserted that the Métis in Montana considered themselves to be Turtle Mountain members until some unspecified time in the 1910's or 1920's. Franklin and Bunte also argued, however, that in Montana during the first quarter of the 20th century the petitioner maintained political influence over its members through leadership within local settlements. The first formal organization in Montana which the petitioner claims as a predecessor was formed in 1927 in Hays. The petitioner's researchers contend that the petitioner has maintained organizational continuity since 1927, despite having used a series of different names for itself, and that this continuity was demonstrated by the consistent leadership of the organization, or organizations, from 1927 to 1963 by Joseph H. Dussome. The petitioner adopted its current organizational name and its current constitution in 1977.

The evidence available for this finding shows that a majority of the petitioner's members trace a line of their ancestry back to Métis, or mixed-blood, families along the Red River of the north, either to a settlement in British territory in the years between 1814 and 1870

### **Little Shell (MT): Proposed Finding - Technical Report**

known as the Red River Settlement (Winnipeg), now in Canada, or to settlements in United States territory in 1850 and later years at Pembina and St. Joseph (Walhalla), now in North Dakota. It is not known whether the petitioner's Métis ancestors along the Red River were mixed-blood Chippewa, mixed-blood Cree, or mixed-blood descendants of other tribes. The Métis residents of Pembina and St. Joseph, however, were described by contemporary observers as being related to and sometimes acting together with the Pembina Band of Chippewa. Some ancestors of the petitioner's members can be identified in records of the Métis settlers in the British Red River Settlement between 1835 and 1870, and in the records of the 1850 Federal census of Pembina County, Minnesota Territory. Although these records identified many of the petitioner's ancestors, these sources did not identify them as members of an Indian tribe.

With the available evidence, the ancestry of more of the petitioner's members can be traced to Pembina County of Minnesota Territory in 1850 than to any other historical origin. About 48 percent of the petitioner's members descend from 25 of their ancestors who were in Pembina County in 1850, probably at Pembina and to the west along the Pembina River and in the Pembina Hills. The Federal census of 1850 did not list tribal Indians, or Indians not taxed, so that census did not list members of a historical Indian tribe. The evidence available for this finding does not identify all of the petitioner's Indian and Métis ancestors in the 19th century. With the available evidence, the largest number of the petitioner's ancestors who have been identified as living in the same place at the same time, prior to their arrival in Montana, were the 46 families who were identified as Métis at the Red River Settlement in British territory about 1870, with the majority of them in St. Francois-Xavier Parish on the Assiniboine River, a tributary of the Red River. About 38 percent of the petitioner's members descend from the 46 ancestors listed among the Métis population in the British Red River Settlement about 1870. Residence in the Red River Settlement in British territory, however, did not constitute membership in a historical American Indian tribe.

The evidence available for this finding also shows that a minority of the petitioner's members trace a line of their ancestry back to members of a historical tribe, or relatives of tribal members, at a specific time. Approximately 33 percent of the petitioner's members descend from 22 men who were identified in an 1880 report as an individual who had received treaty scrip as an American "mixed-blood" relative of the Pembina Band under the provisions of the treaties of 1863 and 1864. These scrip recipients were descendants of someone who had been a member of the band at a time prior to the treaty. The recipients of scrip also affirmed that they were an adult citizen of the United States and had "adopted the habits and customs of civilized life." Another six scrip recipients who were ancestral to the petitioner were, according to that report, either from Red Lake or of non-Chippewa descent. The 1880 report found that these 28 men were living in geographically scattered locations, not living together in one place. Further research could increase the percentage of the petitioner's members who descend from treaty scrip recipients. At least 26 percent of the petitioner's members can be traced to an ancestor who was a member of the Turtle Mountain Band prior to the 1892 agreement. This percentage could increase with additional research if a larger number of Turtle Mountain

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rolls and censuses were examined. Some of the petitioner's members descend from both Turtle Mountain Band and Pembina Band ancestors.

The Pembina Band of Chippewa emerged in the early-19th century as a band associated with the trading post at Pembina on the Red River. The Pembina Band was recognized by the United States in treaty negotiations in 1851 and 1863, although only the 1863 treaty was ratified by the Senate. At that time, however, the Government's negotiators did not consider the Métis to be a part of the Chippewa tribe, and did not negotiate with them. After the treaty of 1863, the Pembina Band fragmented, with some members settling on reservations in Minnesota and others staying in the vicinity of the Turtle Mountains of North Dakota, west of the lands ceded by the treaty. The Turtle Mountain Band obtained a reservation in 1884. Before that time, however, children of the Pembina and St. Joseph Métis had relocated to several areas of central Montana. In these new settlements they were joined by some descendants of the Métis residents of the British Red River Settlement. Many of the Red River Métis migrated to the west after the failure of the Métis rebellion in Manitoba in 1870 led by Louis Riel. After the failure of a second Riel rebellion in Saskatchewan in 1885, some Métis ancestors of the petitioner's members moved into Montana and settled along the Front Range of the Rocky Mountains. Thus, Métis ancestors of the petitioner's members had established residence in Montana before the McCumber Agreement of 1892.

The McCumber Commission negotiated an agreement for the Government with the Turtle Mountain Band in 1892 in which the band relinquished its claim to territory in North Dakota. Although the Government's instructions to the Commission indicated that it generally did not consider the "mixed bloods" to be a part of the tribe, the Commission included the Métis in the negotiations and listed them on the tribal roll. The Commission, however, sought to exclude Canadians from membership in the tribe and the benefits of the agreement. When the Commission refused to agree to Chief Little Shell's demand for a larger reservation, Little Shell withdrew from the negotiations. The Commission concluded an agreement with members of the band who continued the negotiations, but Little Shell refused to sign it. The available evidence does not show that Chief Little Shell relocated to Montana after 1892, for there is evidence that Little Shell remained at the reservation throughout the 1890's until his death in 1901. The McCumber Agreement was not ratified until 1904 by Congress and 1905 by the band. When the Government approved membership criteria about 1906 to determine the recipients of the benefits of the ratified agreement, individuals who had not resided on the ceded territory in North Dakota at the time of the 1892 agreement were not considered eligible for enrollment in the Turtle Mountain Band.

In Montana, the petitioner's ancestors settled in two geographically separate regions, each of which covered a large expanse of territory. One settlement region was north-central Montana, including both the Highline,<sup>2</sup> the area along the railroad line across northern Montana, and the Lewistown area south of the Missouri River in central Montana. The

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<sup>2</sup> There are variant spellings of "Highline." This report follows the petitioner's usage.

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other settlement region was the Front Range, the area along the eastern edge of the northern Rocky Mountains. Some ancestors of the petitioner's members arrived in north-central Montana by the early 1870's. Included among them were some of the founders of Lewistown, in Fergus County, in 1879, and members of the Doney family who apparently settled in modern Phillips County during the early 1880's. Many of these early settlers had previous connections to the Métis settlements at Pembina and St. Joseph. The migration of some of the ancestors of the petitioner to the Front Range largely occurred after the failed Riel rebellion of 1885 in Saskatchewan. A minority of the early settlers on the Front Range had demonstrable ties to Pembina or St. Joseph, although about half appear to have had previous ties to the British Red River Settlement.

This divergent settlement pattern was revealed by the 1920 Federal census of Montana which showed ancestors of the petitioner's members to have been living mostly in north-central Montana in the adjacent counties of Phillips, Fergus, and Blaine, and along the Front Range in the counties of Lewis and Clark, Teton, and Glacier. In the 1910's, many of the petitioner's ancestors along the Front Range began moving out of isolated settlements along the rivers and canyons of the mountains and into the rural towns of the Front Range such as Choteau and Augusta. At least by the economic depression of the 1930's, many of the petitioner's ancestors in north-central Montana were moving into settlements on the fringes of the rural towns along the Highline of northern Montana, while other ancestors were moving into the small cities of Great Falls and Helena. Although many of the petitioner's ancestors lived in segregated areas of these towns and cities, the available evidence does not demonstrate the petitioner's contention that the majority of the petitioner's ancestors prior to the 1950's lived in an exclusively ethnic "enclave." In Lewistown, where the Métis were long-established residents, they did not experience such residential segregation.

Economic, educational, and residential discrimination by non-Indians against Métis in Montana during the 1930's and 1940's was described by contemporary observers and by modern interviewees who lived through those decades. Former residents of the segregated Indian or Métis neighborhoods described them as having been almost exclusively occupied by the petitioner's families, Métis from the Turtle Mountain and Rocky Boy's reservations, and Indians from other Montana reservations. The petitioner's families, however, typically lived in half a dozen different towns, reservations, or cities between the 1930's and 1950's. As a result, the segregated neighborhood of a town did not necessarily have a consistent composition over any substantial length of time, while the members of a family line became somewhat distributed throughout the Highline area or the Front Range area. Since the 1950's, the petitioner's members and their ancestors increasingly have moved to Great Falls, Helena, and other urban areas of the state.

The amount of cultural differences between the Métis and non-Indians was already decreasing in the 1930's. A Métis or "Michiff" culture, which originated in the Red River and Pembina settlements and which was distinct from both white culture and reservation Indian cultures, persisted among older Métis adults who had been born in rural areas, but diminished rapidly among the generation that grew up in towns and cities from the 1930's

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until 1950's, the individuals who are the older adults among the petitioner's members today. Accounts by people who grew up in the 1930's consistently indicate that few of them learned either the Michiff language or French. Interviews indicate that the full-scale traditional New Year's celebrations, one of the most distinctive Métis social and cultural practices, came to an end around 1950, as the older generation was reaching the end of its lifespan.

Although Métis migrants to Montana settled in a variety of locations in the state, a pattern of intermarriage among Métis families established a basis for the later emergence of Métis social groups. Almost all of the families ancestral to the petitioner were Métis married to Métis when they arrived in Montana. Once in Montana, these Métis families intermarried extensively with other Métis families in the state. The rate of Métis in-marriage remained above 50 percent for individuals born before 1919, for new marriages until the 1940's, and for existing marriages until the end of the 1960's. Each Métis family line generally had marriages with a substantial number of other Métis lines within their geographical region. Thus, extensive kinship ties between a Métis family line and numerous other Métis family lines, ranging across several generations, resulted from this high rate of in-marriage among the Métis. Although Métis in-marriages are now rare, substantial kinship ties among them remain because of the extensive intermarriage of past generations. The Métis in-marriages were localized to the extent that marriage between individuals from the two well-separated geographical areas, the Highline and the Front Range, was uncommon during any time period. Intermarriages among the Métis occurred within the geographical boundaries of these regional settlement areas, not across them.

From 1927 until 1963, Joseph H. Dussome was a leader of several successive organizations, or of a continuing group of supporters which adopted several names. In 1927 Dussome was chosen as the "Chief Headman" of "the lost band of the Chippeways," which he also later referred to as the "Abandoned Chippewa Indians of Montana." In 1935 Dussome was chosen as president of the "Non-Treaty Chippewa-Cree Indians of Northern Montana." In 1939 Dussome was one of three persons elected as a member of the executive committee of an organization which began calling itself the "Pembina Band of Chippewa Indians," and Dussome soon was referred to as the president of the executive committee. In 1949 Dussome was elected president of the "Little Shell Band of Chippewa Indians, known as the Landless Indians of Montana." From the mid-1930's until the mid-1950's, Dussome's leadership of the landless Indians or unenrolled Chippewa descendants in Montana was challenged by another organization which adopted the name of the "Montana Landless Indians." In general, Dussome's supporters came from the Highline towns and the Lewistown area of north-central Montana, while the Montana Landless Indians drew its support from the Front Range and the cities of Great Falls and Helena.

After the passage of the Indian Reorganization Act in 1934, the Government sought to purchase land for the "landless" or unenrolled Indians of Montana who met the act's definition of an Indian as an individual of one-half or more Indian blood. During the last half of the 1930's, Government agents sought to create a roll of such Indians, whom they

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came to refer to as the landless Cree-Chippewa Indians of the state. During the application process, the Office of Indian Affairs used Joseph Dussome as a member of its advisory committee and began referring to him as the leader of a group of landless Indians in the state. The result of this enrollment effort was the so-called Roe Cloud Roll of the landless Indians of Montana, which was originally compiled in 1938, but not approved until the 1940's. The Government, however, decided not to use the land purchased under the Indian Reorganization Act as a new and separate reservation for the individuals on the Roe Cloud Roll, but instead added the land to the existing Rocky Boy's Reservation. Thus, the Government did not attempt to organize these unenrolled Indians as a tribe under the provisions of the act. The petitioner, however, now finds applicants eligible for membership in the group if they can trace their ancestry to a person on the Roe Cloud Roll, and 66 percent of the petitioner's members are the lineal descendants of an individual on that roll.

Joseph Dussome used a variety of arguments about the origins of his group while advocating its claims cases against the United States. In 1931 he argued that his group of Montana Chippewa was descended from the Pembina Band of Chief Red Bear, not from the Turtle Mountain Band of Chief Little Shell, and claimed that his group was in Montana long before the McCumber Agreement of 1892. In 1936 he argued that his Chippewa-Cree group was aboriginal to northern Montana and had been located there from time immemorial. Dussome and his group began referring to themselves in 1939 as the Little Shell Band only after proposed congressional bills, which were not enacted, provided that the Chippewa band of Thomas Little Shell, a living Indian leader in North Dakota, could bring claims against the Government in the Court of Claims. After the passage of the Indian Claims Commission Act in 1946, the Little Shell Band in the 1950's submitted a claim for compensation for the aboriginal territory in Montana of the Cree-Chippewa tribe, but the Commission dismissed this claim. When the Commission accepted the Little Shell petitioner's stipulation that it had been part of the Pembina Band in 1863, it allowed the claims of those members of the Little Shell Band who were descendants of the Pembina Band to be incorporated into other cases, and allowed such members to obtain a share of the awards made by the Commission to the descendants of the Pembina Band and the Turtle Mountain Band.

The first clear identification of a portion of the petitioner's ancestors as an Indian or Métis group by an external observer, in the available evidence, was made in the mid-1930's during the Roe Cloud Roll enrollment process in a reference to Dussome's group. During the 1940's and early 1950's, the Bureau of Indian Affairs noted the existence of two competing organizations. Since 1949, the petitioner's group has been consistently identified as the Little Shell band or as the Landless Indians of Montana by various external sources. These include identifications by the state of Montana and local newspapers, as well as by the Bureau of Indian Affairs and the Indian Health Service. Other identifications have been by local officials in Montana and recognized Montana Indian tribes, as well as in the writings of several scholars. The state of Montana has accorded the Little Shell group a status similar to that of the several federally recognized Indian tribes in the state. The group has been included since at least 1952 as a member of

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the state-sponsored Inter-Tribal Policy Board, which advises the State government of Montana. The Governor of Montana in 1992 urged the Department of the Interior to recognize the Little Shell band.

The organization of the Little Shell band or Landless Indians of Montana utilized several means, between 1949 and 1992, to maintain contact between its leaders and its members who were living in a number of widely separated settlements across a broad geographical area. After the mid-1950's, Dussome's organization was essentially uncontested as a single organization of "landless" Indians, and thus lost its former regional character. One means of political communication was an annual meeting at which the organization's officers were elected. Until at least 1961, these were two-day affairs which were social as well as political gatherings. Only a small proportion of the membership attended each meeting, perhaps because members traveled long distances to attend them. Quarterly council meetings have been public meetings of the membership, and the geographical rotation of those meetings has been used as a means of communicating information and generating support for the group's activities. The Little Shell organization also has used district or area representatives, individuals who represented particular localities and were, much of the time, locally elected. During Dussome's tenure from 1949 to 1963, district representatives conducted fund raising locally to support his efforts. Since 1949, the district or area representatives have served to carry information from the council and officers to the members, and to organize local meetings. They have been expected to play a role in bringing the views and opinions of members to meetings of the organization.

The Little Shell organization dealt with several different issues between 1949 and 1992. From the 1950's until the early 1970's it continued its earlier efforts to obtain land or other Federal assistance to alleviate the poor economic circumstances of its members. Access to Federal services to Indians has been an important concern periodically expressed by members to the council from at least the 1970's until the present. Since approximately 1970, the petitioner's members have received some educational services from the Bureau of Indian Affairs and some health services from the Indian Health Service as individuals, based on their blood degree. One of the activities of the Little Shell council has been dealing with these Federal agencies to obtain services for its members. Action on these issues were responsive to members' immediate concerns and needs. In contrast, much of the organization's efforts after 1951 involved its claims before the Indian Claims Commission. It sought to hire attorneys and to be recognized by the Indian Service as the legitimate group to pursue a claim on behalf of the "Little Shell Band." After awards were made by the Commission, it sought, unsuccessfully in 1971 and successfully in 1982, to have a portion of the funds set aside for group use, subject to the group's becoming a federally recognized tribe. The Little Shell office helped compile the Little Shell portion of the judgment roll, completed in 1994, for the payment of the judgment for Turtle Mountain territory taken by the United States in 1905.

Formal organizational activity was limited for several periods between 1963 and 1992. For a span of two or three years, records of meetings and of activities by officers were sparse or absent. In some instances, scheduled elections were not held. A new, younger

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group of leaders became active in the middle to late 1970's, revitalizing the organization. Among their efforts was the adoption of a constitution in 1977. Also in 1977, the organization changed its name from the Landless Indians of Montana or the Little Shell Band of Chippewa Indians of Montana to the Little Shell Tribe of Chippewa Indians of Montana. There have been no inactive periods for the organization since 1977. The annual Joe Dussome Day celebration, the only social event involving the entire membership, has only been held since 1990. These events have drawn between 200 and 300 individuals, usually from the region where the event was held. In the organization's first statewide election in 1994, 18 percent of the eligible voters voted. In 1996, voting participation was 15 percent.

Several political conflicts within the Little Shell since 1992 demonstrate the political functioning of the petitioner's modern organization. Information and opinion about political events are broadly communicated through informal means, along kinship lines and otherwise. Leading figures in political conflicts since 1992 report receiving complaints and inquiries about these conflicts from many Little Shell members. Membership discontent with having elections held at the annual meetings led to a change in 1994 to voting by ballots cast at polling places around the state or by absentee ballot. Widespread political discontent with the functioning of the tribal office led to moving the office in 1995 from Havre to Great Falls. This discontent also led to the removal of the chairman from office in 1995. The election of a controversial individual as chairman in 1997 was soon followed by his removal as a result of substantial protests by members. Strong political opinions about this were widespread among members and resulted in a substantial amount of communication with political leaders. The area representatives, reflecting the opinions of members, played a substantial role in each of these political conflicts, including changing the voting procedures in 1994 and the removal of the chairman in 1997.

The rural towns, small cities, and Indian reservations where most of the petitioner's members live today cover a very large geographical span. For example, the distance from Wolf Point, at the eastern end of the Highline, to Browning, at the northern part of the Front Range, is 371 miles by road. There are no longer distinct settlement areas made up largely or exclusively of Little Shell members and other Métis and reservation Indians, although a sizeable minority of members live in the rural towns where the petitioner's Métis families settled from the 1910's through the 1930's. The largest single concentration of members today, 17 percent of them, is in Great Falls. About 19 percent of members live in Highline towns and Lewistown, while another 10 percent live along the Front Range. The members who live outside the state of Montana, principally in nearby western states, constitute 30 percent of the total membership. An out-of-state population has not been long established, but is the result of migration of members out of Montana since the 1940's or 1950's.

The available interview data reveal that, at present, individual adult members of the Little Shell maintain informal social contact, within portions of the two geographical regions of traditional settlement, with at least some other Little Shell members outside of their

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immediate, primary kin. Present-day interviewees, in discussing informal social contacts since 1950, demonstrate substantial social knowledge of some other Little Shell members within their region, who are not close relatives, based on informal contacts throughout their lives. Acquaintance is based on kinship and on past common residence in the segregated neighborhoods of towns or in other settlements, or participation in Métis social events such as the large, multi-day New Year's celebrations. Kinship relations are maintained well beyond immediate primary kin, and are part of the basis for informal social relations within portions of the two regions. The high rate of intermarriage in previous generations established a broad range of kinship connections between certain family lines in their respective regions. There is a significant amount of informal social interaction among Little Shell members in the towns and rural areas within the Front Range and the Highline-Lewistown regions. In the city of Great Falls there is less informal social contact among the resident population than in the rural areas. However, neither informal social contacts nor significant kinship ties extend, or have extended, between the two separate residential regions of the Highline and the Front Range.

Some small cultural differences survive today among a large proportion of the petitioner's population, primarily some traditional foods and aspects of New Year's celebrations. There remain some fluent speakers of the Michiff language, but none of the fluent speakers was born after 1934 and there appear to be few young adult speakers. There was no evidence that the Little Shell people today face the widespread discrimination that occurred in the past. Little Shell members informally identify themselves as Métis, distinct from both non-Indian and Indians of the various Montana reservations. An alternative identification is as Chippewa. Although they also consistently identify themselves as "Little Shell people," their descriptions of their family histories and backgrounds only infrequently reference Chief Little Shell or his band.

The petitioner's governing document is a constitution dated September 10, 1977. The constitution states that all members of the group must have applied for membership and had their application approved by the executive committee. Membership in the petitioner's organization, according to the constitution, is open to any Indian of Pembina descent and 1/4 degree Indian blood. A resolution adopted in 1987 clarified the constitution's membership criteria to make them consistent with what the petitioner viewed as the "historical and contemporary understanding" of its members. That 1987 resolution stated that the organization's membership consists of "those Little Shell Chippewa Indians, also referred to as Pembina Indians," who were listed on or eligible for enlistment on the Roe Cloud Roll, and the descendants of those members. Although members who descend from someone on, or eligible to be on, the Roll Cloud Roll are required to possess 1/4 degree Indian blood, the 1987 resolution stated that their children with at least 1/8 degree Indian blood are eligible for membership. The petitioner's membership records reflect that the group follows the criteria in its 1977 constitution and 1987 resolution.

The petitioner's official membership list, dated 1987, plus subsequent supplemental lists from 1990, 1991, and 1992, and minus deceased members and duplicate entries, produces

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a current membership list which contains the names of 3,893 members. These membership lists were certified by the group's council. The petitioner also submitted, as the group's previous membership lists, a 1978 list of applicants and a 1984 membership list. As a result of the petitioner's re-enrollment program in the 1980's, individuals on the earlier lists who were members of federally recognized tribes, who were deceased, or who did not fill out an application were removed from the membership list. However, children, parents, and siblings of members, as well as other descendants not previously enrolled, were added to the membership list. The petitioner has not updated its membership list since 1992, and it has more than 200 applications pending for membership.

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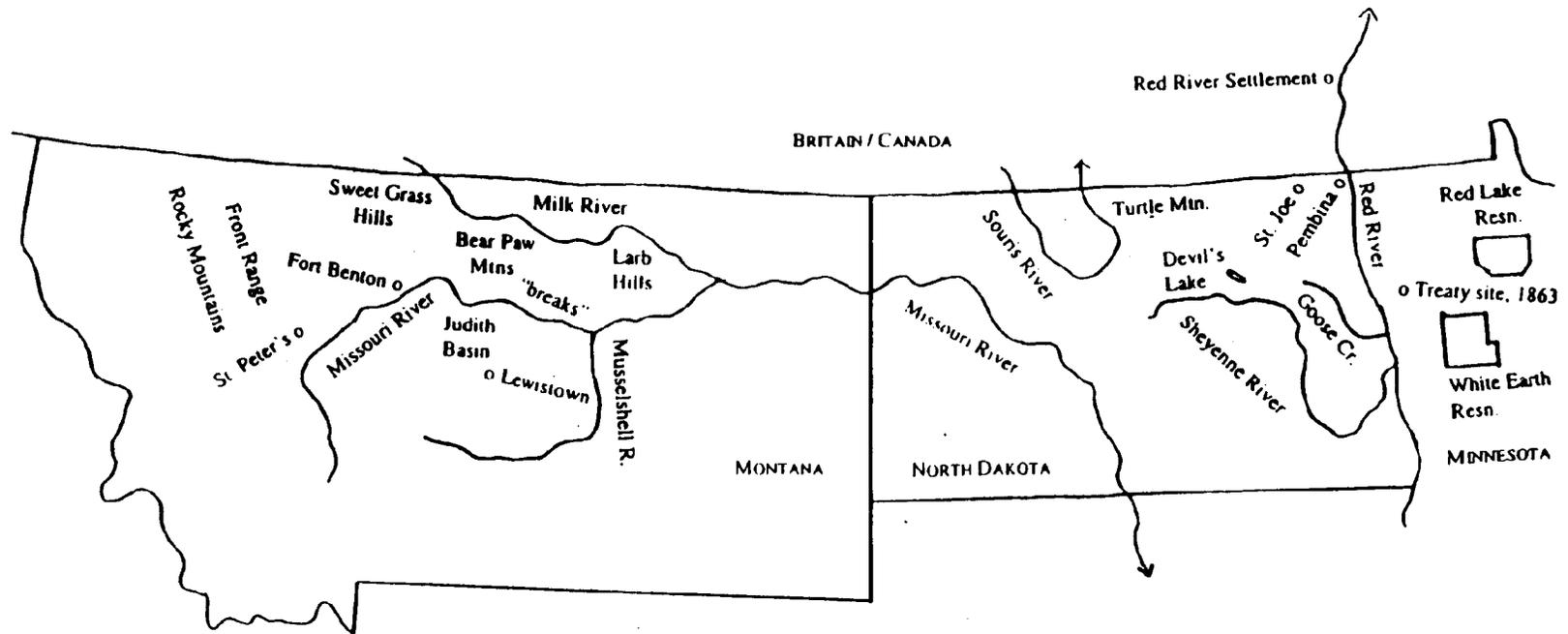


FIGURE 1: AREA MAP, 19th CENTURY

Source: Branch of Acknowledgment and Research



## TECHNICAL REPORT

### **The Red River Chippewa and Métis, 1790's - 1850's:**

The petitioning group, the Little Shell Tribe of Chippewa Indians of Montana, claims to have evolved from a federally recognized Indian tribe, the Turtle Mountain Band of Chippewa Indians of North Dakota, which had been led by a succession of three hereditary chiefs known as Little Shell. The Turtle Mountain Band evolved from the earlier Pembina Band of Chippewa Indians which had entered into treaty negotiations with the United States for a cession of its territory along the Red River of the north as early as 1851. The available genealogical evidence on the members of the petitioning group indicates that about one-third of them trace a line of their ancestry back to a man who received land scrip as a "mixed blood" relative of a member of the Pembina Band under the provisions of treaties of 1863 and 1864. In addition, a majority of the petitioner's members trace a line of their ancestry back to Métis families along the Red River in the mid-19th century, either to a settlement in British territory at the Red River Settlement (Winnipeg) or to a settlement in United States territory at Pembina or St. Joseph (Walhalla). Historical observers and modern scholars have noted that the Chippewa and Métis in the vicinity of the Red River were related to each other and associated with each other in various activities, but also referred to them as separate groups with different cultures. The documentation from the early and mid-19th century includes examples of cooperation between the Chippewa and Métis, but also examples of separate leadership of the two groups.

Aboriginal Chippewa, or Ojibway, territory included lands bordering the Great Lakes and lands on both sides of what became the international boundary line between the United States on the south and British possessions and Canada on the north. During the 1700's, the Chippewa were expanding westward and pushing the Sioux out of what is now northern Minnesota. The area that is now eastern North Dakota was occupied during the 1700's, some evidence suggests, by Sioux, Assiniboine, Cheyenne, and perhaps Arapaho and Hidatsa groups. According to most scholars and the Indian Claims Commission, the western extent of Chippewa territory south of the international boundary did not reach the Red River of the north, the current boundary between the states of Minnesota and North Dakota, until the end of the 18th century (see Figure 1). Some anthropologists, however, have concluded that Chippewa hunting territory at the end of the 18th century had reached as far west as the Turtle Mountains, the wooded hills rising slightly above the treeless prairie in northcentral North Dakota. This westward expansion of the Chippewa has been explained by citing the pressure of population migration from the east, the decreasing supply of game in northern Minnesota, and the establishment of fur-trading posts on the Red River, which flows north to Lake Winnipeg and towards Hudson's Bay (Mooney 1907, 277; Hickerson 1956, 292, 295, 308; Stewart 1956, 351; Howard 1965,

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12-13, 15; Robinson 1966, 24, 26; Ind.Cl.Comm. 1970, 328; Ewers 1974, 23; Ind.Cl.Comm. 1974, 473; Wheeler-Voegelin 1974, 3-7; Camp 1984, 42-43; Murray 1984, 15; Tanner 1992, 44, map at 54).

The Métis, or mixed-blood, population of the early-19th century was centered in the Red River Valley, especially at the Red River Settlement (modern Winnipeg) and at Pembina, which was in British territory before 1818 and in American territory after 1818.<sup>2</sup> The Métis were the offspring, or descendants of the offspring, of non-Indian fathers, usually French-Canadian fur trappers or traders, and Indian mothers, usually Cree or Chippewa women. Visitors to the Red River region in the mid-19th century described cultural differences between the Chippewa and Métis. A modern tribal historian of the Turtle Mountain Chippewa has argued that the perceived differences between “full-blood” Chippewas and “mixed-blood” Métis were based on real differences in the cultural practices of the two groups (Gourneau 1971, n.p.). The leading historian of the Métis, Joseph Kinsey Howard, has argued that the Métis constituted a “new race” and that Pembina was its core or “first capital.” The distinctiveness of the Métis stemmed from their lack of full acceptance by either white or Indian societies. Howard’s interpretation was that a Métis identity as a distinctive ethnic group and a new “nation” was first formed out of a political and military rebellion against British authority in 1816 (Howard 1952, 28, 36, 42). The culmination of this ethnic or national identity was the failure of the Métis rebellions against Canadian rule led by Louis Riel in 1870 and 1885, and the dispersal of the Red River Métis population (Howard 1952, *passim*; Sprague and Frye 1983, 28).

A fur-trading post at Pembina, on the west side of the Red River near the mouth of the Pembina River and just south of the future international boundary, may have been established as early as 1780 (Howard 1952, 31). An enduring fur-trading presence on the Red River at Pembina, however, began with the creation of North West Company posts at Pembina, at first by Charles Jean Baptiste Chaboillez in 1797 and later by Alexander Henry in 1801 (Senate 1900, 46-48; Robinson 1966, 58-59; Wheeler-Voegelin 1974, 9). When Chaboillez founded his post during the winter of 1797-98, there were no permanent Chippewa villages in the vicinity of Pembina (Hickerson 1956, 305; Chaboillez 1959 *passim*; Wheeler-Voegelin 1974, 10; Camp 1984, 44). The bands which traded at his post were described by Chaboillez as bands which wintered on other rivers, and not as a Pembina band of Chippewa (Hickerson 1959, 415). Henry also initially identified the bands with which he traded as visiting from their locations on specific lakes in Minnesota (Hickerson 1956, 296). Although a permanent settlement did not develop at Pembina during Henry’s tenure from 1801 to 1807, anthropologists have argued that the Indians and Métis who traded at the post began to develop a semi-permanent presence around the

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<sup>2</sup> The Red River drainage basin, which included the post at Pembina, was not part of the Louisiana Purchase because its waters flow to the north, not south into the Missouri and Mississippi Rivers. The boundary line between the territories of the United States and Great Britain was set at the 49th parallel between the Lake of the Woods and the Rocky Mountains by the Convention with Great Britain of October 20, 1818 (Statutes 1818, art 2).

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Pembina post (Hickerson 1956, 315, 317; Wheeler-Voegelin 1974, 54-55, 60). Anthropologists Harold Hickerson and James Howard have identified this new trading post band of Indians as the nucleus of the Pembina band of Chippewa (Hickerson 1956, 289; Howard 1965, 16).

The first identification of the Red River or Pembina Chippewa as a separate band appears to have been made about 1804 by Meriwether Lewis. Although the Lewis and Clark expedition did not visit the Red River, Lewis included in his statistical table of the tribes of the area a group of Chippewa on the Red River about the mouth of the Pembina River (Hickerson 1956, 319; Wheeler-Voegelin 1974, 45-46). The records of fur trader Alexander Henry at Pembina suggest that the area west of the Red River was a hunting territory which the Chippewa had to contest with the Assiniboine and Cree. In the spring of 1804, Henry and his men established a new post in the Pembina Mountains among a band of Assiniboine (Wheeler-Voegelin 1974, 34, 38-39). In 1806, Henry found Cree and Assiniboine camped at the western end of Turtle Mountain (Ind.Cl.Comm. 1970, 333). Henry mentioned a Chippewa headman named Little Shell<sup>3</sup> (Petite Coquille) during the years from 1801 to 1808, although he identified Tabeshaw as the chief of this group (Ewers 1974, 29). This chief apparently was killed in a battle with a party of Sioux in northern Minnesota about 1807, while Little Shell was one of the few Chippewa survivors (Warren 1885, 354-355; Senate 1900, 56, 72; Wheeler-Voegelin 1974, 51-52; Hickerson 1956, 324, and 1988, 95). Henry indicated that in 1808 Little Shell acted as the commander of a Chippewa war party against the Sioux (Senate 1900, 61). John Tanner, a non-Indian who lived for many years as a Chippewa, referred to Little Shell (Ais-ainse, or the little clam) as a "chief" of the "Ojibbeways of Red River" in the 1810's (Tanner 1830, 157-160, 171).

The anthropologist Harold Hickerson has speculated that a dispersion of the Red River Chippewa occurred after Henry closed his trading post in 1808, and that some Chippewa may have gone west to the Turtle Mountains (Hickerson 1956, 326-329). John B. Bottineau, a late-19th century claims attorney who represented Chief Little Shell, asserted in 1878 that the Chippewa had acquired the territory of northcentral Dakota prior to 1830 (Bottineau 2/16/1878, 3). Hickerson has concluded that the Chippewa occupied all of northern Dakota by the 1830's, but that during the first half of the 19th century Chippewa bands were scattered among Cree, Assiniboine, and Métis (Hickerson 1988, 9-10). The historian Gregory Camp has claimed that a Turtle Mountain band of Chippewa had emerged as a new tribal group as early as the late 1820's, but he has not documented that claim with primary sources (Camp 1984, 46-47). Contemporaneous identifications of a Turtle Mountain band of Chippewa before the 1840's have not been found. In one possible reference to a permanent Chippewa presence west of the Red River, the journal of John Tanner noted that, sometime after 1808, he was invited by Little Shell to visit the chief's residence at "Spirit Lake," which may have referred to a lake in Minnesota or to Devil's Lake in North Dakota (Tanner 1830, 170; Hickerson 1956, 326; Wheeler-Voegelin 1974, 55-56).

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<sup>3</sup> This would have been the first Chief Little Shell.

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Other evidence indicates that while Chippewas were hunting west of the Red River during the first half of the 19th century, it was to some extent still a contested area. When an expedition to determine the location of the international boundary line, led by Major Stephen Long, visited Pembina in 1823, its journal referred to the middle Red River Valley as “debatable land, which both Chippewas and Dacotas [Sioux] claim, and upon which both frequently hunt, but always in a state of preparation for hostilities” (Keating 1824, 2:9). A boundary line between the Chippewa and the Sioux was defined by a treaty made by the United States with various tribes in 1825, but that line was not extended west of the Red River. The westernmost boundary between these tribes, according to this treaty, was the Red River, except that the treaty did not set a boundary for Chippewa territory north of Goose Creek (Statutes 1825, art.5; Interior 11/13/1888, 133; Wheeler-Voegelin 1974, 87-90). Some maps of the United States prepared between 1832 and 1839, the Commissioner of Indian Affairs argued in 1882, labeled the area west of the Red River and north of Devil's Lake as Chippewa territory (BLA 6/7/1882, 26; Ind.Cl.Comm. 1970, 333). Geologist David Dale Owen visited the Red River Valley in 1848 and described the area as “a contested hunting-ground” between the Chippewa and the Sioux (Owen 1852, xxvii).

Observers of the Métis prominently mentioned the large group expeditions they undertook to hunt buffalo on the plains west of the Red River. Métis from both the Red River Settlement, in British territory, and Pembina, in American territory, hunted buffalo south of the international boundary. Most of the predominantly Métis residents of Pembina were absent on a 45-day buffalo hunt on the prairies when Long's expedition arrived there in 1823 (Keating 1824, 2:39). The most detailed account of a Métis buffalo hunt in Dakota was provided by Alexander Ross, a resident of the Red River Settlement. Ross described a buffalo-hunting expedition which left the Red River Settlement for a rendezvous with other Métis at Pembina in June 1840. Following customary procedure, a council was held at Pembina to choose the leaders, or “captains,” to command the group and set the rules to be observed during the hunt. The senior captain elected for this expedition was Jean Baptiste Wilkie, whom Ross described as “an English half-breed, brought up among the French. . . .” This expedition consisted of 1,630 people. Because the buffalo herds already had been significantly depleted and had their range contracted, this 1840 expedition had to travel 19 days and 250 miles to the west and south before it encountered buffalo (Ross 1856, 245-265). Governor Isaac Stevens of Washington Territory encountered Métis buffalo-hunting parties from both Pembina and the Red River Settlement during his 1853 exploration of a western railroad route. He said that the Pembina group consisted of about 1,300 people and was under the leadership of “Governor” Wilkie (Stevens 1854, 399).

Both 19th-century writers and modern anthropologists have noted that small parties of Chippewa often accompanied the Métis on their semi-annual buffalo hunts during the first half of the 19th century (Hickerson 1988, 10). Alexander Ross indicated that about 40 or 50 Chippewa were “attached as camp-followers to the expedition” of 1840. These Chippewa and the Métis, he said, were “mostly all related. . . .” (Ross 1856, 269-270). The artist Paul Kane described a buffalo hunt which he accompanied in 1846. This



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TABLE 1

PETITIONER'S ANCESTORS: BRITISH RED RIVER SETTLEMENT, ca. 1835

<u>Name / ID No.</u>	<u>Parish</u>	<u>Lot</u>	<u>Notes</u>
George Fidler [b.<1807] # 1541	St. Francois-Xavier, Assiniboine R.	83	
Charles Gladue [b.1776] # 1969	St. Francois-Xavier, Assiniboine R.	141	a,f
James Short [b.1809] # 4367	St. Francois-Xavier, Assiniboine R.	149	b
Andre Trottier [b.1791] # 4711	St. Francois-Xavier, Assiniboine R.	164	d,e,f
Eusebe LeDeoux [b.1811] # 2870	St. Francois-Xavier, Assiniboine R.	171	
Oliver LaRoque [b.1797] # 2792	St. Francois-Xavier, Assiniboine R.	177	e,f?
Louis Gardipee [b.1782] # 1898	St. Francois-Xavier, Assiniboine R.	181	a
Angus McGillis [b.1775] # 3357	St. Francois-Xavier, Assiniboine R.	184	a
Antoine Houle [b.1787] # 2221	St. Francois-Xavier, Assiniboine R.	191	c,e
George Kipling [b.1801] # 2298	St. Clement, Red River	24	e
Peter Whitford [b.1795] # 5180	St. Andrew, Red River	30	
James Anderson [b.1775] # 79	St. Andrew, Red River	98	a,b
Joseph LaFournaise [b.1776] # 2527	St. Boniface, Red River	112	b,c,[d]
Jean Baptiste Wilkie [b. ?] # 5186	St. Vital, Red River	13	[d],f
John Kipling [b.1770] # 2293	St. Norbert, Red River	205	b
Alexis Belgarde [b.1800 ca.] # 270	St. Norbert, Red River	96	d,f?

SOURCE: Sprague and Frye 1983, table 2.

NOTES:

Except as noted, all of these men were identified as "Metis" in Sprague and Frye 1983, table 1.

<sup>a</sup> Individual was identified as "European" in Sprague and Frye 1983, table 1.

<sup>b</sup> A spouse of the individual was identified as "Indian" in Sprague and Frye 1983, table 1.

<sup>c</sup> Individual's "race" was not cited in Sprague and Frye 1983, table 1.

<sup>d</sup> On the 1850 Pembina census. <sup>[a]</sup> Son on the 1850 Pembina census.

<sup>e</sup> In the Red River Settlement, ca. 1870.

<sup>f</sup> Son received 1863 treaty scrip. <sup>[?]</sup> Son a possible treaty scrip recipient or applicant.

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expedition left from the Red River Settlement, without traveling to Pembina, and hunted south of the international boundary and west of Red River. Kane noted that a "small party" of Chippewa accompanied the Métis on this hunt. He offered the opinion that the Chippewa did "not venture to hunt in the plains except in company with the half-breeds" (Kane 1859, 51-56). Both U.S. Army Major Samuel Woods in 1849 and Minnesota Governor Alexander Ramsey in 1850 reported that some Chippewa joined the buffalo-hunting caravans of the Red River Métis (Woods 1849, 25; Ramsey 1850, 58). During his 1853 exploration of a western railroad route, Isaac Stevens reported that a "small band of prairie Chippewa Indians accompanied" the Métis party (Stevens 1854, 399). Only the Chippewa historian William Warren, in a manuscript written in 1852, contended that the Pembina band hunted buffalo and other game on the prairies west of the Red River without noting their cooperation with the Métis (Warren 1885, 40).

Genealogical researchers D.N. Sprague and R.P. Frye have compiled a table of the individuals who were awarded land in the Red River, or Selkirk, Colony in British territory between 1814 and 1835 (Sprague and Frye 1983, 33, table 2). This table contains the names of at least 16 ancestors of the petitioner's members (see Table 1). These ancestors were living in six different parishes of the Red River Settlement (see Figure 2). There were nine ancestors in St. Francois-Xavier Parish, two in St. Andrew Parish, two in St. Norbert Parish, and one each in St. Boniface, St. Clement, and St. Vital Parishes. In addition, Sprague and Frye's table contains individuals with surnames which are found among the petitioner's ancestors, but who can not be identified as ancestors of the petitioner on the basis of the available evidence. Therefore, there were probably more ancestors of the petitioner in the Red River Settlement than can be identified from this source. The 16 families identified in the 1814-1835 records for the Red River Settlement have 1,067 descendants in the petitioner's modern membership. Thus, about 27 percent (1,067 of 3,893) of the petitioner's members are descendants of early-19th century residents of the Red River Settlement. However, two of these household heads and the son of two others appeared later on the 1850 census of Pembina County. Thus, some of the petitioner's members who descend from an individual in the British Red River Settlement before 1835 also descend from someone in Pembina County in United States territory in 1850.

Pembina was described as being a Métis rather than a Chippewa settlement as early as the 1820's. When Major Long's expedition arrived at Pembina in 1823, the expedition's journal referred to the Métis as forming at least two-thirds of the town's population of 350 persons. The journal described the Pembina settlement as consisting of sixty log houses or cabins (Keating 1824, 2:39). It did not refer to a resident Chippewa band. An American Fur Company post was reestablished at Pembina in 1844 by trader Norman Kittson (Murray 1984, 19). Pembina was visited in 1849 by a U.S. Army expedition under the leadership of Major Samuel Woods. According to Captain John Pope of the expedition, Pembina was a "settlement of half-breeds" who, in his opinion, had "no appearance whatever of the Indian. . . ." (Pope 1849, 77, 79). Major Woods described the Métis as "a distinct class of people . . . differing materially from the Indian and the American . . . in manners, customs and pursuits. . . ." The Métis gave Major Woods a list

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of the residents of Pembina, not including Indians, which totaled 177 families and a population of 1,026 (Woods 1849, 26-27). Alexander Ross of the Red River Settlement disparaged this population estimate, however, claiming that he could not find 500 people at Pembina, although he agreed that the "squatters" there were Métis (Ross 1856, 403-406).

The Catholic missionary George Belcourt put the Métis population of the Red River region in 1849 at over 5,000 (Belcourt 1849, 36). Major Woods apparently accepted this population figure, but concluded that over 4,000 of the Red River Métis lived outside the United States (Woods 1849, 27). Governor Alexander Ramsey said that the Red River Métis had a population of 1,100. The Governor described the Métis as "mostly of a mixed descent of Chippewa and Canadian French" (Ramsey 1850, 63). The United States census of Minnesota Territory for 1850 listed about 1,123 people in the Pembina district (Tanner 1906, 184; Robinson 1966, 68; White Weasel n.d., 105-124). This extensive district ran west from the Lake of the Woods to the Missouri River, and extended south from the international boundary to the mouth of the Sheyenne River (Thorndale 1987, 171, 259; White Weasel n.d., 105) (see Figure 3). The census indicated that over 64 percent of the residents of the Pembina district were born in Canada and that 79 percent of males over 15 years of age were buffalo hunters (Tanner 1906, 184). The historian Stanley Murray has said that 1,049 individuals on this census were Métis residents of the area (Murray 1984, 19). The instructions for census-takers stated that, "Indians not taxed are not to be enumerated in this or any other schedule" (Commerce 1979, 14). The inclusion of the Red River Métis on the 1850 census was an indication that the census enumerator did not consider them to be tax-exempt or tribal Indians.

The 1850 Federal census of Pembina County, Minnesota Territory, also called District Number 7, listed 188 households in the district (Census 1850; White Weasel n.d.). This census included at least 25 households of ancestors of the petitioner's members (see Table 2). Each of these households was composed of at least one parent and one child, usually an adult couple with a number of children, including adult children. These 25 households contained about 171 individuals. In addition, 12 other individuals, mostly young girls in their parent's household, had names and ages on the 1850 census which were similar to those of women who were ancestors of the petitioner. However, there is not enough available identifying information about the petitioner's ancestor to reasonably assume that the ancestor was the same person as the individual listed on the 1850 Pembina census. A linkage between people in Pembina in 1850 and people later in Montana can not be made, as the anthropologist Verne Dusenberry attempted to do, solely on the basis of the similarity of surnames (Dusenberry 1958, 32). The 25 families were identified as ancestors of the petitioner's members because the names and ages of each individual in the family were very similar to the names and ages of the petitioner's ancestors. These 25 families have 1,850 descendants in the petitioner's modern membership. Thus, about 48 percent (1,850 of 3,893) of the petitioner's members descend from an ancestor who was on the 1850 census of the Pembina district.

Although the census enumerator did not specifically identify the citizens of this county as

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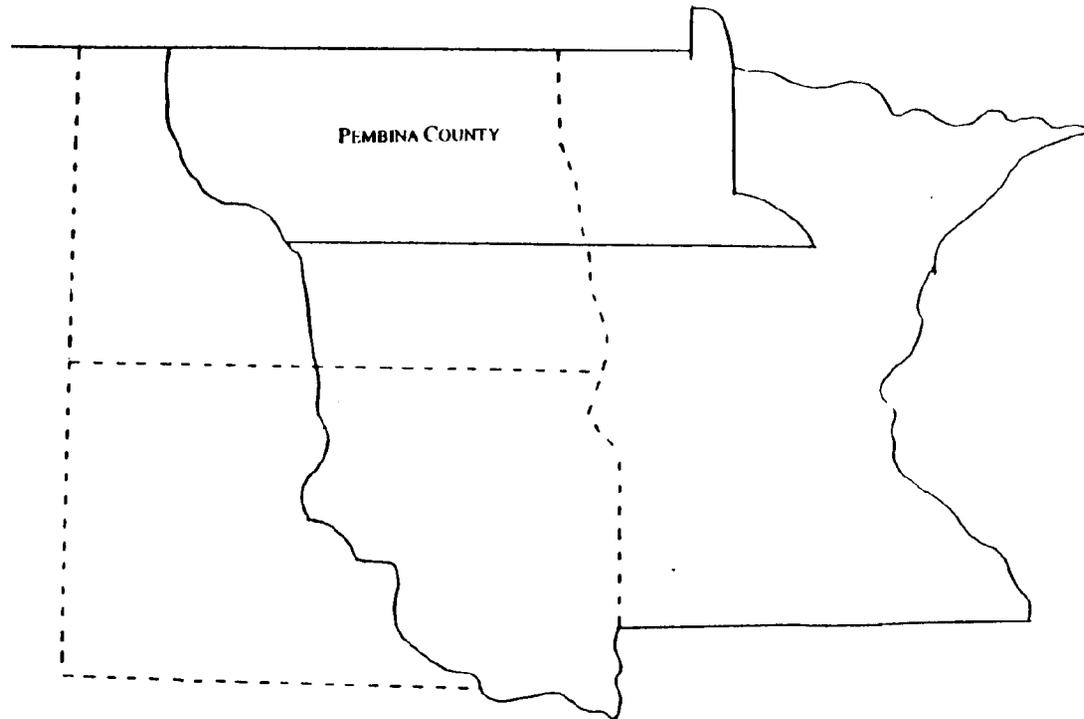


FIGURE 3: PEMBINA COUNTY, MINNESOTA TERRITORY, 1850

Source: William Thorndale and William Dollarhide, *Map Guide to the U.S. Federal Censuses, 1790-1920* (1987), 171.

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TABLE 2

PETITIONER'S ANCESTORS: PEMBINA CO., MINNESOTA TERRITORY, 1850

#	House	Name on Census	Petitioner's Name	Age	Family Size	Birthplace	Notes
18		Joseph Ramville	Renville	37	6	British Red River	
22		Francois Fion	Fayant / Fagnant	60	11	British Red River	b
33/72		Baptiste Cart / Chunette	Charette	40	7	Pembina	c.[c]
34		Francois St. Pierre	St. Pierre	49	6	Pembina	
59		Pierre Berger	Berger	34	7	British Red River	c
61		Gabriel Azure	Azure	26	3	Pembina	c
73		Edward Wells	Wells / Welsh	38	6	British Red River	[c]
75		Michael Klayne	Kline	31	9	British Red River	
84		Andre Trotter	Trottier / Trotchie	66	6	British Red River	a,b.[c]
90		Charles Peltier	Peltier / Peltchie	52	13	Pembina	b
92		Antoine LaPierre	LaPierre	37	7	British Red River	
94		Baptiste Wilker	Wilkie	47	12	Pembina	[a],c
100		Charles Azure, Sr.	Azure	29	7	Pembina	c
102		Antoine Azure	Azure	56	4	British Red River	
108		Peter Laverdure	Laverdure	31	6	Pembina	c
109		Joseph Gernon	Gourneau	25	3	Pembina	c
115		Baptiste Davis	Davis	28	7	British Red River	
126		Louis Landrie	Landrie / Landry	44	7	British Red River	b
129		Antoine Houle [Sr.]	Houle	50	2	Pembina	
133		Joseph Gernon	Gourneau	60	4	LaPointe, Wis.	c
137		Alexis Bellgard	Belgarde	50	8	British - Canada	a,[c?]
145		Baptiste LaFournier	LaFournaise	35	9	British Red River	[a]
147		Joseph Lonais	Doney	29	5	British Red River	
175		Francois Klayne	Kline	31	4	British Red River	[c?]
187		Jacque Morrisette	John Moursette	57	12	British Red River	

SOURCES: U.S. Census 1850; White Weasel n.d. [1850 census].

NOTES:

<sup>a</sup> In the Red River Settlement, ca. 1835. <sup>[a]</sup> Father in the Red River Settlement, ca. 1835.

<sup>b</sup> In the Red River Settlement, ca. 1870.

<sup>c</sup> Received 1863 treaty scrip. <sup>[c]</sup> Son received 1863 treaty scrip. <sup>[c?]</sup> Son a possible treaty scrip recipient or applicant.

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Indians or Métis, the column for "color," which was to be marked for white ("w"), black ("b"), or mulatto ("m"), was left blank in every instance except for one "white" school teacher who had been born in Vermont. The occupations of the 25 ancestors of the petitioner were given as 23 hunters, 1 carpenter, and 1 laborer. The census taker was very specific in listing the place of birth of each individual in the household. The places of birth of the 25 ancestors were given as 15 born in British territory, 9 born at Pembina, and 1 born in Wisconsin. Some of these ancestors clearly had moved to Pembina from the Red River Settlement, such as the six individuals who had been listed as landholders there in 1835, and the family of Pierre Berger, whose two eldest children were born at the British Red River colony and two youngest children at Pembina. The pattern of birthplaces also indicated that some of these people moved freely back and forth across the international border. For example, the birthplaces of the children of Charles Peltier show that the family lived at Pembina from about 1824 to 1829, at the British Red River colony from 1831 to 1835, at Pembina from 1838 to 1840, at the Red River colony from 1842 to 1844, and at Pembina after 1846 (Census 1850; White Weasel n.d.). At least 16 of these 25 Pembina families had a member or a descendant in Montana by 1880.

After his visit to Pembina in 1849, Major Woods reported that the Métis at Pembina possessed "the semblance of a government" in the form of a council consisting of five of their "principal men." Informing them that the Métis "living on our side of the [boundary] line were regarded as being in possession of the Indians' rights upon our soil," and therefore, would be "treated with as component parts of the Indian tribes," he "urged them to organize themselves into a band under a council or chiefs. . . ." The Métis responded by presenting the major with a committee of nine individuals they had selected. Woods referred to this committee as "the future government of the Half-breed population within our borders." The president of the committee was Mr. Wilky [Wilkie] (Woods 1849, 28). The next year, Governor Alexander Ramsey of Minnesota Territory, in which Pembina was located, informed the Commissioner of Indian Affairs that he had been visited by a deputation of Métis from Pembina and had accepted nine individuals elected by them as their council (Ramsey 1850, 64).

Major Woods also reported after his trip to Pembina that, in addition to the Métis, there were about 150 men, and therefore about 500 or 600 individuals, who claimed to be Pembina Indians. He stated that the Indians, who were almost entirely Chippewas, spent little time at Pembina, for they hunted game and furs in the Pembina and Turtle Mountains to the west, and joined the Métis to hunt buffalo on the plains. Major Woods concluded that the "Red river Chippewas" were "rather stragglers than a band, having no chief or organization amongst them." He reported that he met with about 100 "warriors" and "urged them to organize themselves into a band, and appoint their chiefs. . . ." Because the Indians could not agree amongst themselves, Woods said, he recommended three men. The Chippewa then selected these three men as their chiefs. Green Feather (Sakikwanel) was chosen to be the "principal chief" (Woods 1849, 23-25). Governor Ramsey considered the Chippewa around Pembina to be part of the "Red lake division" of the Chippewa tribe. He apparently did not accept the leader designated by Major Woods, for he reported that the chieftainship of the Red Lake and Pembina bands was

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contested between Wa-wush-kin-ik-a (Crooked Arm) and Wa-wan-je-guon (Ramsey 1850, 58). Green Feather or Green Setting Feather was identified as a Chippewa chief or subchief, however, in meetings with Federal officials in 1853 and 1856 (Stevens 1854, 398; Smith 1856, 433).

After a great flood on the Red River in 1852 drove residents of Pembina from their homes, they settled the town of St. Joseph (modern Walhalla). This town was located on the Pembina River at the base of Pembina Mountain about 31 miles west of Pembina and 3 miles south of the international boundary (Smith 1856, 427; Hind 1860, 255; Robinson 1966, 111). U.S. Army Colonel C.F. Smith visited St. Joseph in 1856 and described the town as consisting of 80 to 100 buildings and having a population of 1,500. Its people, he said, were principally “the descendants of Canadian Frenchmen and Cree, Chippewa, and Assiniboin Indians. . . .” (Smith 1856, 427). Smith continued on to Pembina, which he described as a town which had “gone to decay.” The population of Pembina also consisted principally of the Métis, he reported, but a population estimate of 1,000 was “greatly beyond reality.” Smith said that the town consisted of only two dozen wooden buildings. He also noted, however, that the Métis population was strung out along the Pembina River between the settlements at Pembina and St. Joseph (Smith 1856, 444). The Canadian scientist and explorer Henry Youle Hind visited Pembina in October 1857. Whatever its former condition, Hind said, Pembina was then only “a small village containing about a dozen scattered log-houses.” He said that St. Joseph already had become a trading depot of “considerable importance” (Hind 1860, 254-255).

The first clear identification of seasonal residence in the Turtle Mountains, which were about 110 to 150 miles west of Pembina and the Red River, referred to the Métis rather than to a Chippewa band. In a personal letter in 1845, missionary George A. Belcourt said that “a certain number of half breeds had established their quarters for the winter at the extremity of the Turtle Mountain and on the Mouse river. . . .” (quoted in Hesketh 1923, 137). Paul Kane observed that after the buffalo hunt of 1846 the three separate hunting parties of Métis comprising the expedition met at Turtle Mountain before returning home (Kane 1859, 52). In 1853, Governor Isaac Stevens received from Green Setting Feather (Way-shaw-wush-ko-quen-abe), whom Stevens identified as a Chippewa “sub-chief,” a copy of a speech the chief had made the previous year in St. Joseph in which he appeared to identify the Turtle Mountains as his territory (Stevens 1854, 398). This appears to have been the first documented Chippewa claim to Turtle Mountain. At St. Joseph in 1856, Colonel Smith met with Green Feather (La-kik-wa-nel), whom he described as “the head chief of the Pembina band of the Chippewas,” and a dozen of his principal men. Smith put the size of the band at 100 men (Smith 1856, 433, 443).

Green Setting Feather, in the speech he made at St. Joseph in 1852, warned the Métis to stay at Pembina and to let the Indians keep their hunting grounds to themselves. He complained that the Métis had recently made a “hunting road” towards the Turtle Mountains “without our consent, which we cannot any longer allow.” The chief indicated that the band would allow Métis who were the children of “full-blooded” Chippewa women to winter with them, provided that they hunted in accordance with the restrictions

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of the band (Stevens 1854, 398-399). The fact that this Chippewa complaint was directed against the Métis in Pembina and St. Joseph suggests that in 1852 this Chippewa band saw the Métis as a separate group. On the other hand, the Catholic missionary George Belcourt referred to the "Chippewas and half-breeds" of the Red River basin as though they comprised a single group. Belcourt also made a distinction between the two groups, however, when he informed Major Woods that the Métis were much more numerous than the Indians in the region (Belcourt 1849, 36).

Governor Ramsey observed in 1850 that the Chippewa claimed territory west of the Red River, but also noted that their use of it was contested by the Sioux (Ramsey 1850, 58). Alexander Ross of the Red River Settlement disputed the Chippewa claim to the Red River valley itself, claiming that "Pembina was disputed ground" because the Assiniboine, Cree, and Chippewa "all laid claim to it as their land. . . ." (Ross 1856, 412). A territorial boundary negotiated about 1858 without the presence of Federal agents, the "Sweet Corn agreement," extended the 1825 treaty boundary line between the Chippewa and Sioux west of the Red River. By the terms of this agreement, the Sioux acknowledged that the area north and northwest of Devil's Lake was not their territory. Two men who claimed to have been present at this treaty council described the negotiations as occurring between the Sioux on one side and the "mixed blood and Chippewa Indians" on the other. They stated that "old Chief Wilkie, who was the leading chief [of] the mixed bloods," was present at this council, but that Chief Little Shell of the Chippewa was not (Gladue 1892; LaFromboise 1892; see also: McCumber et al. 12/3/1892, 19-20, and Ind.Cl.Comm. 1970, 334-335).

### **Treaty Negotiations and Benefits, 1850 - 1880:**

In September 1850, Congress appropriated funds for the Indian office to conduct treaty negotiations with "Indians and half-breeds for the extinguishment of the title to their lands on the Red River of the North. . . ." (Statutes 1850). Governor Ramsey of Minnesota Territory, who was also superintendent of Indian affairs for the territory, was called to Washington in May 1851 to consult about the proposed negotiations (BIA 5/16/1851). In advance of the treaty negotiations, Governor Ramsey sent out a messenger to the Indians to announce his coming and to summon them to council. When Ramsey arrived at Pembina in September 1851, he found about 250 Indians and several hundred Métis already assembled there. At the request of the Indians, Ramsey said, the treaty council was delayed for the arrival of some of their "principal men." The Governor saw his objective as obtaining a cession of the lands of the Red River valley from the Pembina and Red Lake Indians. He said that the number of these Indians did not exceed 800. Ramsey and his commission engaged in "informal" discussions with the "chiefs and headmen" of the Chippewa at the fur-trading post in Pembina. However, according to historian Willoughby Babcock, "the chiefs signed the treaty as the governor had presented it to them" (Ramsey 1851, 284-286; Babcock 1962, 7-9).

A treaty was signed on September 20, 1851. Ramsey said that the treaty acquired a

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cession of 5 million acres for the sum of \$230,000, to be paid over 20 years. The cession consisted of a tract that extended about 30 miles on either side of the Red River (Ramsey 1851, 285; Ross 1856, 411). Governor Ramsey's instructions had not been to acquire a cession of all Chippewa territory. He noted that some Chippewa "roam beyond the western boundary of the present purchase," but he judged that they did not number more than 300 (Ramsey 1851, 287). The treaty was signed by representatives of both the "Red Lake band" and "Pembina band." Alexander Ross, however, alleged that the principal Chippewa chiefs had "declined to attend" the negotiations because they were not willing to cede their lands (Ross 1856, 412). By negotiating this proposed treaty with individuals the Government's agent considered to be legitimate representatives of a "Pembina band," the United States acknowledged the existence of a Pembina Band of Chippewa Indians in 1851.

Governor Ramsey, however, refused to negotiate with the Métis. Congress had authorized negotiations with Indians and Métis, but had not indicated whether it considered them to be one group or separate groups (Statutes 1850). Ramsey acknowledged that the Métis requested to be parties to the negotiations and claimed to have actual possession of the country to be ceded by the treaty (Ramsey 1851, 285). The year before the negotiations, however, Ramsey had indicated that he believed that the Métis at Pembina had citizenship by the laws of Minnesota Territory (Ramsey 1850, 63). Thus, at the treaty council, Ramsey took the position that the Government does not negotiate treaties with its own citizens, or its own "quasi citizens." Ramsey reported that the Métis understood his position and were satisfied with it (Ramsey 1851, 285). Ross, however, concluded that the treaty of 1851 disappointed the Métis because it did not recognize them as the rightful owners of the lands about Pembina (Ross 1856, 411-412). The Indians with whom Ramsey negotiated requested that, in order to satisfy the excluded Métis, \$30,000 of the purchase price for the cession be paid immediately and be given to their mixed-blood relatives. Ramsey had no objection to the arrangement, perhaps because he considered the Métis to be the "actual occupiers" of the area. He also argued that a reason for approving the treaty and extinguishing the Indian title to these lands was to provide a way for the Métis to gain fee simple title to the lands they occupied (Ramsey 1851, 286, 288). Thus, the Pembina band recognized by the Government's agent in the treaty of 1851 did not include the Métis.

This treaty with the Chippewa was submitted to the Senate by President Fillmore in February 1852. In April, the Senate Committee on Indian Affairs recommended that the treaty not be ratified. The Senate voted against ratification of the treaty by a vote of 37-7 in June 1852 (Senate 1969, 8:368, 382, 405-406). The rejection of the Pembina treaty was not unusual, because almost all of the treaties negotiated by the Government during 1851 were not ratified by the Senate. The Indian Claims Commission concluded that the Chippewa treaty failed of ratification because of a belief among Senators that the region ceded by the treaty was "too remote to be ceded at that time" (Ind.Cl.Comm. 1958, 269). This was also the judgment of historian Elwyn Robinson in his history of North Dakota (Robinson 1966, 112). Historian Willoughby Babcock, however, concluded that the treaty "faced vigorous opposition from southern leaders who opposed expansion of

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northern territory” (Babcock 1962, 10). According to Minnesota's congressional delegate in 1851, Henry H. Sibley, the chief argument used against the treaty was the remoteness of the area it covered. Sibley told Ramsey that the Chippewa treaty was “a conciliatory sacrifice” to obtain ratification of two treaties with the Sioux which were submitted by the President at the same time as the Pembina treaty (Babcock 1962, 10).

Two years later, the Catholic missionary G.A. Belcourt wrote to the Commissioner of Indian Affairs to inform him that the Pembina Indians desired that a treaty with the Government be made as soon as possible for the purchase of their lands so that their relatives, the Métis, could be firmly settled at Pembina with a right to individual plots of land. Belcourt also claimed to have been commissioned by the Pembina Métis to request the protection of the Government, since they were American citizens, against the buffalo-hunting incursions across the international boundary by the British Métis (Belcourt 1854, 70-71). Congress again appropriated funds for negotiations to extinguish the title to the lands of the “Red Lake and Red River Chippewas” in June 1860 (Statutes 1860). A council held in September 1860 between Federal commissioners and representatives of the Red Lake and Pembina bands, however, failed to produce a treaty (Ind.Cl.Comm. 1958, 270). In 1862, Congress appropriated funds for the negotiation of a treaty with the “Chippewas of northern Minnesota” to extinguish their title to their lands (Statutes 1862). Although Dakota Territory had been created in 1861, making the Red River the boundary between Minnesota and Dakota, the treaty commissioners were authorized to negotiate a treaty with the Chippewas of the Red River for a cession on both sides of that river. The “Sioux uprising” of 1862 in Minnesota, however, prevented the treaty commissioners from reaching the council assembled on the Red River at the Grand Forks, and this effort to negotiate a treaty was suspended (Ind.Cl.Comm. 1958, 270-271).

New instructions to negotiate a treaty under the authority of the act of 1862 were issued by the Commissioner of Indian Affairs in July 1863. Governor Alexander Ramsey of Minnesota again was chosen as the Government's leading treaty commissioner. His instructions reiterated the instructions of the previous year. “The main object of the negotiation,” Commissioner William Dole informed Ramsey, was to secure “the uninterrupted navigation of the Red River of the North.” Although obtaining a cession of lands on each side of the river would be necessary to achieve this objective, Ramsey was advised not to purchase all the lands to which Indian title had not yet been extinguished, “as the settlement by whites will not be likely to extend to that remote region of our country for many years.” The Commissioner also told the Governor that, in his opinion, the consideration paid for the cession ought not to be based on the “imaginary value of the land,” but on the “present necessities” and future needs of the Indians. His suggestion, then, was that the Federal payment be based more on the number of Indians than the number of acres to be ceded by them. Despite this advice, Dole told Ramsey that, in negotiating a cession and fixing a payment for it, “you must exercise your own discretion” (BIA 7/24/1863).

The site for the treaty council, on the Red Lake River near modern Crookston, Minnesota, was chosen as being halfway between the Red Lake and Pembina Indians. Ramsey

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arrived there on September 21, 1863. Ramsey's intent was "to unite both communities in one treaty" and to avoid separate negotiations. He said that he had given explicit instructions that the Indian parties should limit their attendance to only their chiefs and principal men. Instead, he discovered that the Pembina Indians had brought with them "nearly all the half-breed population of Pembina and Saint Joseph, whose attendance was not expected or desired at all." The "excuse" given by his messenger for bringing the "uninvited" Métis, Ramsey reported, was that "the Pembina Indians are completely under the control of their half-breed relatives. . . ." The Métis, Ramsey said, "have long been accustomed to consider themselves . . . the real owners of the soil, and as having even a greater interest in any treaty for its purchase than its . . . aboriginal occupants" (Ramsey 1863, 428). Ramsey's enumeration determined that 352 Indians and 663 Métis of the Pembina bands, or 1,015 individuals, were present at the treaty grounds. Ramsey said that the Pembina bands claimed to have a population of 400 to 600 Indians, or more (Ramsey 1863, 428, 431). The commission's journal indicated that the Pembina bands were considered to have two chiefs, Red Bear and Little Chief (Little Shell),<sup>5</sup> also called Ase-anse. According to the commission, the group under the leadership of Little Chief consisted of 27 Indians and 442 Métis, for a total of 469 members (U.S. 1863, 4, 31; Interior 11/13/1888, 136).<sup>6</sup>

Ramsey said that during the council he attempted to disabuse the Indians of their impression that the Government placed a great value on the acquisition of their lands. Thus, his initial negotiating position was that the Government desired a treaty not to purchase their lands but to provide for the safe passage of whites across their territory. He offered \$20,000 for such a right of way, but, as he expected, it was rejected (Ramsey 1863, 429; U.S. 1863, passim). While this was consistent with his instructions, Ramsey clearly disagreed with Commissioner Dole's judgment about the pace of white settlement in the region. Arguing that the "rapid advance of settlement throughout the valley of the Red River" would soon require the extinction of Indian title to those lands, Ramsey utilized the discretionary power granted in his instructions to negotiate for a purchase of as much Indian land as, in his judgment, would soon be affected by commerce and settlement. The Indians' initial negotiating position, he said, was to accept no less than \$10 or \$12 million for the cession (Ramsey 1863, 429-430). Ramsey considered that to be exorbitant, and refused to pay more than an annuity equal to that granted the Pillager band of Chippewa in a previous treaty (U.S. 1863, 47 and passim). The negotiations were conducted almost exclusively between Governor Ramsey and a spokesman for the Red Lake Band. Ramsey held a separate council with the Pembina band on September 30, but did not agree to the request of Red Bear and Little Chief that he negotiate an agreement with them after making one with the Red Lake Band (U.S. 1863, 44-46, 50-55). The

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<sup>5</sup> This would have been the second Chief Little Shell.

<sup>6</sup> Although the contemporary documents did not refer to a Turtle Mountain band in 1863, in 1902 a Senate committee concluded that at the time of the 1863 treaty negotiations, Red Bear was the chief of the Pembina band while Little Shell was the chief of the Turtle Mountain band (Senate 6/27/1902). This position followed the interpretation of the treaty advanced by claims attorney J.B. Bottineau (Bottineau 12/20/1892, 1-2).

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negotiations lasted for ten days.

This treaty with the Red Lake and Pembina bands was concluded and signed on October 2, 1863 (Statutes 1863; U.S. 1863, 74). The cession which he obtained, Ramsey reported to the Commissioner, included "all the American valley of the Red River of the North, except a small portion previously ceded [by the Sioux]," and extended to the heads of the river's tributary streams (Ramsey 1863, 430; Royce 1900, Area #445). Ramsey praised the treaty as not only removing the "obstruction" which the Indians had placed on travel and trade in the Red River valley, but also promoting the commercial interests of local communities and advancing the general development of the American northwest (Ramsey 1863, 433). The treaty described the cession and provided for a per capita payment of \$20,000 per year for 20 years. Ramsey indicated that the amount of annuities was based on his estimate of the number of Indians in the band. This estimate was too small to have included the Métis in attendance at the negotiations (Ramsey 1863, 431, cf. 428). In order to determine the recipients of the per capita payments, the treaty required that an enumeration and enrollment of tribal members be made. Ramsey explained that an enrollment would be necessary so that the annuity payments would not be made to British Indians. The treaty also authorized a Federal payment of \$100,000 to settle depredation claims against the bands. The treaty was signed by Red Bear and Little Shell (Ase-anse) as "Chief of [the] Pembina" band (Statutes 1863; Ramsey 1863, 431; Morris and Van Gunten 1984, 17). By this treaty, the Government recognized a "Pembina band" of Chippewa.<sup>6</sup>

In his report to the Commissioner of Indian Affairs, Ramsey noted that, despite the cession, the Pembina bands still "retain for themselves a tract of country claimed by them . . . north and northwest of Devil's lake" so that they could "subsist by buffalo hunting. . . ." (Ramsey 1863, 431). The journal of the treaty commission recorded that the Pembina chiefs said that they had, the previous year, agreed with the Red Lake Indians on a division of territory. Under this agreement, the Pembina Chippewa claimed the territory from the Red River west to the Mouse [Souris] River and the Missouri Coteau, a prominent escarpment. The Pembina Chippewa proposed, the commission noted, to reserve the westernmost portion of this territory as a hunting ground (U.S. 1863, 51-52; Interior 11/13/1888, 137). During the treaty negotiations, Ramsey openly disputed the Chippewa's claim that the Sheyenne River was the southern boundary of their territory west of the Red River (U.S. 1863, 42, 49). In recollections two decades later, Ramsey cast doubt on the Chippewa claim to their western territory. His impression in 1863, he claimed, had been that the Pembina band was "feeble" and lacking in "the consistency of tribal organization. . . ." Because the Chippewa could not hold the country in the vicinity of St. Joseph and Pembina against the Sioux, Ramsey recalled that he had "held their title

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<sup>6</sup> Ramsey estimated that this cession contained 11 million acres. The sum to be paid for the cession, Ramsey said, would be about \$510,000, an amount chosen to provide the Indians with an annuity payment over the next 20 years comparable to those made to other bands of Minnesota Chippewa (Ramsey 1863, 430-431). The Indian Claims Commission later calculated the area ceded to the United States by the treaty as having consisted of 9.8 million acres (Ind.Cl.Comm. 1958, 275). The Indian Claims Commission found the value of the payment for the cession of the 1863 treaty as \$636,000 (Ind.Cl.Comm. 1961, 344).

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westwardly to be very weak. . . ." (Ramsey 1882). A quarter-century after the treaty, the Secretary of the Interior claimed that it was at the treaty negotiations of 1863 that the Chippewa first asserted a claim to the territory north and northwest of Devil's Lake (Interior 11/24/1888, lxxii).

As in 1851, Ramsey did not recognize the Métis as a party to the treaty of 1863 (Interior 11/13/1888, 145; Murray 1984, 19). Although the treaty commissioners counted the number of Métis in attendance, their journal made no mention that they had held discussions with any Métis leaders (U.S. 1863). The treaty, however, did include a provision to benefit the excluded Métis. During Ramsey's separate council with the Pembina band, the parties agreed to provide farms for the band's Métis relatives (U.S. 1863, 55). One article of the treaty provided that the United States would grant a 160-acre homestead within the ceded territory to the adult male "mixed-bloods" who were related to members of the Pembina and Red Lake Chippewa bands and also were citizens of the United States (Statutes 1863). This provision was consistent with the position that Ramsey had taken during the 1851 treaty negotiations when he treated the Métis as citizens and argued that a benefit of the treaty was making the ceded land available for them to acquire by individual ownership. At the treaty signing, the Métis made an unsuccessful effort to obtain a clause to provide a large appropriation for them (U.S. 1863, 74). Because the Métis did not manage to include in the treaty the "provisions for their benefit" which they favored, Ramsey contended, the chiefs of the Pembina band made a written request after the treaty was signed asking that \$25,000 be appropriated for the Pembina Métis. Ramsey merely forwarded this to the Interior Department for its consideration (Ramsey 1863, 434). In the Government's view, then, the band it recognized in the treaty of 1863 did not include the Métis.

In January 1864, President Lincoln transmitted this treaty to the Senate. The next month the Senate Committee on Indian Affairs reported the treaty with amendments. On March 1, 1864, the Senate unanimously agreed to the amendments to two articles of the treaty. One amendment modified the way in which the per capita payments and payments to settle depredation claims would be made. The other amendment required that before the Métis would receive patents for the homesteads provided by the treaty, they would need to present proof of actual residence of five years. The amendments required the approval of the Indians. Chiefs of the Red Lake and Pembina bands had been brought to Washington to consult on the amendments, which were prepared in the form of a supplemental treaty. Red Bear was present to represent the Pembina bands for these negotiations. Agreement on these "articles supplementary to the treaty" were concluded in Washington on April 12, 1864. These additional negotiations made no change in the territorial cession under the treaty. The supplementary treaty reduced the annual per capita payment to the bands, but added annual Federal expenditures on their behalf. The provision to provide 160 acres of land to the Métis relatives of the bands was replaced by a provision to provide them with scrip for the same amount of land. The supplementary treaty was signed by Red Bear, but not by Little Shell. President Lincoln immediately transmitted the "supplemental treaty" to the Senate, which unanimously ratified it on April 21, 1864 (Statutes 1863, 1864; Senate 1969, 13:366, 389, 432, 490, 499;

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Ind.Cl.Comm. 1958, 276.)

One of the signers of the 1863 treaty, Joseph Gornon (Gourneau), a "Pembina warrior," appears to be an ancestor of some of the petitioner's members. None of the three men who signed the 1864 treaty can be clearly identified as ancestral to the petitioner's members. According to a researcher who is a Turtle Mountain tribal member, the treaty signer Joseph Gourneau was born about 1817 and was the son of Little Thunder, who was born before 1797 and was also called Joseph Gourneau (White Weasel 1989, 10). The daughter of Joseph Gourneau, the apparent treaty signer, married Isaie Berger, and they migrated to Montana before 1880. Little Thunder's daughter Margaret married Paul Kipling, who was a mixed-blood Pembina Chippewa (GLO 1880, #152). They had at least one child who married a Berger and migrated to Montana before 1877 (McFarlane 1981). The second son of Little Thunder, Kaishpaw Gourneau, married an Allard and had two children who married into the Wilkie and Renville family lines. Kaishpaw Gourneau stayed at the Turtle Mountain Reservation, but some of his descendants migrated to Montana after 1900 (LSTCIM 1984, membership records; BIA 1906a; BAR 1998). Each of these three branches of the Gourneau family has descendants in the petitioner's membership. Two branches of the family left the Pembina area before 1880, while the other branch left about 30 years later. Thus, the Gourneau family had a history of divergent descent from the historical tribe, which is not a singular phenomenon among the petitioner's families. There are 74 descendants of the Gourneau family in the petitioner's membership, or about 2 percent (74 of 3,893) of current members.

A tribal enrollment or annuity payment roll, as required by the treaty of 1863 to govern the annuity payments made under the provisions of the treaty, was prepared in January 1864. This "Pembina roll" listed 674 persons as payment recipients. Little Shell (Aise-ance) was one of two individuals designated as a "chief" for purposes of payment to the band. The individuals apparently grouped under Little Shell consisted of 70 family heads and 249 individuals (BIA 1864). This roll included fewer individuals than the number of Indians and Métis in attendance at the 1863 treaty negotiations. Therefore, some treaty attendees were left off the 1864 annuity roll of the Pembina band, and it would have been consistent with the treaty negotiations for those excluded from the annuity roll to have been Métis who were considered citizens. The voucher for annuities paid in 1864 only listed the recipients by their phonetic Indian names, while the vast majority of the petitioner's ancestors have been identified only by their French or English surnames.<sup>7</sup> Therefore, it has not been possible to connect any of the petitioner's ancestors with individuals on the 1864 annuity list. The treaty called for twenty years of annuity payments, and Pembina annuity rolls were made from the 1860's into the 1880's. It is possible that the petitioner's ancestors could be traced to these additional rolls. In a 1980 report, however, the Bureau of Indian Affairs noted that "few French or other European

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<sup>7</sup> Some of the petitioner's ancestors also had phonetic Indian names. For example, Joseph Gourneau (born before 1797) was also called "Animikinse," Joseph Gourneau (born about 1817) was "Che-Kee-Wit," and Pierre Berger was "Kijikow Kalapwitah." There is an "Ah nah kans sa" and an "Ah ke nan se" on the 1864 list, but it is not known if either of these or some other man is Joseph Gourneau (BIA 1864).

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surnames associated with the Métis appear on early Pembina annuity rolls," which it attributed to the treaty provision which provided the band's mixed-blood relatives with land scrip in lieu of treaty annuities (BIA 8/19/1980, 5, 10).

An applicant for treaty scrip deposed that, on the day the 1863 treaty was signed, he was "a male adult half-breed or mixed blood, related by blood to the Chippewas of the Red Lake or Pembina Band," and that he was 21 years old and a citizen of the United States, had "adopted the habits and customs of civilized life," and had not received scrip for lands under any other treaty (Application form 1869). According to the late-19th century authority on the public lands, land scrip "was locatable upon the public lands, under certain conditions and regulations" issued by the General Land Office (Donaldson 1884, 289). Scrip could be used to acquire land, but it also could be sold by its recipient. Because of allegations of fraud in the issuance of land scrip under several treaties with the Chippewa, a special commission was appointed in 1871 to investigate these charges and the applications for scrip, including the land scrip issued under the provisions of the treaties of 1863 and 1864. The commission found that 723 applications for treaty scrip had been made. The commissioners observed that they had found it very difficult to decide whether or not individual Pembina Métis applicants met the treaty requirements to receive land scrip (BIA 9/4/1871). Additional applications were made and land scrip issued between 1872 and 1877. These applicants indicated on their application forms that they wished to receive scrip rather than an allotment of land (Hill 1965). By 1880, land scrip had been issued to 464 Red Lake and Pembina Métis for 160 acres each, for a total of 74,240 acres (Donaldson 1884, 289).

Special Agent C. W. McIntyre of the General Land Office investigated alleged frauds in the issuance of scrip and submitted a report on Red Lake and Pembina Chippewa treaty scrip on August 20, 1880. The General Land Office forwarded his report to the Office of Indian Affairs. McIntyre's report included findings on individual cases (GLO 1880; Hill 1965). McIntyre said that he had "prepared a list marked 'A' which gives as far as I have been able to find out a history as to the pedigree and what was done with the scrip or lands obtained under the treaty" (GLO 1880). McIntyre said that he had located 453 of the 463 pieces of scrip that had been issued. On "List A," McIntyre gave the applicant's name, residence,<sup>8</sup> a summary description,<sup>9</sup> and a statement of whether the application's status was considered to be "good," "doubtful," "not good," or "bad." McIntyre also stated whether an entry was a duplicate of another application, which may account for the difference between the 475 names on his "List A" and the 463 pieces of scrip (GLO 1880, list A). McIntyre also attached a "List E" of 33 additional applications which had been submitted after the 1875 deadline. All but one were recommended for rejection because

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<sup>8</sup> McIntyre used the terms "Mountains," "NW Territory," and "Far West" to refer to the land in northern Dakota and southern Manitoba which was along the Mouse and upper Pembina Rivers.

<sup>9</sup> The summary statements were very brief, and not always sufficient now to distinguish men of the same name from one another. However, the summary statements sometimes included an age, family relationship, source of information, origins (such as Pembina, Red Lake, Cree, or Assiniboine), or other information which helped to identify the applicants.

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the applicants were dead, British subjects, "full blood" Indians, not of age at the time of the treaty, or could not be found (GLO 1880, list E; Anonymous 1880). An index to McIntyre's report included individuals on either "List A" or "List E."

McIntyre said that he had "as far as practicable visited the parties in person." He noted, however, that the "length of time which has elapsed since this scrip was issued and the habits of changing their locations of many of the mixed bloods has made the finding of many of them impossible." As a result, McIntyre said, "I have had to base many of my opinions on the information given me by old residents of the Red River Valley & intelligent half breeds who are identified among the people interested in this treaty." McIntyre concluded that a "great wrong was done [to] both the Government and the intended beneficiaries in this matter" of the treaty scrip. He stated that, "Large numbers of pieces were issued to parties who were not residents of the country ceded, to people that were dead, to people not named on the treaty Indians although Chippewa mixed bloods, to the same person under two names, to Sr. & Jr. both representing but one person, to the husband and aged widow as his heir." He also concluded that, "Large numbers were defrauded of the benefits by the parties who took their applications and added that "in many instances the name of a person fully entitled by age and residence has been changed," both in an application and in a power of attorney to receive the scrip from the Indian Office (GLO 1880).

The petitioner has used only the index to McIntyre's report to identify the ancestors of its members who received or applied for treaty scrip. Edna Teske's report on the origins of 312 of the petitioner's members, those born before 1937 and listed on the Roe Cloud Roll, concluded that at least 111 of them had an ancestor or relative who had the same name as someone on the index to McIntyre's report (Franklin 1995, table 1, appendix B). The petitioner included copies of annotated ancestry charts to show the ancestors or relatives whose names appear on the index (Franklin 1995, attachment 1). However, the Teske report was not an exhaustive study of the actual McIntyre report, or of the descent of the petitioner's members from scrip recipients (Franklin 1995, 7). Many of the 111 members in Teske's report are siblings or close relatives of each other, and therefore descended from the same ancestors. An investigation of McIntyre's report reveals that there often was more than one person on the index with the same name as an ancestor, that not all of the potential ancestors on the index could be clearly identified as the petitioner's ancestor of the same name or from a family of the same surname, and that there were people on the index who were not identified as Pembina Chippewa in the actual report.<sup>10</sup> Although useful, Teske's limited study comparing names on the index to

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<sup>10</sup> The petitioner identified Joseph Delonais on the index of the McIntyre report as their ancestor Joseph Doney (Franklin 1995, appendix A, attachment 1). However, the report stated Joseph, Xavier, and Baptiste Delonais were brothers living in Centerville, Minnesota, that they were from Lake Superior [Chippewa], that they had been born in Anoka or Ramsey County, Minnesota, and that they had no claim for scrip under the 1863 treaty (GLO 1880, #53-55). On the other hand, the petitioner's ancestor named Joseph Doney was living in Pembina County in 1850 and in Meagher County, Montana, in 1880 (White Weasel n.d., 120; Census 1880). At this time, there is no evidence that the petitioner's ancestor, or his father who also was named Joseph Doney, had brothers named Xavier or Baptiste. Therefore, the evidence currently available

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the McIntyre report with the names of some of the petitioner's ancestors does not adequately identify the origins of the petitioner's ancestry. A more thorough analysis of McIntyre's report follows.

Twenty-eight ancestors of the petitioner's members can be identified on "List A" of McIntyre's report on the recipients of land scrip under the treaties of 1863 and 1864 (see Table 3).<sup>11</sup> At least 1,382 of the petitioner's 3,893 members, about 36 percent of them, descend from these 28 scrip recipients. If the petitioner's ancestors named Joseph Francis Amelin and Joe Emely were actually the same person, then at least 1,452 members, or 37 percent of members, would descend from a treaty scrip recipient. Because of intermarriage and father/son relationships between scrip recipients, there are a number of the petitioner's members who descend from more than one man on McIntyre's list. McIntyre judged that 22 of these 28 applications were valid, or "good." The notations made by McIntyre on the residence of these scrip recipients revealed that they were geographically scattered rather than living together in one place (see Table 3). Six of these men were said to live at Pembina. In addition, three men were at St. Vincent, across the river in Minnesota. Five men resided elsewhere in Dakota: three at St. Joseph, one in the Pembina Mountains, and one in the Turtle Mountains. Two of the scrip recipients had died by 1880. Therefore, only 14 of the 26 living scrip recipients, or slightly more than half of them, were believed by McIntyre to be living within the 100 or 150 miles between the Red River and the Turtle Mountains.

McIntyre's comments on each case indicated that at least 6 of these 28 applicants were not related to the Pembina Band. According to McIntyre, four applicants were not related by blood to the Chippewa, while two apparently qualified for scrip through the Red Lake

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does not confirm that the Doney descendants cited in the Teske report descended from Joseph Delonais, or that Joseph Delonais was a Pembina Chippewa. The evidence currently available does show that the Doney's in the Teske report descended from either Charles Gladeau, Anthony Gladeau, Joseph Dussome, Gabriel Azure, or John Baptiste Wilkie (and possibly others) who were listed in McIntyre's report as eligible for Pembina scrip (GLO 1880; LSTCIM 1984 and 1987, ancestry charts; BAR 1998).

<sup>11</sup> The 28 ancestors are: #14 Francois [Frank] Courchane; #18 Joseph Dussome (father of Joseph H. Dussome); #49 John B. Charette [Sr.] (father of #185); #52 Joe Flammand; #119 Pierre Bottineau; #135 Jonas Emely [Amelin]; #136 Gabriel Azure (father of #137 and brother of #325); #137 Antoine Azure (son of #136); #138 Pierre Berger (son-in-law of #172); #140 Joseph Jerome; #152 Paul Kipling (son-in-law of #364); #172 Jean Baptiste Wilkie (father-in-law of #138); #173 Isadore Walette (also #466, and son of #375); #185 John Charette (son of #49); #234 Louis Thomas; #277 Pete Flammand; #305 Antoine LaPlante; #321 Charles St. Arnaud (whose son married #140's daughter); #325 Charles Azure, Sr. (father of #326); #326 Charles Azure, Jr. (son of #325); #360 Anthony Gladeau; #363 Joseph Gourneau (son of #364, born about 1817); #364 Joseph Gourneau, Jr. (father of #363 and father-in-law of #152; born about 1797, aka Chief Little Thunder, the son of "Old Wild Rice," and step-son and "heir" of Joseph Gourneau, Sr.); #375 Joseph Walette (father of #173/#466); #389 Daniel Wells (son of Ed Wells); #396 Pierre Laverdure; and #444 Charles Trotchie. Also, there is a #241 Joseph Hamelin on McIntyre's list. The Roe Cloud Roll applications and the petitioner's ancestry charts show individuals who descend from a Joseph Francis Ameline [Amelin] and from a Joe Emely [Emily or Ameline] who have approximately the same birth year, but there is not enough evidence at this time to conclude that they are one in the same man. However, the Joseph Hamelin in McIntyre's report appears to be ancestral to the petitioner (see Table 3).

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TABLE 3

PETITIONER'S ANCESTORS: RECIPIENTS OF SCRIP UNDER TREATIES OF 1863-1864

<u>Name</u>	<u>Status</u> <sup>1</sup>	<u>Residence</u>	<u>Comments</u>	<u>Notes</u>
Joseph Amelin [Hamelin] #241	Good	St. Vincent	"Pembina 1/2 breed"	a,f
Antoine [La Belle] Azure #137	Good	St. Joseph	family at Pembina	e
Charles Azure [Sr.] #325	[Good]	"Can't find"	family at Pembina	c,e
Charles [Charlience] Azure #326	[Good]	[Mountains]	family at Pembina	e
Gabriel Azure #136	Good	St. Joseph	family at Pembina	c,f
Pierre Berger #138	Bad	Dead	"not a Chippewa"	c
Pierre Bottineau #119	Good	Red Lake Falls	-	
John B. Charette [Sr.] #49	Good	Pembina	-	c,e
John Charette #185	Good	Pembina	-	c
Frank Courchane #14	Good	Pembina Mt.	"mother from Red Lake"	f
Joseph Dussome #18	Good	Mountains	-	
Jonas Emely [Amlin] #135	Doubtful	Turtle Mts.	family "from Red River"	
Joe Flammand [Flament] #52	Good	White Earth	"from Pembina"	
Pete Flammand [Pierre Flament] #277	Good	Pembina	always "in ceded country"	
Antoine Gladeau #360	Not Good	Wood Mts.	"Cree 1/2 breed"	b
Joseph Gourneau [3d] #363	[Good]	Pembina	father "Chippewa mixed"	c,e
Joseph Gourneau [Jr.] #364	[Good]	[Pembina]	"Chippewa mixed blood"	c
Joseph Jerome #140	Good	St. Vincent	-	
Paul Kipling [Kipland] #152	Good	Dead	known at Pembina	
Antoine LaPlante #305	[Bad]	Mountains	"Cree 1/2 breed"	
Pierre Laverdure #396	Bad	Ft. McLeod	"Sioux or Assiniboine"	c,[d]
Charles St. Arneau #321	[Good]	Mountains	brother's status is "good"	
Louis Thomas, Jr. #234	Good	Pembina	-	
Charles Trotchie [Trottier] #444	?	?	no one could identify	b,c,[d]
Isadore Wallette #173, #466	Good	Northwest	["of the Pembina tribe"]	
Joseph Wallette #375	Good	Mountains	"of the Pembina tribe"	
Daniel Wells #389	Good	St. Vincent	father at St. Joseph	c,d
John Baptiste Wilkie [Sr.] #172	Good	St. Joseph	"first settlers at Pembina"	b,c

SOURCE: GLO 1880 [McIntyre Report], List A.

NOTES:

<sup>1</sup> Status of application for scrip, according to GLO Agent McIntyre (GLO 1880).

<sup>2</sup> Joseph Francis Amelin (70 descendants) or Joe Emely (57 descendants), or both, in petitioner's ancestry.

<sup>b</sup> Father in the Red River Settlement, ca. 1835.

<sup>c</sup> On the 1850 Pembina census.

<sup>d</sup> In the Red River Settlement, ca. 1870. <sup>[d]</sup> Father in the Red River Settlement, ca. 1870.

<sup>e</sup> On the 1892 McCumber Commission roll.

<sup>f</sup> Descendant on the 1917 Rocky Boy roll.

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Band. McIntyre found that Antoine LaPlante (#305) and Antoine Gladeau (#360) were "Cree ½ breed," that Pierre Laverdure (#396) was "Sioux or Assiniboine," and that Pierre Berger (#138) was "not a Chippewa." McIntyre reported that Frank Courchane (#14) had Indian ancestry "from Red Lake," and that Pierre Bottineau (#119) resided at Red Lake Falls (see Table 3). Thus, 22 of the 28 ancestors of the petitioner's members who had received scrip could be considered relatives of members of the treaty band of Pembina Chippewa, and McIntyre found that 20 of them had a "good" claim to scrip (GLO 1880, list A). Approximately 33 percent (1,293 of 3,893) of the petitioner's members descend from these 22 ancestors who had received treaty scrip as a relative of a member of the Pembina Band of Chippewa.

McIntyre found that two applicants who were ancestral to the petitioner -- Pierre Berger and Pierre Laverdure -- had "bad" applications because they were not Chippewa. Berger "came from the Rocky Mountains," McIntyre said, "and married old man Wilkey[']s daughter."<sup>12</sup> Thus, the descendants of Pierre Berger were also the descendants of John Baptiste Wilkie, whose application was "good." Berger's son and Wilkie's grandson, also called Pierre Berger, was on the list as "good," although he has no descendants in the petitioner's membership (GLO 1880, #5, #138). For his information about Laverdure, McIntyre relied upon a Sioux interpreter at Fort Assiniboine who said that Laverdure and his brother, who had lived at Pembina "in early times," were "Sioux or Assiniboine 1/2 breeds and . . . in no way related to the Pembina Chippewa" (GLO 1880, #396). However, Pierre Laverdure married Katherine Charette before 1845. She appears to be the sister of John Charette [Sr.], who was found to be of Pembina descent and eligible for scrip (GLO 1880, #49). This couple lived in Pembina County in 1850 (White Weasel n.d., 117). While Pierre Laverdure may not have had Chippewa ancestry himself, he did have ties to the pre-treaty Pembina Métis through his marriage and his residence in 1850. After the treaty, his children married into the Peltier, Azure, and Wells families who were from Pembina (White Weasel n.d.; BIA 1937, #534), and he lived in the Judith Basin of Montana in 1880 along with seven other families from Pembina (Census 1880, Meagher Co., #53).

McIntyre found that the application of one applicant who was an ancestor of the petitioner was "not good," and that the application of one ancestor was "doubtful." Anthony or Antoine Gladeau's scrip application was labeled by McIntyre as "not good" because he was a "well known Cree 1/2 breed" (GLO 1880, #360). His son Modiste Gladeau, however, was born in Walhalla, Pembina County, in 1847. After the treaty, in 1877 at the Milk River in Montana, this son married the daughter of Gabriel Azure, Sr., who was a Pembina Métis residing at St. Joseph (McFarlane 1981). Therefore, although Anthony Gladeau was not Pembina Chippewa himself, all of his descendants who are on the petitioner's membership lists also descend from Gabriel Azure whose receipt of scrip was

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<sup>12</sup> In 1830, the American Fur Company had sent Jacob Berger to negotiate with the Blackfeet in order to establish a trading relationship (Burlingame and Toole 1957, 2:87; Malone et al. 1991, 55). A linkage of Pierre Berger to the fur trader Jacob Berger can not be confirmed. If they were father and son, however, that would explain McIntyre's statement that Berger had come from the Rocky Mountains.

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"good." McIntyre classified Jonas Amlin (Emely in the petitioner's records) as "doubtful," but it is not clear whether this was because of residence, age, or descent. The report stated that he belonged to the family of Amlins who "came from Red River about 10 years ago" and had sold their scrip for \$100 each. McIntyre said that Jonas Amlin had "wandered off" in the mountains (GLO 1880, #135, #84, #86).

McIntyre did not pass judgment on the applications of two other ancestors, Charles Trottier and Antoine LaPlante. McIntyre remarked that he could not find anyone to identify Trottier, and did not make a conclusion about Trottier's status as a scrip holder (GLO 1880, #444). The petitioner's ancestor named Charles Trottier was an Indian trader at Ft. Benton, Montana, in 1880. The census report stated he was 43 years old and had been born in Pembina, as were his parents, his wife, and his children (Census 1880, Choteau Co. #168). Charles Trottier's father, Andrew Trottier, was found in Pembina County in 1850 (White Weasel n.d., 114). LaPlante was identified by McIntyre as Cree, implying that his application was "bad," but McIntyre left the entry for his scrip status blank (GLO 1880, #305). LaPlante's daughter married before 1876 into the Paranteau family, which may have been of Pembina descent (GLO 1880, #91, #203, #442, #443). As can be seen from this evidence, those men who were determined by McIntyre to be ineligible for scrip -- whether "bad," "not good," "doubtful," or incomplete -- appear to have had some connections to the Pembina Chippewa Métis at least by residence and marriage ties, either before the treaty of 1863 or before scrip was issued in the 1870's.

In addition to the 28 ancestors of the petitioner's members who can be identified in McIntyre's report, there were 6 men on "List A" and 2 men on "List E" in the report who might be ancestors of the petitioner. Numerous other surnames in the petitioner's ancestry are also listed among the 475 names on "List A," and additional research may confirm other of the petitioner's ancestors on this list. The six men on "List A" have the same name as men in the petitioner's ancestry, but there is not enough evidence at this time to reasonably assume that they are one in the same. They are: Joseph Belgarde, an Assiniboine Sioux living in the Turtle Mountains; [John] Baptiste Gardipee and Louis Guardipee, both Crees living in the Turtle Mountains; Francois Xavier Laverdure,<sup>13</sup> a

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<sup>13</sup> There is some difficulty in sorting men named Francois Xavier Laverdure and Frank Laverdure in the various records to determine which might have been the brother of Pierre, or whether they were the same man. The two brothers, Pierre and Francois Xavier Laverdure (and possibly a third brother Joseph Laverdure) found in the McIntyre report were not identified by age or parentage (GLO 1880, #396, #455, #461). The interpreter at Ft. Assiniboine implied that they were all adults in 1880, by stating that they had been in Pembina "in early times," but there is no real evidence of their ages. This record implies that Francois Xavier was living in 1880, possibly at Ft. McLeod. Since McIntyre did not cite age, as well as descent, for determining that their scrip claims were "bad," it could be inferred that these men were over 21 years old in 1863. The petitioner's ancestor Pierre Laverdure was born before 1825; therefore, it is reasonable to assume that his brother[s] probably could have been born between 1820 and 1830.

A Frank Laverdure was identified in the Roe Cloud applications as a man born in 1823 on the Red River in Minnesota, who had brothers Joseph and Pierre "Bo-Balee" Laverdure enrolled at Turtle Mountain (BIA 1937, applicant #214). No ages or spouses were listed for Joseph and Pierre "Bo-Balee"; however, they were probably born between 1818 and 1828. Their father was shown as Joe Laverdure [born about 1803] (BIA 1937, applicant #214). This Frank Laverdure married Nancy Latergrass, had a daughter

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brother of Pierre Laverdure, a Sioux or Assiniboine who was perhaps living at Ft. McLeod in Canada; Francois Desjarlais, who, although perhaps from Pembina, was residing in Manitoba, Canada; and Francois St. Pierre, a "British subject" living in St. Anne's, Manitoba (GLO 1880, #327, #262, #267, #455, #56, #456). None of these men had a "good" claim to scrip. Two men on McIntyre's "List E" have the same names as men in the petitioner's ancestry: Francois Cline (Frank Kline) who was a "British Subject living in Winnipeg," and Joseph LaRoque (Joseph "Bad Hand" LaRoque), of whom McIntyre said, "some of the LaRoque family are Pembina mixed bloods but these two [Joseph and James LaRoque] I can not identify by any one" (GLO 1880, list E).<sup>14</sup>

If these eight men are indeed the men in the petitioner's ancestry with the same names, then an additional 331 members of the petitioning group would descend from an individual listed in McIntyre's report.<sup>15</sup> Adding these 331 members who descend from an ancestor who may have been listed in McIntyre's report to the 1,382 members who descend from an identifiable ancestor in McIntyre's report would make 44 percent (1,713 of 3,893) of the petitioner's members potential descendants of treaty scrip holders.<sup>16</sup> If the petitioner's ancestors named Joseph Francis Amelin and Joe Emely were actually the same person, this would mean that another 70 members descend from an ancestor who received scrip, and that 46 percent (1,783 of 3,893) of the petitioner's members could descend from treaty scrip holders. However, McIntyre found that some of the petitioner's

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Matilda born about 1866 in North Dakota, and died "along the Missouri River" in Montana "about 1876" (BIA 1937, applicants #26, #214). His daughter married into the family of Joseph Emily [Ameline], and has 42 descendants in the petitioner's membership. Despite the similarities in age and in siblings' names, it is not clear that Francois Xavier Laverdure (GLO 1880, #455) and Frank Laverdure (father of Roe Cloud applicant #214) are one in the same man. Therefore, Francois Xavier Laverdure (GLO 1880, #455), is not included in the Table 3 of the petitioner's ancestors who received scrip under the 1863-1864 treaties.

<sup>14</sup> Francois Cline (Frank Kline) and Francois St. Pierre had the same names as men on the 1850 census of Pembina; Alexis Belgarde on the 1850 census had a son Joseph Belgarde; and there were several LaRoque families on that census as well (Census 1850; White Weasel n.d., 123).

<sup>15</sup> Because of intermarriage between family lines, these members also descend from other men cited in the McIntyre report: 24 of Joseph Belgarde's descendants also descend from Pierre Laverdure; 101 of Louis Gardipee's descendants also descend from Joseph LaRoque; 11 of John Baptiste Gardipee's descendants descend from Joseph Francis Ameline; 4 of Francois Xavier Laverdure's descendants also descend from Frank Courchane; 23 of Francois St. Pierre's descendants also descend from Joseph LaRoque; 54 of Francois Cline's descendants also descend from Joseph Dussome; 77 of Joseph LaRoque's descendants also descend from Joseph Dussome, and one of Joseph LaRoque's descendants descends from Louis Thomas. The six descendants of Francois Desjarlais do not appear to descend from any other ancestors on McIntyre's lists. The total of actual people on the petitioner's roll, rather than the sum of the number of descendants of each ancestor, is 331.

<sup>16</sup> In some instances, the men on the McIntyre report have siblings who, though themselves not included on the report, have descendants in the petitioner's membership. The known siblings of Daniel Wells have 70 descendants in the membership, the known siblings of Joseph Belgarde have 62 descendants, the known siblings of John Baptiste Gardipee have 100 descendants, and one of Charles Azure's siblings has 1 descendant in the membership. Thus, there may be as many as 233 other members who descend from individuals with first degree family ties to individuals on the McIntyre report.

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ancestors who received treaty scrip were not blood relatives of the Pembina Chippewa, and that more than one-fifth of these claims to scrip were not "good." For these reasons, not all of these members of the petitioner's organization clearly descend from a relative of the Pembina Band at the time of the 1863 treaty. If all scrip recipients are considered, however, regardless of whether McIntyre found them to be eligible or ineligible for scrip and whether he found them to be related to the Pembina Band or not, then at least 36 percent (1,382 of 3,893) and possibly 46 percent (1,783 of 3,893) of the petitioner's members descend from men identified as scrip recipients under the provisions of the Red Lake and Pembina Chippewa treaties of 1863 and 1864.

### **The Emergence of the Turtle Mountain Band, 1870's - 1880's:**

The first explicit reference to a Turtle Mountain band of Chippewa appeared in the 1871 annual report of the Chippewa agent at the White Earth Agency. Agent E.P. Smith referred to a "Turtle Mountain band of Pembinas" and identified it as the band which had requested a reservation in the Turtle Mountain country (BIA 11/8/1871). A "board of visitors" to the Chippewa Agency had reported in 1871 that the Pembina Indians had expressed a "strong desire" to have a reservation of their own in the Turtle Mountains because those mountains had "long been their hunting grounds" and had never been ceded to the United States (BIA 10/20/1871). Some of the "Pembina Indians" could be induced to remove to the White Earth Reservation, Agent Smith judged, and others would go to the Turtle Mountains if a reservation were to be established there (BIA 11/8/1871). The following year, Agent Smith stated that a "portion of the [Pembina] band live on Turtle Mountain, in Dakota," and that its members claimed to have been living there at the time of the treaty of 1863. He reported that the band numbered about 350 Indians, plus 100 Métis who, in his view, "might be stricken from" the roll. The band argued that its territory lay west of the boundary of the treaty cession, and asked that its "rights in this unceded country may be recognized." Agent Smith recommended that the Department either recognize their right to the Turtle Mountains or order them to remove to the White Earth Reservation (BIA 10/1/1872).

In January 1873, the legislative assembly of Dakota Territory requested the removal of the Pembina band from the lands they had ceded by the treaty of 1863 and their relocation to the White Earth Reservation (Dakota 1873). In March 1873, Congress passed an appropriation act which included a provision for the purchase of one township of land on the White Earth Reservation from the Mississippi bands of Chippewa for the use of the Pembina band (Statutes 1873). A township of land on the Wild Rice River on the reservation was assigned to the Pembina band (BIA 12/1/1873). Commissioner of Indian Affairs E.P. Smith, the former agent at the White Earth Agency, admitted in his annual report of 1874 that few of the "Pembinas" had complied with an order to remove to the reservation. Most of them remained, he said, at Pembina and Turtle Mountain. He noted that the Turtle Mountain band claimed that, if they were to remove to White Earth, they would be due compensation for relinquishing their lands west of the territory ceded by the treaty of 1863 (BIA 11/1/1874, 29-30). A result of a partial removal to the White Earth

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Reservation during the 1870's was that the previous band was divided and reduced in size. In 1878, Commissioner Hayt put the population of the Pembina band living in the Turtle Mountains at 360 (BLA 5/23/1878). In 1880, Agent C.A. Ruffee of the White Earth Agency described the Turtle Mountain Indians and the Pembina Indians as "one and the same," (BLA 9/14/1880), indicating that the identification of a separate and distinct Turtle Mountain band was not fully established as late as 1880.

Both the historian Joseph Kinsey Howard and the anthropologist James Howard have said that many British Métis arrived in the Turtle Mountain area after the unsuccessful Métis rebellion of 1870 (Howard 1952, 334; Howard 1958, 41, and 1965, 10). Historian Stanley Murray, by relying upon earlier secondary sources, has concluded that after 1870 there was a movement of the Red River Métis population into both the Pembina Hills and the Turtle Mountains. A result of this migration, he noted, was that the "full-blood" Chippewa were outnumbered more than ever by the Métis. Arguing that the combined Métis and Chippewa were "not a unified community," Murray made a distinction between two groups during the 1870's: the Turtle Mountain Chippewa and the Chippewa of Pembina and the Pembina Hills (Murray 1984, 20-21). In a contemporary study of the French Métis published by the Smithsonian Institution, V. Havard estimated the Métis population of Dakota Territory in the late 1870's at about 1,280. He concluded that there were 100 Métis families at Pembina and another 70 Métis families at St. Joseph and the Pembina Mountains. These Métis, he said, were mostly intermarried with Chippewa (Havard 1880, 316, 318). A party of British surveyors which helped to mark the international boundary line in 1873 reported that beyond the Métis village of St. Joseph it did not encounter "a single permanent habitation . . . as far as the Rocky Mountains," with the exception of "a few Indian tepees at Turtle Mountain. . . ." (Parsons 1963, 3, 65).

Some of the petitioner's ancestors appeared as taxpayers on the tax lists of personal property valuations for Pembina County, Dakota Territory, in 1873 and 1874 (Pembina County 1873-1874). The published abstracts of the tax lists record only the name and value of the personal property, with no other identifiers, such as age or township of residence. None of the men on the list were identified as Indian or Métis, and most had the French or English names common to the petitioner. However, six names on the tax list ([John] Baptiste Charette, Joseph Gourneau [born 1817], Paul Keplen [Kipling], Urbain [Arban] Delorme, [John] Baptiste LaRoque, and Felix LaTraille [LaTray]) appear to be ancestral to the petitioner's membership (Pembina County 1873-1874; BAR 1998). Three of these men on the 1873 tax list (Charette, Gourneau, and Kipling) also appear to have been listed in the 1880 McIntyre report as treaty scrip recipients (GLO 1880, #185, #363, #152; Pembina County 1873). About 5 percent (179 of 3,893) of the petitioner's members descend from these six men who paid taxes in Pembina County, Dakota Territory, in 1873 or 1874.

In 1876, a petition to the United States Senate from the "Chippewa Indians of Turtle Mountain" in Dakota Territory, signed by Little Shell <sup>17</sup> as "Head Chief" and by three

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<sup>17</sup> This probably was the third Chief Little Shell.

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others, stated a "wish to surrender to the United States" the territory west of the Red River and north of the Sheyenne River. The petitioners requested a reservation, which would include the Turtle Mountains, extending 50 miles south of the international boundary and running 60 miles from east to west. They asked that the reservation be set apart for both "the full and half bloods of the Turtle Mountain band of Chippewas. . . ." (Senate 2/23/1876).<sup>18</sup> Senator Lewis V. Bogy of Missouri introduced a bill to create such a reservation, but the bill did not pass either house of Congress (Senate 3/29/1876). In 1878, twelve headmen of Little Shell's band, writing from St. Joseph, renewed the effort to reach a cession agreement and obtain a reserve (Little Bull et al. 1878). Attorney J.B. Bottineau, stating that he acted on behalf of Little Shell (Es-sence), also prepared a petition to the Secretary of the Interior on the land claim of the "Pembina Chippewa Indians" in 1878 (Bottineau 2/16/1878). Commissioner of Indian Affairs E.A. Hayt concluded that these Indians were "generally designated as the Turtle Mountain band of Chippewas" and, although he did not accept the validity of all of Bottineau's land claims, recommended that steps be taken to extinguish their title for lands west of the cession of 1863 so that they could be removed to the White Earth Reservation (BIA 5/23/1878).

The Indian agent at the Devil's Lake Agency, James McLaughlin, reported that he was visited in October 1880 by a delegation of 10 Indians and 27 Métis who hoped to obtain a reservation in the neighborhood of Turtle Mountain. The statement was signed by delegates of three groups: Chippewa delegates representing Chief Little Shell, Métis delegates from Turtle Mountain, and Métis delegates from St. Joe, as St. Joseph was known. The delegates representing Chief Little Shell claimed that his band numbered about 500 lodges, most of whom were on the prairies to the west, and 40 lodges in the vicinity of St. Joseph. The Métis delegates claimed to represent about 250 families at St. Joseph and about 500 on the prairies to the west (Turtle Mountain 1880; BIA 11/17/1880). During a visit to St. Joseph in March 1881, Agent McLaughlin learned that the Métis were in favor of a reserve in the Pembina Mountains, but that the Indians were unanimously in favor of a reserve at Turtle Mountain, bordering the Mouse [Souris] River and the international boundary. The reserve recommended by the agent did not include either location. The majority of the band, McLaughlin said, were leading nomadic lives and were "scattered throughout Dakota, Montana, and the adjacent British Provinces." The agent estimated that the reservation population would be at least 600 Indians and 1,000 Métis. McLaughlin provided a list of the most influential members of the band, beginning with Little Shell (BIA 3/15/1881).

Political opposition to a proposed reservation for the Turtle Mountain band arose in 1881 and 1882 from the delegate to Congress from Dakota Territory, Richard F. Pettigrew, who urged that the territorial claim of the Turtle Mountain Indians not be recognized, that

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<sup>18</sup> In response, the "head chiefs" of the Pembina Chippewas and the Turtle Mountain Chippewas at the White Earth Agency wrote to the Commissioner of Indian Affairs to contend that the "representation" made by Little Shell and his delegation that they were the "only owners of the Turtle Mountains . . . is not correct." This letter was signed as "head chief" of the Turtle Mountain Chippewas by Way-ke-she-ke-shick (Head Chiefs 1876).

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a separate reservation not be established for them in Dakota, and that the band be removed to the White Earth Reservation (Pettigrew 1881, 1882). Commissioner of Indian Affairs Hiram Price contended that the land claim of the Turtle Mountain Indians was "based upon continuous possession and occupation by them and their ancestors for many generations," but admitted that there was some confusion about the western limit of the band's claim (BIA 10/24/1881, L; 6/7/1882). Price recommended that about 500,000 acres of the territory they claimed be retained as a reserve for them. Taking the position that the Turtle Mountain Indians were a part of the Pembina Band of Chippewa, the Commissioner asked the Secretary of the Interior for authority to negotiate with the Pembina Band for the cession of this territory (BIA 2/14/1882). The Commissioner also argued that the Pembina Chippewas residing on the White Earth Reservation had a common interest with the Turtle Mountain band in the lands to be ceded in Dakota and therefore should participate in the cession negotiations and share in the proceeds of the cession (BIA 3/11/1882).

A group of 200 Turtle Mountain Indians reportedly under the leadership of Little Shell confronted newly-arrived white settlers during the summer of 1882 and told them to leave. The Turtle Mountain Indians posted a sign, an action also attributed to Little Shell, to warn incoming whites not to settle on Indian lands before a "treaty" was made. Historian John Hesketh described Little Shell at this time as "an Indian Chief from Wood Mountain, Manitoba" (Hesketh 1923, 119). Local historian Laura Thompson Law has concluded that Little Shell came to the Turtle Mountains at this time from Manitoba, and implied that the Iron Mountain range north of the international boundary was his home or place of origin (Law 1953, 22-23). Relying upon these secondary sources, the historian Stanley Murray also has concluded that Little Shell was living in Manitoba at the time of these conflicts (Murray 1984, 22). According to historian Hesketh, the chief of the Turtle Mountain Indians at the time of these incidents was Cashpaw [Kaishpaw Gourneau?] (Hesketh 1923, 119). The Indian agent at the Devil's Lake Agency also cited the leadership of this man, reporting that he had been visited in June 1882 by "Caspar and his party of the Turtle Mountain Indians" while the territorial governor also was at the agency (BIA 6/30/1882).

In October 1882, Secretary of the Interior Henry M. Teller directed the General Land Office to open to settlement the public lands lying north and west of Devil's Lake because the claim by the Turtle Mountain band to that territory was "not well founded. . . ." (Interior 10/4/1882; see also Teller 1898, 1904). Little Shell and a delegation of Turtle Mountain Indians traveled to Washington, D.C., in 1882, to protest this decision. While there, they had a meeting with Secretary Teller. The Secretary informed the delegation that his examination had concluded that they had no valid claim to own the country around Turtle Mountain. Chief Little Shell dissented. Secretary Teller indicated that the members of the band could acquire land in the area on the same basis as white settlers, and that he would allow them to make the first selections of land in the area. In order to allow individual members of the band to choose their homesteads before the tract was opened to public entry, the Secretary indicated that he would ask the President to withdraw from settlement a tract of country in which they could make their selections.

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The Secretary indicated that the Métis “living with the Indians as Indians” would have the same rights as the Indians to select an individual homestead in this area. “[W]hen they had selected their lands” with the help of a special agent, the Secretary stated, “the tract so set apart for them now would be reduced” (Interior 12/19/1882; see also Teller 1898). Thus, Secretary Teller saw this land withdrawal as a temporary measure which would not create a permanent tribal reservation.

On December 21, 1882, a few days after Secretary Teller's meeting with Little Shell's delegation, President Arthur issued an executive order to withdraw lands from the public domain for the use and occupancy of the “Turtle Mountain band of Chippewas” (President 12/21/1882). The reserve was a tract of land about 32 miles by 24 miles, with the longest side running south from the international boundary (BIA 10/10/1883, xlviii; Royce 1900, Area #654) (see Figure 4). The Indian Claims Commission has concluded that a “Turtle Mountain Band” was recognized by the United States by this executive order of 1882 (Ind.Cl.Comm. 1958, 250). Two months after the executive order, Secretary Teller explained to the Commissioner of Indian Affairs that the “reservation is only a temporary one,” and that its purpose was “the protection of these Indians” by securing public “lands upon which they might be severally [i.e., individually] located. . . .” (Interior 2/23/1883). Congress endorsed this intent by appropriating funds in 1883 to enable the Secretary of the Interior “to establish the Turtle Mountain band of Chippewas in permanent homes on homesteads upon the public lands. . . .” (Statutes 1883; BIA 10/10/1883, xlviii).

In order to fulfill a promise made to the Turtle Mountain delegation at the time of its visit to Washington, the Indian Office sent Special Agent Cyrus Beede to visit Turtle Mountain in 1883 (BIA 10/10/1883). From his councils with the Indians, Beede said that he learned that they preferred a tribal reservation rather than individual allotments. They claimed that they had been led to believe at the meeting in Washington that the entire reserve created by the executive order was intended to be their permanent home. They also argued that the longer side of that reserve was to have run from east to west rather than from north to south. A result of this difference of opinion, Beede found, was that nearly all of the Métis settlements had been left outside the reserve, just to the east of its boundary line (BIA 7/24/1883; Turtle Mountain 1883). The majority of the Métis who had settled in the vicinity of Turtle Mountain, in Beede's opinion, were foreigners. The members of the assembled council, however, identified these foreigners as their relatives. Beede emphasized that the “Canadian Indians” should receive no share of the “bounties” of the Government, but confessed that it was “a little difficult to ascertain just who are entitled” to benefits. He also noted that many of the Métis from Canada had filed their intentions to become citizens of the United States (BIA 7/24/1883).

Agent Beede proposed different policies for the Indians and for the Métis. If the Métis received homesteads for their existing locations, he argued, then a future reservation “would be occupied principally by Full Bloods. . . .” He estimated that twenty-five Indian families would reside permanently on this reservation (BIA 7/24/1883). Commissioner of Indian Affairs Hiram Price endorsed Agent Beede's recommendations in his annual

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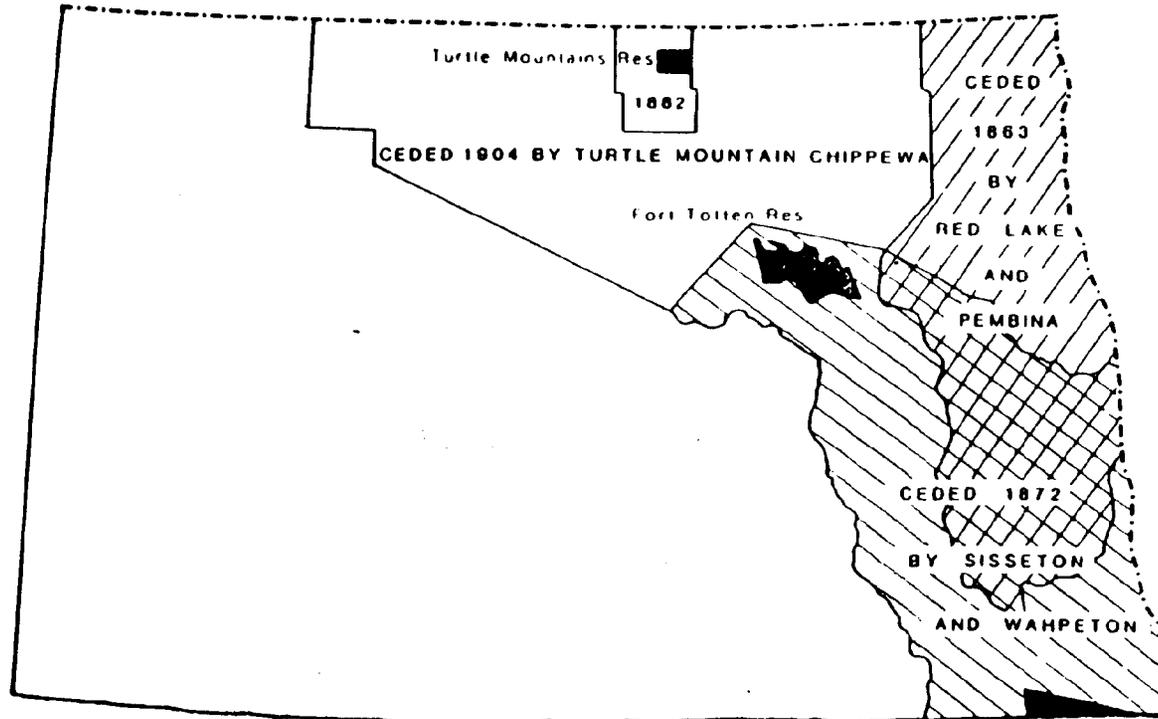


FIGURE 4: CHIPPEWA LAND CESSIONS AND THE TURTLE MOUNTAIN RESERVATION, NORTH DAKOTA

Source: Mary Jane Schneider, *North Dakota Indians* (1986), 94.

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report for 1883, saying that Beede had found that the Métis were anxious to secure individual homesteads, while the Indians instead favored retaining a small reservation (BIA 10/10/1883, xlviii-xlix). The response of the Turtle Mountain council included a request that the selection of allotments of land be delayed for one year so that “their children who are still in the buffalo hunting ground in Montana” would be able to receive allotments (Turtle Mountain 1883). Special Agent Beede said that he could not estimate the number of “wandering half breeds,” but concluded that they did not exceed one hundred families and individuals without families (BIA 7/24/1883). It was not until five years after Agent Beede visited Turtle Mountain that Chief Little Shell complained to the Commissioner of Indian Affairs about Beede's report. Little Shell claimed that in 1883 more than 100 families of “full bloods” of the Turtle Mountain band had lived upon the 1882 reserve and another 150 families had been scattered elsewhere in search of subsistence. At the time of Beede's visit, he said, there had been 1,200 persons of the “mixed bloods” of the band within the limits of the reserve, and a large number in the locality (Little Shell et al. 1888).

On March 29, 1884, President Arthur issued a second executive order which restored to the public domain all of the lands reserved for the Turtle Mountain Indians by the executive order of 1882, except for two townships (President 3/29/1884). The size of the reduced reservation was based on the recommendation made by Special Agent Beede in 1883. This order was consistent with the policy Secretary of the Interior Teller had announced when the original reserve was made in 1882, except that the Secretary had indicated that the reduction of the reserve would occur after individual selections had been made. Beede's report, however, was that the lands settled by the Métis were not covered by the original executive order. Furthermore, it appeared from Beede's report that the Chippewa had chosen a reservation instead of allotments. President Arthur issued a third executive order on June 3, 1884, which returned one of the two townships of the reservation to the public domain, and replaced it by adding a new township to the reserve (President 6/3/1884). This reservation was a tract measuring six miles by twelve miles, with the long side of the reserve running east and west (see Figure 4).<sup>19</sup> In his annual report for the year, the Commissioner of Indian Affairs observed that “a permanent reservation has been made for the Turtle Mountain band of Chippewas in Dakota” (BIA 10/15/1884, xxxviii).

Chief Little Shell was critical of the new reservation, and wrote to the President to contend that promises made to him in 1882 had “not been fulfilled,” and that the “thirty mile reserve set [up] for my people has been settled upon by white people” (Little Shell 1884). A year later, he said that the band's “Chippewas and Halfbreeds” wanted an inspector to examine their grievances. The signatories of this letter were listed in two groups, Indians and Métis (Little Shell et al. 1885). Despite the intent of the 1882 executive order to allow the members of the Turtle Mountain band to obtain a homestead within the territory they claimed, historian Stanley Murray concluded that the Métis “stubbornly refused to file on land they had not ceded. . . .” (Murray 1984, 24; see BIA

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<sup>19</sup> Royce's map of the 1884 reservation is in error (Royce 1900, Area #656).

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8/23/1889). He also concluded that, at the time the reservation was created, the Turtle Mountain band included the previously separate groups from the Turtle Mountains and the Pembina hills (Murray 1984, 22-23). In a history of the Turtle Mountain band, David Delorme contended that the Métis from Pembina joined the band near the close of the 19th century (Delorme 1955, 124). Federal officials, historians, and anthropologists also have concluded that the Turtle Mountain band was enlarged by British Métis who joined it following the failure of the Riel rebellion of 1885 in Saskatchewan (Interior 11/24/1888, lxxiv-lxxv; Delorme 1955, 131-132; Howard 1965, 10; Schneider 1986, 107). Historian Murray concluded that this influx of population increased the friction and conflicts between the Indian and Métis factions of the reservation population (Murray 1984, 24).

The reservation experienced a series of conflicts during the late 1880's. In 1886 the Indian agent reported that "trouble" had almost developed between the Indians, who were opposed to taking individual allotments of land, and the Métis, who had begun marking out the boundaries of their individual land claims (BIA 8/25/1886). In 1887, the Department of the Interior directed that the public lands in the area claimed by the Turtle Mountain Band be surveyed (Interior 11/13/1888, 143; BIA 9/21/1891, 117). In his annual report for 1888, Secretary William F. Vilas stated that the Indians' "half-breed and mixed blood relatives and followers" did not have "any claims to the soil which are entitled to consideration from the Government in dealing with these Indians." He recommended that Congress provide for the removal to a Minnesota reservation of those Turtle Mountain Chippewa Indians who were entitled to the care of the Government (Interior 11/24/1888, lxxv). In 1889, an attempt by county officials to collect taxes on the personal property of the Métis living off the reservation, contending that they were citizens, almost resulted in an armed battle (House 1890; Hesketh 1923, 120-122; Murray 1984, 24-25). Sub-agent E.W. Brenner alleged that Chief Little Shell had "instructed the mixed bloods to pay no attention to the agents," and also bitterly complained that Little Shell lacked "the attributes of a chief" because he had been "controlled" by the Canadian Métis outside of the reserve (BIA 8/4/1890). Brenner requested that a detachment of troops be sent to his defense in both 1889 and 1890, and said that the situation at the agency in August 1890 had reached a "crisis" (BIA 8/4/1890).

The annual Indian census rolls for the years 1886 through 1890 show that the Devil's Lake Agency maintained two separate censuses for the Turtle Mountain Reservation, one for the "full-bloods" and one for the "mixed-bloods." The 1885 roll was incomplete. The census for 1887 included a count of the "mixed bloods" which was a departure from all other years, perhaps because Brenner, the reservation's farmer-in-charge, dropped from the "roster" individuals who resided in an organized county and paid taxes. Many of these people, he said, had voted and filed on their land as citizens (BIA 8/31/1887). The census for 1889 introduced the use of a third category, "mixed bloods" in the vicinity of the reservation, but this did not become a regular category of the reservation census until 1892. The number of "full bloods" counted on these rolls in the five years between 1886 and 1890 varied from 262 to 326. With the exception of 1887, the number of "mixed bloods" counted on the rolls during this period varied from 963 to 1,197, but was

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steadily increasing. Again excluding 1887, the total population of both “full bloods” and “mixed bloods” belonging on the reservation during the years from 1886 to 1890 varied from 1,245 to 1,459 (BIA 1885-1940, roll 94). The U.S. Census Office reported that the 1890 population of the Turtle Mountain Reservation was grouped into 80 families of “full bloods” and 258 families of “mixed bloods.” In addition, it reported, there were another 500 or 600 Métis living on lands in the vicinity of the reserve. The “full bloods,” it said, spent some of their time on the Canadian side of the boundary line (Census Office 1894, 509, 515-516).

### **The Métis Migration to Montana, 1870's - 1880's:**

The majority of the petitioner's family lines appear to have had a member migrate to Montana during the 1870's and 1880's. Some evidence, however, places some of the ancestors of the petitioner's members in Montana prior to 1870. The earliest presence of the petitioner's ancestors in Montana may be the births of Francois Xavier LaPier in 1850 and John Baptiste Pambrun in 1854, although at least one parent of these children was likely a transient fur trapper or trader rather than a resident of the territory (Teton Comm. 1988, 258; LaPier 1997, 106). Michael Gray and his wife Caroline Campion Gray were said to have lived near a Catholic mission to the Blackfeet in 1866 (Teton Comm. 1988, 122). Emily Gardipee Fellers, who was born in Canada, was said to have arrived at Fort Benton in 1868 (Teton Comm. 1988, 174-175). Anthropologist Verne Dusenberry stated that old parish registers reveal Métis families along the Front Range of the Rockies in the earliest years of settlement (Dusenberry 1958, 30). Local histories of the counties of north-central Montana generally have acknowledged that Métis or “Cree half-breeds” came from Canada during the 1860's to hunt in the Milk River valley, where they lived in temporary cabins along the river (Noyes 1917, 21, 24, 42, quoted; Allison 1968, 2; Centennial Comm. 1989, 24). Dusenberry claimed that Métis hunters moved back and forth between Pembina and Montana during the 1850's, 1860's, and 1870's, but did not cite any evidence which documented regular movements between those places (Dusenberry 1958, 30).

In 1870, most of the Red River Métis population was located in the Red River Settlement at the junction of the Red and Assiniboine Rivers, and thus outside of United States jurisdiction (see Figure 1). Genealogical researchers D.N. Sprague and R.P. Frye have compiled a table of the individuals who appeared on the 1870 census of Manitoba and a table of the land occupancy in the Red River Settlement in 1870, as recognized by the Government of Canada and as shown in surveyors' field notes and the records of the Land Title Office (Sprague and Frye 1983, 34-35, table 4, table 5). These tables contain the names of at least 46 ancestors of the petitioner's members. These ancestors were living in 1870 in ten different parishes along the Assiniboine and Red Rivers, with 76 percent (35 of 46) of them located along the Assiniboine River west of its junction with the Red River. More than half of these ancestors lived in the single parish of St. Francois-Xavier (see Figure 2). There were 27 ancestors in St. Francois-Xavier Parish, 4 each in St. Boniface and St. Agathe Parishes, 2 each in High Bluff, Baie St. Paul,

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Headingley, and St. Charles Parishes, and 1 each in St. Andrew, St. Clement, and St. Norbert Parishes (see Table 4).<sup>20</sup>

The 46 families identified as residing in the Red River Settlement in 1870 have about 1,469 descendants in the petitioner's modern membership (BAR 1998). Thus, about 38 percent (1,469 of 3,893) of the petitioner's members are descendants of the 1870 residents of the British Red River Settlement. Because there were several instances of marriages between members of these families, many of the petitioner's members can trace their ancestry to two or three of these Red River settlers. One of these 1870 ancestors of the petitioner's members, Daniel Wells, appeared in McIntyre's 1880 report as a treaty scrip recipient whose status was "good" (GLO 1880, #389). Two of these 1870 ancestors had a son identified in McIntyre's report (GLO 1880, #396, #444).<sup>21</sup> Five of these household heads in the Red River Settlement in 1870, all in St. Francois-Xavier Parish, had appeared on the 1850 census of Pembina (Census 1850; White Weasel n.d., 108, 114, 115, 119).<sup>22</sup> Since these 5 ancestors have about 283 descendants in the petitioner's membership, this means that the 41 ancestors of the petitioner's members in the Red River Settlement in 1870 whose family members had not appeared on the 1850 Pembina census have about 967 descendants in the petitioner's membership (BAR 1998). Thus, about 25 percent (967 of 3,893) of the petitioner's members are descendants of 1870 residents of the British Red River Settlement who had not previously been on the 1850 census of Pembina.

Montana's "state folklorist" has said that the "identity" of the Little Shell petitioner in Montana "goes back to the Metis Diaspora of 1870. . . ." (Vrooman 1994). Genealogists D.N. Sprague and R.P. Frye, who studied the Red River Métis population in great detail,

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<sup>20</sup> Sprague and Frye also produced a summary table, titled "Genealogy of Red River Households, 1818-1870," of the Red River colony prior to Canadian jurisdiction (Sprague and Frye 1983, table 1). In addition to the ancestors of the petitioner's members found on Sprague and Frye's tables of census and land ownership records, at least another 15 of the petitioner's ancestors are listed in this summary genealogical table. These individuals could not be associated with a specific parish or a specific year of residence, and did not appear on Sprague and Frye's tables of landownership about 1835, landownership about 1870, or the 1870 census. Therefore, they have not been included in the discussion or tables of the Red River Settlement at 1835 or 1870. Four of these 15 individuals -- Michael Kline, Antoine LaPierre, Francois St. Pierre, and Edward Wells -- appeared on the 1850 census of Pembina County and have been included in the discussion of Pembina (see Table 2). Pierre Delorme had a daughter (Judith Delorme married to Joseph Gourneau) in Pembina in 1850 (White Weasel n.d.). Antoine Rosebluff and John LaRoque appear to have had associations with Pembina through the marriages of their children to descendants of Peltchie, Kline, and Landrie ancestors of the petitioner on the 1850 census of Pembina. Joseph Parisan and Michel Monette were fathers-in-law of men (Bonaventure Gardipee and Jean Baptiste Faynard) who appeared in records of the Red River Settlement in 1870. James Swan (b.1829) was the father and father-in-law of men (Jack Swan and Frank LaPier) who settled in Montana in the 19th century. The other ancestors on Sprague's table 1 were James Short, Joe Cook, John Wells, James Sinclair, and James Swan (b. before 1812).

<sup>21</sup> Andre Trottier and son Charles Trottier, and Joseph Laverdure and son Pierre Laverdure.

<sup>22</sup> The five ancestors on the 1850 Pembina census were: Francois Fayant, Louis Landry, Moses Landry (as a child), Charles Peltier, and Andre Trottier.

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TABLE 4

PETITIONER'S ANCESTORS: BRITISH RED RIVER SETTLEMENT, ca. 1870

<u>Name / ID No.</u>	<u>Parish</u>	<u>Lot</u>	<u>Notes</u>
Joseph Pocha [b.1800] # 3943	High Bluff, Assiniboine River	66-70	
Joseph Pocha [b.1833] # 3775	High Bluff, Assiniboine River	68	
Andre Desjarlais [b.1822] # 1277	Baie St. Paul, Assiniboine River	13, 246	
Charles Peltier [b.1805] # 3584	Baie St. Paul, Assiniboine River	222	b
Andrew St. Germaine [b.1838] # 4549	St. Francois-Xavier, Assiniboine R.	94	d
Francois St. Germaine [b.1782] # 4599	St. Francois-Xavier, Assiniboine R.	100-101	[d]
Leander St. Germaine [b.1839] # 4596	St. Francois-Xavier, Assiniboine R.	101	
Francois Fayant [b.1796] # 1460	St. Francois-Xavier, Assiniboine R.	115-133	b
Hugh Ross [b.1793] # 4246	St. Francois-Xavier, Assiniboine R.	115-133	[d]
Antoine Houle [b.1787] # 2221	St. Francois-Xavier, Assiniboine R.	116-133	a
Francois St. Germaine [b.1833] # 4597	St. Francois-Xavier, Assiniboine R.	127	[d]
John J. Ross [b.1832] # 4226	St. Francois-Xavier, Assiniboine R.	136	
William Fiddler [b.1827] # 1544	St. Francois-Xavier, Assiniboine R.	147	
Oliver LaRoque [b.1797] # 2792	St. Francois-Xavier, Assiniboine R.	177	a.(c?)
Cuthbert McGillis [b.1822] # 3358	St. Francois-Xavier, Assiniboine R.	181-190	
Louis Landry [b.1816] # 2591	St. Francois-Xavier, Assiniboine R.	195-196	b
Moses Landry [b.1845] # 2684	St. Francois-Xavier, Assiniboine R.	195-196	[b]
Andre Trottier [b.1791] # 4711	St. Francois-Xavier, Assiniboine R.	195-196	a,b.[c]
Jean Baptiste Fayant [b.1801] # 1461	St. Francois-Xavier, Assiniboine R.	197	
Alexander Jeannotte [b.1828] # 2354	St. Francois-Xavier, Assiniboine R.	199-202	d
Angus McGillis [b.1838] # 3354	St. Francois-Xavier, Assiniboine R.	202-204	
Jean Baptiste Trottier [b.1841] # 4971	St. Francois-Xavier, Assiniboine R.	202-204	
James (Napolean) Whiteford [b.1827] # 5175	St. Francois-Xavier, Assiniboine R.	202-204	
Alexander Gardipee [b.1842] # 1805	St. Francois-Xavier, Assiniboine R.	none	
Baptiste Gardipee [b.1832] # 1808	St. Francois-Xavier, Assiniboine R.	none	
Bonaventure Gardipee [b.1822] # 1893	St. Francois-Xavier, Assiniboine R.	none	
Louis Gardipee [b.1836] # 1806	St. Francois-Xavier, Assiniboine R.	none	
Calaise LaFountain [b.1826] # 2520	St. Francois Xavier, Assiniboine R.	none	[d]
Jean Baptiste LaFrambois [b.1806] # 2529	St. Francois-Xavier, Assiniboine R.	none	
Alexander McGillis [b.1811] # 3356	St. Francois-Xavier, Assiniboine R.	none	
Modeste McGillis [b.1848] # 3596	St. Francois-Xavier, Assiniboine R.	none	
Charles Bremner [b.1835] # 500	Headingly, Assiniboine River	42	
Alexander Bremner [b.1793] # 492	Headingly, Assiniboine River	43	
John Swan / Swain [b.1832] # 4914	St. Charles, Assiniboine River	75	
Joseph Laverdure [b.1785] # 2837	St. Charles, Assiniboine River	90	[c]
George Kipling [b.1804] # 2298	St. Clement, Red River	24	a
George Ram Kipling [b.1824] # 2299	St. Andrew, Red River	264-267	
Moses Carrier [b.1819] # 720	St. Boniface, Red River	15	
Emmanuel Champagne [b.1801] # 739	St. Boniface, Red River	15	
Eli Paranteau [b.1835] # 3818	St. Boniface, Red River	117-113	
Joseph Paranteau [b.1817] # 3807	St. Boniface, Red River	117-113	[d]
Daniel Wells [b.1836] # 5231	St. Norbert, Red River	31-27	c
Alexander Moran [b.1836] # 3194	St. Agathe, Red River	575	d
Louis Moran [b.1812] # 3195	St. Agathe, Red River	577	
Francois Dubois [b.1775] # 1322	St. Agathe, Red River	577-579	
John Baptiste Dubois [b.1826] # 1320	St. Agathe, Red River	579	

SOURCE: Sprague and Frye 1983, table 4 and table 5.

NOTES:

<sup>a</sup> In the Red River Settlement, ca. 1835

<sup>b</sup> On the 1850 Pembina census. <sup>[b]</sup> On the 1850 Pembina census as a child.

<sup>c</sup> Received 1863 treaty scrip. <sup>[c]</sup> Son received 1863 treaty scrip. <sup>[c?]</sup> Son a possible treaty scrip recipient or applicant.

<sup>d</sup> On the 1890 Mahone Commission census. <sup>[d]</sup> Widow or child on the 1890 Mahone Commission census.

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concluded that the Red River Métis were dispersed after the adoption of the Manitoba Act of 1870 (Sprague and Frye 1983, 28). They documented that dispersal within modern Canada, but unfortunately did not trace the destinations of those Métis who fled Canada to the United States. According to historian Joseph Kinsey Howard, a reason for a Métis migration to Montana during the 1870's, in addition to the failure of the Métis to achieve an autonomous government in Manitoba in 1870, was the devastating impact of the extension of the railroads and the disappearance of the buffalo on a Métis economy which was based on buffalo hunting and the transportation of freight (Howard 1952, 334). Métis trappers and buffalo hunters had made seasonal visits to Montana during the 19th century. During the 1870's and 1880's, however, Métis settlers began to establish permanent settlements in several areas of Montana, including the Judith Basin south of the Missouri River, the area along the Milk River and between the Milk and the Missouri, and the Front Range along the eastern edge of the Rocky Mountains. A result of the dispersal of the Métis population during the 1870's and 1880's was that Métis settlements were established in Montana before the McCumber Agreement of 1892. From the earliest years of these Métis settlements they have been associated with some of the ancestors of the petitioner's members.

Many of the young Red River Métis migrated to Montana as buffalo hunters who moved with that animal's shrinking range. The extraordinary slaughter of the North American buffalo during the 19th century which brought those enormous herds nearly to the point of extinction in the late 1880's was described in an 1889 report for the Smithsonian Institution by William T. Hornaday (Hornaday 1889). As a summation of his report, Hornaday included a map which indicated the extent of the buffalo range at various times and gave the dates of the extermination of the buffalo in various areas of the North American continent. Hornaday's boundary lines of the extent of the buffalo range represent the boundary outside of which the buffalo herds had been exterminated by a given date. His map indicates that the buffalo had been almost eliminated from Dakota Territory as early as 1880, and that in 1889 the last surviving herd in the United States, north of the Platte River, was located in the area between the Missouri and Yellowstone Rivers in Montana Territory. If the scarcity of the buffalo was noted a decade earlier than their extermination date, then Hornaday's map of the shrinking buffalo range would closely parallel the movement of some of the Métis from Canada and North Dakota to Montana in the 1870's and their settlement at the end of that decade in the Judith Basin (see Figure 5).

A post-1870 migration of Canadian Métis or mixed-blood Cree Indians to the Milk River valley, after the failure of the Métis to establish their own government on the Red River, has been noted by scholars and local historians (Ewers 1974, 82-83; Hill Comm. 1976, 5). Anthropologist Verne Dusenberry concluded that Métis migrated to the Milk River from St. Joseph (Dusenberry 1958, 30-31). According to historian Larry Burt, one of the largest of the early Métis settlements in Montana was located on a portion of the Milk River known as the Big Bend, near where Frenchman's Creek enters the Milk northeast of modern Malta. Although Burt could not say when this settlement originated, he showed that the U.S. Army first took note of it in the 1870's (Burt 1987, 196). A history of

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Phillips County has stated that a large number of Métis settled northeast of Malta in 1870. After cattlemen moved into the area, this local history contended, in 1879 this group of Métis moved farther west to the Missouri River "breaks" (Phillips H.S. 1978, 8). A history of Hill County has suggested that a group of Cree Indians moved to the Milk River in the 1870's, but, because of the disappearance of the buffalo herds, had to move into the Bear Paw mountains around 1879-1881 (Hill Comm. 1976, 5). Historian Burt also noted evidence of the presence of Crees in northern Montana during the 1870's and 1880's (Burt 1987, 196-199). Further west, the chief astronomer of the U.S. commission surveying the international boundary line during the early 1870's said that the Métis and various tribes followed the buffalo in a common hunting territory centered in the Sweet Grass Hills of Montana (Twining 1877).

In the local histories of north-central Montana, but not those of the Front Range, there has been some recognition that Métis or Indian families from the Turtle Mountains of North Dakota migrated to that area of Montana. Memoirs and oral interviews also follow this pattern. A memoir by Clemence Berger recounted how, shortly after her marriage in 1870, she left North Dakota with a group which followed the buffalo across North Dakota and Montana and spent several years on the Milk River at the site of modern Malta. When the buffalo thinned out, she indicated, the group moved south and settled in the Judith Basin and Lewistown area in 1879 (Berger n.d.). Anthropologist Verne Dusenberry used this source to describe the movement of some Métis from St. Joseph to the Milk River and then to Lewistown (Dusenberry 1958, 30-31). A history of Phillips County stated that the area northeast of Malta had been settled by Métis from the Turtle Mountains (Phillips H.S. 1978, 8). Historian Stanley Murray, relying upon the work of Dusenberry, suggested that Métis groups from St. Joseph and Pembina in Dakota Territory migrated to Montana during the years between 1870 and 1885, and established settlements along a variety of rivers in that state (Murray 1984, 22). Historian Larry Burt also claimed, without citing evidence, that "many Métis from the Turtle Mountain area" moved westward into Montana Territory as early as the 1860's (Burt 1987, 196).

In 1879, groups of Métis settled the area of the Judith Basin and the future Lewistown (Berger n.d.; Van den Broeck 1925; Mueller 1931; Silloway 1936; Anderson 1943; Zellick 1943; Howard 1952; Burlingame and Toole 1957, 2:147) (see Figure 1). The historian Joseph Kinsey Howard claimed that the Métis settlement on Spring Creek grew to 150 Métis families before any appreciable white migration to the settlement occurred (Howard 1952, 344). According to the memoir of Clemence Berger, the area was first settled in May 1879 by a group of 25 families led by her father-in-law Pierre Berger, an ancestor of the petitioner. In the fall of 1879, she recalled, another "contingent of our people" arrived (Berger n.d.; Dusenberry 1958, 31; Centennial Comm. 1989, 24). One local expert has written that the Judith Basin was settled in 1879 by a party consisting of "fifty or more families of halfbreeds from northern Montana," under the leadership of Francis Janeaux and Paul Morase (Silloway 1936, 5-7). Another memoir referred to a group of settlers as the "Oulette Band" (Nault 1977, 3). The first Métis settlers consisted of Berger, Daniels, Doney, Fiant, Gardipee, Janeaux, Kline, LaFountain, LaRocque, LaTray, Laverdure, Morase, Oulette, Swan, Turcotte, Wells, and Wilkie families (Berger

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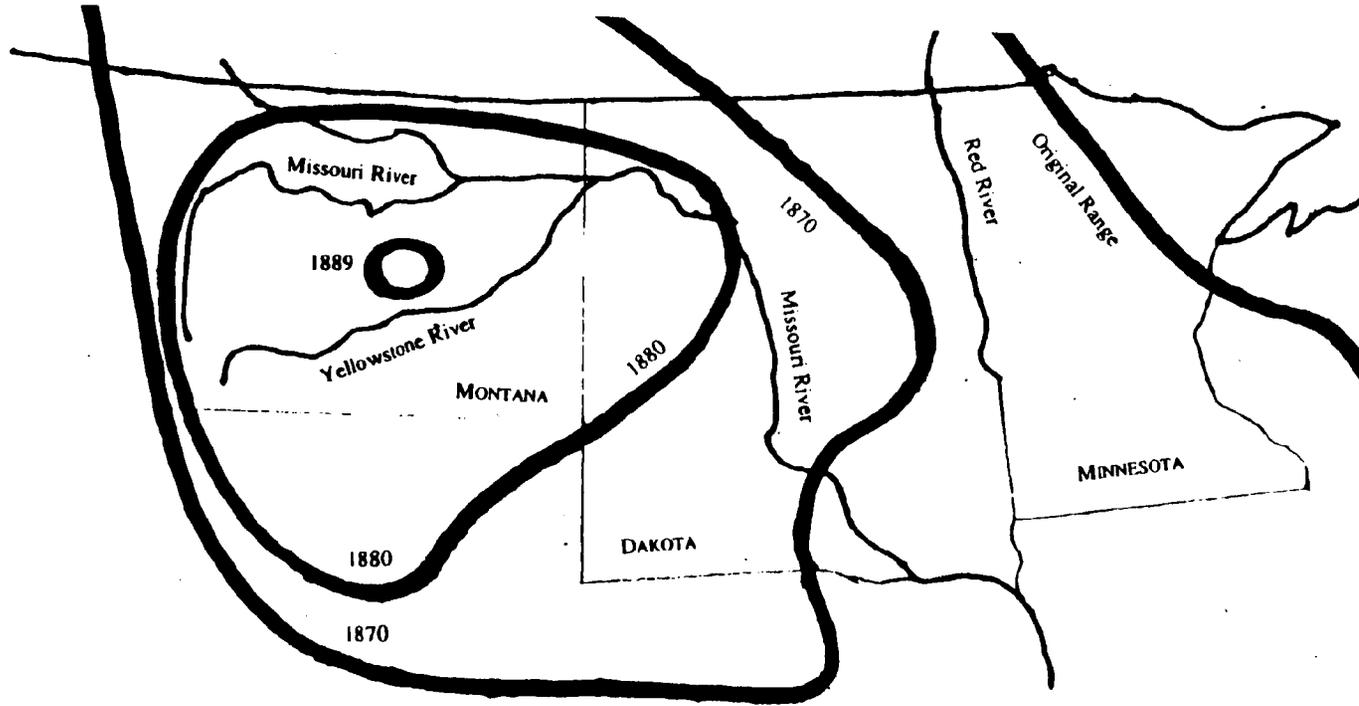


FIGURE 5: BUFFALO RANGE, 1800 - 1889

Source: William T. Hornaday, "The Extirpation of the American Bison," Smithsonian Institution, *Annual Report*, 1887 (1889), map.

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n.d.; Van den Broeck 1925; Silloway 1936, 6; Nault 1977, 3; Roy Comm. 1990, 3, 333-334). Although Clemence Berger stated that her family had begun its migration in North Dakota, another descendant of these early settlers claimed that her LaRocque family, together with the Doney, LaFountain, Swan, and Gardipee families, had migrated from Saskatchewan (Berger n.d.; Roy Comm. 1990, 333-334).

The decision to remove to the Judith Basin and make a permanent settlement there in the spring of 1879, according to settler Clemence Berger, was made by the group in "several meetings" as a response to the "thinning out" of the buffalo herds (Berger n.d.). An account of the founding of Lewistown, based on an interview with Ben Kline, one of the first settlers, indicated that the group had decided to move to new hunting grounds in the Judith Basin after hearing about the area from an army officer (Van den Broeck 1925). However, another account, also based on an interview with Kline, suggested that in the fall of 1879 the U.S. Army had rounded up the Métis along the Milk River and removed a party of 50 families to the Judith Basin (Mueller 1931). The Army did move to expel mixed-blood groups along the Milk River in 1879 (Burt 1987, 197). Congress in 1874 had set aside the land north of the Missouri, between Dakota Territory on the east and the Marias River and the summit of the Rocky Mountain on the west, as a reservation for the Gros Ventre, Piegan, Blood, Blackfeet, and River Crow Indians (Statutes 1874; Royce 1900, Area #565). It would have been consistent with Federal policy for the Army to have required the American Métis on the Indian reservation north of the Missouri River to move off the reservation by relocating south of the Missouri. These memoirs suggest that one party of Métis may have chosen to leave this area, while a later party was compelled to move.

In his contemporary study of the French Métis of the late 1870's, V. Havard estimated that the Métis population of Montana was about 1,000. The largest group of Métis, according to Havard, was a moving camp of 650 Métis on the Milk River. These Métis were buffalo hunters, mostly intermarried with the Gros Ventre and, he said, probably had migrated to Montana from Manitoba. Havard said that the small groups and individual families of Métis in Montana east of the continental divide were intermarried with the Cree and Chippewa (Havard 1880, 316, 318). The historian Joseph Kinsey Howard said that the largest Métis settlement in Montana was that on Spring Creek, the future Lewistown. The other major Métis settlements in Montana during the 1880's, according to Howard, were those at Milk River, Fort Benton, and Helena (Howard 1952, 344). The ethnohistorian John Ewers agreed that the largest settlement of Métis in Montana in 1880 was in the Spring Creek Valley in the Judith Basin south of the Missouri River. In addition, he said, the Federal census of 1880 listed 229 "half-breeds" in the extremely large county of Choteau, north of the Missouri River. The largest of these settlements were those of the 79 Métis at Fort Benton on the Missouri northeast of modern Great Falls, and the 66 Métis on the upper Teton River on the eastern edge of the Rockies (Ewers 1974, 87). A Métis descendant has identified Métis settlements on the 1880 census at the South Fork of the Sun River, west of modern Augusta, of 29 families and 127 Métis, and at St. Peter's Mission, southwest of modern Great Falls, of 27 families and 118 Métis (LaPier 1997, 111).

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The records of St. Peter's Mission help to date the arrival of the petitioner's ancestors in Montana. This Catholic mission to the Blackfeet Indians was located at three different sites on the Teton, Sun, and Missouri Rivers from 1859 to 1866. In its final site west of the Missouri between the Sun and Dearborn Rivers after 1874 the mission was converted to a school (Burlingame and Toole 1957, 1:110-111; Schoenberg 1960, 38; Harrod 1971, 52-54). The mission's marriage register (1859-1895) and baptismal register (1855-1879) have been translated and transcribed by the Reverend Dale McFarlane (McFarlane 1981). The first marriage recorded at St. Peter's Mission between two of the petitioner's ancestors took place at an unknown location in 1874 (see Table 5). The five marriages recorded in 1877 and 1878 all occurred along the Milk River. The first marriage recorded as having taken place at St. Peter's Mission itself was in 1879, and the first marriage in the Judith Basin was in 1880. At least 55 marriages recorded in the mission's marriage register from 1874 to 1899 were between individuals who were ancestors of, or collateral relatives of, the petitioner's members.<sup>23</sup> Reverend McFarlane created a separate section of his transcript for marriages between Indians, although he did not indicate the participants' tribe or tribes. None of the 54 marriages between Montana Indians in the St. Peter's Mission records could clearly be identified as having included an ancestor of a member of the petitioning group. In only two of these marriages between Indians was a witness to the marriage clearly ancestral to the petitioner (McFarlane 1981).

In 1880, some ancestors of the petitioning group were listed on the Federal census as living in six of the large census districts of Montana Territory (see Table 6). There were 10 households containing ancestors in the Judith Basin district. Another 10 households containing ancestors were in the district of St. Peter's Mission. Ancestors were also living in 4 households in the district of Fort Benton. Along the Front Range, there were ancestors in 3 households in the Sun River district, 2 households in the Teton River district, and 1 household in the Shoukin Creek district (Census 1880).<sup>24</sup> In addition to these 30 households containing ancestors of the petitioner's members, other households contained siblings of these ancestors who do not have descendants in the petitioner's membership. The straight-line distance between Fort Benton on the Missouri River and St. Peter's Mission, near the Missouri, was about 70 miles. The straight-line distance

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<sup>23</sup> Because the genealogies for the 19th century families are not complete, there may be marriages for other siblings or collateral relatives of the petitioner's ancestors in the St. Peter's Mission records, which were not included in this analysis.

<sup>24</sup> The petitioner's researchers did not submit a list of the petitioner's ancestors on the 1880 census, for either Montana Territory or Dakota Territory, as they did for the 1910 and 1920 censuses of Montana. The index to the 1880 census of Montana Territory contains surnames ancestral to the petitioner in every county; those surnames, however, are not exclusive to the petitioner. The BIA researchers did not track all of the petitioner's surnames in the 1880 census index, but concentrated on trying to locate the petitioner's ancestors who were named in local histories and other records as having been pre-1880 settlers of Montana, or who may have been living in one of the areas described by the petitioner's researchers as a place where many of the petitioner's ancestors had lived. The BIA's available research time did not allow for its researchers to conduct a thorough search of all the Montana counties on the 1880 census. Such a search may identify other ancestors of the petitioner who were in Montana as early as 1880. A search of the 1880 census also may locate ancestors of the petitioner who were in Dakota in 1880.

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TABLE 5

PETITIONER'S ANCESTORS: MARRIAGES AT ST. PETER'S MISSION, 1874-1892

<u>Date</u>	<u>Place</u>	<u>Groom</u>	<u>Bride</u>
1874/ 8 /29	-	W[illiam] DuBray	Marie Malaterre
1877/ 1 /29	Milk River	Moderic Gladeu	Melinie Azure
1877/ 7 /13	Milk River	John Swan [James Jain]	Elisa Nome
1878/ 1 /29	Milk River	Francois Azure, #1	Marie Berger
1878/ 1 /29	Milk River	Vital Turquotte	Adele Berger
1878/ 3 /31	Milk River	John Plummer	Catherine Cook
1879/ 1 / 8	Ft. Belknap	Clement Azure	Margaret Edo
1879/ 1 /15	-	Francis Laverdure	Marie Turcotte
1879/ 2 /21	-	John M. [Lionel] Doney	Virginia LaFountain
1879/ 3 /25	St. Peters	Ambrose LaPierre	Adelaid Roseblane
1879/ 3 /25	St. Peters	Francis Henry LaPierre	Maria Rosa Swan
1880/ 2 / 9	Milk River	Francois Azure, #2	Julia Peltier
1880/ 2 /10	Milk River	John Malaterre	Marie Roseblane
1880/ 4 / 6	-	Alexander Azure	Marie Azure
1880/ 5 / 4	Judith Basin	Anthony Fleury	Ernestine Wells [Hermestina Welsh]
1880/ 8 /30	South Fork Sun R.	John Baptiste Pambrum	Catherine [Euphrasina] Malataire
1881/ 1 /24	St. Peters	Moyse Azure	Margaret Champion.
1881/ 2 / 9	South Fork	Francis Munro ?	Marie
1881/ 5 /10	Judith Basin	William LaFramboise	Catherine Berger
1881/ 7 /10	Ft. Assiniboine	Bernard Thomas [Tami]	Eliza [Laiza] St. Dennis
1881/ 9 /20	St. Peters	Ambrose Larance	Catherine Nome
1881/11/21	St. Peters	Bonaventure Azure	Magdaline Gardipee
1882/ 1 /23	St. Peters	John Aloysius Courchene	Marie Alphonsina Azure
1882/ 2 / 3	Musselshell R.	Charles LeMire	Aloysia Swan
1882/ 2 /21	St. Peters	John Gardipee	Henrietta Blagon
1882/ 3 / 8	Carroll	William Baston	Marie Goslin
1883/ 3 / 7	Carroll	Isidore Azure	Carolina Paquin
1883/ 3 /14	Judith Basin	John Thomas Welsh	Aloysia Wilky
1883/ 4 / 3	Judith Basin	Bonaventure Gardipee	Catherine LaRocque
1883/ 4 /10	Judith Basin	Daniel [David] Laverdure	Mary M. [Natalie] Wells
1883/ 4 /10	Judith Basin	Joseph Laverdure	Marie Upsilonina Welsh
1883/ 4 /25	-	John Parrent	Marie Malaterre [DuMay]
1883/ 4 /30	Judith Basin	Joseph Welsh	Julia Wilky
1883/ 8 /21	St. Peters	Anthony Azure	Julia Collins
1884/ 1 /28	St. Peters	Henry McCullough Ford	Rose Daniels
1884/ 3 / 8	St. Peters	John Thompson	Elizabeth Ouellette
1884/ 8 / 4	Flat Willow Cr.	Eli Louis [Leon] Gardipee	Marie LaRocque
1885/ 1 / 4	St. Peters	Peter Beauchamp	Julia Azure
1885/ 5 / 5	South Fork	Pascal LaPier	Mariann Collins
1885/12/ 5	Badger Cr.	Elais Gardipee	Antonia Kataitsips-tsaki
1886/ 1 / 7	St. Peters	Alexander James Foster	Cecilia Azure
1886/ 1 /12	St. Peters	Hilary Sangray	Helen Trottier
1886/ 1 /19	Judith Basin	Elias Paul	Rose Daniels / Dognon
1886/ 2 / 1	St. Peters	Aloysius Brunon	Isabella Collins
1886/ 8 /22	Lewistown	Moderic Rocheleau	Catherine Berger
1886/11/23	St. Peters	Francis Azure	Emma [Marie Virginia] Larance
1888/10/23	St. Peters	Albert Larance	Eliza St. Germain
1888/10/23	St. Peters	John Baptiste Swan	Julia Larance
1889/ 5 /20	St. Peters	Caleb (Tom) Anderson	Flora (Marie) Swan
1889/ 5 /20	St. Peters	Frank Sangray [Francis Landre]	Mary Ann Anderson
1889/10/14	St. Peters	Peter Sangray	[Mary] Christine Swan
1891/ 5 /28	St. Peters	William Belgarde	Christine Laverdure
1892/ 4 /25	St. Peters	Charles Swan	Marian Deschenaux [Marie Deshnoe]
1892/ 7 /27	St. Peters	Moses LaPierre	Ida LaFramboise

SOURCE: McFarlane 1981 [St. Peter's Mission records].

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TABLE 6

PETITIONER'S ANCESTORS: MONTANA TERRITORY, 1880

<u>Name</u>	<u>County</u>	<u>District</u>	<u>E.D.</u>	<u>House</u>	<u>Age</u>	<u>Background</u>
Katie Conway	Choteau	Ft. Benton	3	144	26	b. Montana
Eli L. Gardipee	Choteau	Ft. Benton	3	161	22	b. Dakota [gr' father R.R.]
Charles Trotchie	Choteau	Ft. Benton	3	168	43	Pembina 1850; father R.R.
Daniel (& Louise )Wells	Choteau	Ft. Benton	3	[171]	45	Red R. 1870; b. Dakota
Alexander Guardipee	Choteau	Shoukin	4	47	50	Red River 1870
Baptiste Guardipee	Choteau	Teton R.	4	67	48	Red River 1870
Eli Guardipee	Choteau	Teton R.	4	68	23	b. Canada
Jack Swan	Lewis &	St. Peter's	20	59	29	Father from Red River
Frank LaPier	Lewis &	St. Peter's	20	61	29	Father at Pembina 1850
Gabriel Azure	Lewis &	St. Peter's	20	63	57	Pembina 1850
Francois Courchene	Lewis &	St. Peter's	20	65	46	[Pembina ca. 1860]
Charles Azure, [Jr.]	Lewis &	St. Peter's	20	68	45	Pembina 1850
Anthony/Antoine Azure	Lewis &	St. Peter's	20	71	55	Pembina 1850
Gabriel Beauchman	Lewis &	St. Peter's	20	75	34	b. Dakota
Paul Nomee	Lewis &	St. Peter's	20	77	48	b. Canada
Baptise Lavadure	Lewis &	St. Peter's	20	81	30	b. Dakota
Modeste Gladeau	Lewis &	St. Peter's	20	82	32	b. Canada
Moses LaPierre	Lewis &	Sun R.	20	217	?	b. Minnesota
Henry M. Ford	Lewis &	Sun R.	20	223	16	b. Montana
Louis Malatare	Lewis &	Sun R.	20	229	47	b. British Columbia
John Courchene	Meagher	Judith Basin	23	27	20	b. Canada [ / Dakota]
John Charette	Meagher	Judith Basin	23	32	37	Pembina 1850
Jacob Berger	Meagher	Judith Basin	23	34	25	Father at Pembina 1850
Isadore Berger	Meagher	Judith Basin	23	35	32	Pembina 1850
Pierre / Peter Berger	Meagher	Judith Basin	23	36	60	Pembina 1850
Isaie Berger	Meagher	Judith Basin	23	37	35	Pembina 1850
Moses LaTray	Meagher	Judith Basin	23	42	32	b. Canada
Joseph Doney	Meagher	Judith Basin	23	44	37	Pembina 1850
John M. Doney	Meagher	Judith Basin	23	46	22	Father at Pembina 1850
Pierre Laverdure	Meagher	Judith Basin	23	53	65	Pembina 1850

SOURCES: U.S. Census 1880; also: U.S. Census 1850; Sprague and Frye 1983, tables 4 and 5; and Riel 1985, 5:216, 220, 221, 235, 239, 259, 285, 288, 303, 347.

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from Lewistown, south of the Missouri in the Judith Basin district, to Fort Benton was about 80 miles, while the distance from Lewistown to St. Peter's Mission was about 120 miles (see Figure 1).

The majority of the ancestors of the petitioner in the Judith Basin, Fort Benton, and St. Peter's Mission districts in 1880 had a background at Pembina or in Dakota (see Table 6). In the Judith Basin in 1880, at least 8 of the 10 households containing an identified ancestor of the petitioner had Pembina ties. Six households included an individual who had been on the 1850 Pembina census, three as adults and three as dependents, and two other households contained the son of an individual on the 1850 Pembina census. The Berger family alone, however, accounted for four of these eight households. At Fort Benton in 1880, three of the four households containing an identified ancestor of the petitioner had Pembina ties. One household contained an individual who had been on the 1850 Pembina census as a dependent, and two households included persons who had been born at Pembina. At St. Peter's Mission in 1880, 7 of the 10 households containing an identified ancestor of the petitioner had a background at Pembina or claimed birth in Dakota Territory. Along the Front Range, however, one of the six ancestors of the petitioner claimed to have been born in Minnesota, but none of the petitioner's ancestors clearly had past ties to Pembina.

Even in the 1880 settlements with noticeable numbers of Pembina ancestors, however, the ancestors linked to Pembina were a minority of the Indian or Métis population. The Judith Basin district had 31 Indian households clustered together, but only 8 of those households included Pembina Métis ancestors. The St. Peter's Mission district had 27 Métis families, but only 7 of those families included Dakota Métis ancestors. Other households in these districts contained individuals who had been born in Dakota. In addition, some of the individuals who had been born in Canada may have lived in Pembina or St. Joseph, but the available evidence does not reveal this information. In addition to the 8 households of ancestors in the concentration of Indian households in the Judith Basin district, another 6 households of non-ancestors contained individuals who had been born in Dakota or been listed on the 1850 Pembina census. Thus, 14 of the 31 Indian households in the Judith Basin in 1880 had demonstrable ties to Dakota. It appears, therefore, that while the new Métis settlement in the Judith Basin included Pembina Métis, it had been formed of Métis individuals of diverse origins.

A study of the Métis in the combined districts of St. Peter's Mission and the South Fork of the Sun River on the 1880 census of Montana Territory showed that the majority of the Métis adults there had been born in Canada, and that only 28 percent (26 of 94) of the Métis adults had been born in either Dakota or Minnesota. Some of those adults born in Canada could have lived at Pembina or St. Joseph in Dakota before migrating to Montana, but, if so, they appear not to have remained long enough to have had any large number of children born there. There were actually fewer Métis children than Métis adults in these two Montana settlements who had been born in Dakota or Minnesota. The majority of Métis children had been born in Montana, although almost half of the children born before 1875 had been born in Canada. Only 11 percent (17 of 158) of the Métis

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children had been born in either Dakota or Minnesota. None of the children born after 1875 had been born in Dakota or Minnesota, suggesting that there may have been few, if any, recent migrants from Dakota in these settlements (LaPier 1997, 115-116). Thus, while some Pembina Métis migrated to the settlement at St. Peter's Mission, and perhaps the South Fork of the Sun River, these settlements were not Pembina Métis communities. At St. Peter's Mission and along the Front Range, Métis settlements appear to have consisted mostly of Canadian Métis.

A concentration of 31 Indian households on the 1880 census corresponds in size and family names to the party of about 25 families described by county histories and oral histories as the original Métis settlers of what would become Lewistown and its vicinity. In 1880, the census taker listed 61 households in the Judith Basin. One section of this census included 30 consecutive households in which the household head was identified as an "Indian." One household away was a non-Indian household which included "Indian" employees. It appears that these Indian families were living in relatively close proximity to one another since the census taker enumerated all of these households between June 10 and June 12 (Census 1880, 427b-429b). The men in this Indian settlement were primarily hunters and farmers. This cluster of Indian settlers included 58 individuals born in Canada and 54 individuals born in Dakota. Only ten of the adults born in Dakota were over the age of 30, and the oldest person born in Dakota was 57. This age distribution suggests that those who chose to migrate from Dakota were relatively young. The youngest person born in Dakota was seven years old. This fact matches the oral history accounts of a party from Dakota which followed the buffalo herds for about seven years before deciding to settle in the Judith Basin.

The birthplaces and birthdates of the children of the 1880 Judith Basin ancestors of the petitioner provide evidence about how they migrated to Montana. Peter or Pierre Berger and his wife Judith Wilkie lived in the Judith Basin with six children and ten grandchildren. The Bergers had sons aged 37 and 35 born in Canada, and sons 32, 28, and 25, and a daughter 16 born in Dakota. All ten of their grandchildren, between the ages of 5 months and 9 years, were born in Montana. Therefore, the Berger's extended family had left Dakota after 1864 (the year their last child was born there), and arrived in Montana before 1871 (the year their first grandchild was born there). Joseph Doney had a 9-year-old child born in Dakota, a 5-year-old child born in Canada, and a 3-year-old child born in Montana. This evidence indicates that his family left Dakota after 1871 and arrived in Montana from Canada between 1875 and 1877. Moses LaTray's two eldest children, age 9 and 8 years, were born in Dakota. His next two children, age 6 and 5 years, were born in Canada. His youngest, a 2-month-old infant, was born in Montana. This evidence indicates that his family left Dakota after 1872 and arrived in Montana from Canada between 1875 and 1880 (Census 1880, 428a).<sup>25</sup> None of these three

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<sup>25</sup> The similarity in names and ages of 1850 Pembina Davis families to the names, birthplaces, and ages of the 1880 Judith Basin Davis families, coupled with the proximity of the 1880 Davis families to the 1880 Berger families with a known Pembina background, implies that the Davis families may also have originated in Pembina (Census 1880, 428a; White Weasel n.d., 117). There are Davis ancestors in the

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families of ancestors migrated directly from Dakota to the Judith Basin. Although the Doney and LaTray families had similar migration patterns, this evidence reveals that all three of these families did not migrate together as a group prior to settling in the Judith Basin.

In August 1880, the members of a Métis buffalo-hunting party, which was camped on the Musselshell River in central Montana, presented a petition to the U.S. Army commander at Fort Keough on the Yellowstone River with the request that it be submitted to the Government in Washington (Riel 1985, 2:223-227). The petition was delivered by Louis Riel, the Métis leader who had been temporarily exiled from Canada. Riel had lived near St. Joseph for part of 1879, and in 1880 was a member of, and perhaps a leader of, this group of Métis hunters. The petition asked that land in Montana be set aside as a reservation for the Métis. This request was not granted. According to the scholar Thomas Flanagan, who has studied this Métis petition, the Indian agent at the Crow Reservation recommended against the creation of a Métis reservation on the grounds that they were "British subjects" descended from the Canadian Cree. Flanagan noted that a request for a reservation for the Métis "was deeply at variance" with traditional American Indian policy. Although Riel did not sign the petition himself, his leadership was apparent, Flanagan concluded, in his cover letter to accompany the presentation of the petition to the Army (Flanagan 1985, 182-185, 189). The petition referred to the Métis as neither white nor Indian, but as related to "several tribes" of the area (Riel 1985, 2:224). Riel's goal, Flanagan concluded, was the establishment of a "recognized métis 'nation' as an enduring collective presence different from either Indians or whites" (Flanagan 1985, 189). The petition did not assert any affiliation with the Chippewa at Turtle Mountain, nor acknowledge any authority of Little Shell.

The petition contained the names of 101 men (Riel 1985, 2:225-226). At least 43 of the 101 men who were listed on this petition in 1880 were ancestors of members of the current petitioning group. Four of them had been present in the Red River Settlement in 1870.<sup>26</sup> Flanagan concluded that all the signatures, except the first 14, were in Riel's hand. Flanagan's examination of the backgrounds of the 101 signatories of this petition led him to conclude that 43 had been affiliated predominantly with the American communities of St. Joseph or Pembina, that 40 had been affiliated predominantly with the Canadian community of White Horse Plains [St. Francois-Xavier Parish], and that 18 could not be classified. Flanagan defined "community affiliation" as "the location where the individual appears to have spent the longest part of his life before migrating to Montana. . . ." At least 16 of the 43 men from St. Joseph / Pembina actually had been born north of the border. These Métis petitioners in 1880, Flanagan concluded, did not form a lasting community but "certainly dispersed." Some remained in Montana to

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petitioner's ancestry with Turtle Mountain Pembina descent, but there is not enough evidence at this time to connect them to the Davis families of the Judith Basin.

<sup>26</sup> These four ancestors were Baptiste Gardipee, Bonaventure Gardipee, Alexander Moran, and John Ross (Riel 1985, 2:225-226).

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establish settlements at Lewistown and the St. Peter's Mission, he said, while others returned to the Turtle Mountain Reservation and to Canada (Flanagan 1985, 183, 186-189).<sup>27</sup>

The area between the Missouri River and Milk River was settled by the Doney (or, DeLoney) family, one of the largest of the petitioning group's family lines. Lalley Doney settled in the area which would become Phillips County in the early 1880's, according to county histories. It is possible, of course, that Doney remained in this area when the Métis in the vicinity of the Milk River moved, or were removed, to the Judith Basin. Doney was born in Montreal in 1848 and may have lived at Pembina in 1850. According to a county history of Phillips County, the Doney family made its permanent home north of the Missouri River in the Larb Hills, which are just east of modern Malta and adjacent to the Milk River (see Figure 1). Another county history, however, referred to Doney's residence as the mouth of Fourchette Creek, on the Missouri almost opposite the mouth of the Musselshell River. The petitioner's researchers have referred to an area of Métis settlement along the Missouri south of the Little Rockies, and south of the modern Fort Belknap Reservation, as the "Doney Flats" area (Phillips Comm. 1962, n.p.; Phillips H.S. 1978, 48; Roy Comm. 1990, 22; Franklin and Bunte 1994, 58). This area of Montana north of the Missouri River was not formally open for settlement until those lands, which had been established as a reservation in 1874, were ceded by several tribes to the United States by an agreement which was ratified and approved in 1888. Three reservations -- Fort Peck, Fort Belknap, and Blackfoot -- were excluded from this cession (Statutes 1888).

County histories indicate that a number of the petitioner's ancestors were located in north-central Montana prior to 1892. Archie Amiott helped to establish a trading post at the mouth of the Musselshell River on the Missouri in the summer of 1882. John and Virginia Doney and Eli and Marie Gardipee settled in the area of Fort Maginnis, northeast of Lewistown. Their children Joseph H. Doney, born in 1888, and Julia A. Gardipee, born in 1890, married and homesteaded in the same area as their parents. Sam Harvey, although born in Teton County in 1889, spent his childhood in Havre and later homesteaded northwest of Harlem. Maggie Pellitier was born in 1889 in what is now Phillips County, and later homesteaded in southern Phillips County. Alexzina LaRocque was born in 1890 east of Lewistown near Grass Range, and later homesteaded south of Roy in Fergus County. James Kipp was born in 1891 at the Old Agency near Browning, where his father operated a trading post, and later homesteaded at the mouth of Cow Creek on the Missouri River in Blaine County. Joseph Y. Doney was born in 1891 near Malta, married Tillie Rose Gardipee in Lewistown, and then ranched in Fergus County (Phillips H.S. 1978, 300; Centennial Comm. 1989, 362, 390; Roy Comm. 1990, 5, 73-74,

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<sup>27</sup> A temporary seasonal presence of some of the Métis from the Turtle Mountain region in the Judith Basin of Montana to hunt buffalo was noted as late as 1884 by Agent John W. Cramsie of the Devil's Lake Agency. The agent was given this information by a delegation of Turtle Mountain Chippewa which sought to assure him that a party reported as coming into the vicinity to commit depredations was in fact a party returning from a hunt (BIA 6/4/1884).

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TABLE 7

MIGRATION TO MONTANA OF PETITIONER'S 1835 RED RIVER ANCESTORS

Name of <u>1835 Ancestor</u>	Descendant <u>in Montana</u>	Date Descendant <u>in Montana</u> <sup>1</sup>	Location <u>in Montana</u>	Descendants <u>in Petitioner</u> <sup>2</sup>
Alexis Belgarde [b.1800 ca.]	child	1868 birth grchild	Milk River	96
Louis Gardipee [b.1782]	child	1874 birth grchild	Sun River	126
Charles Gladue [b.1776]	grandchild	1878 birth g'grchild	"Harlem"	70
Eusebe LeDeoux [b.1811]	child	1879 birth grchild	Yellowstone [R.]	159
Andre Trottier [b.1791]	child	1880 census	Ft. Benton	26
Oliver LaRoque [b.1797]	grandchild	1880 census	Ft. Benton	126
Jean Baptiste Wilkie [b. ?]	grandchild	1880 census	Lewistown	259
Antoine Houle [b.1787]	grandchild	1880 birth g'grchild	Chester	107
Peter Whitford [b.1795]	grandchild	1883 per application	Choteau Co.	34
James Anderson [b.1775]	grandchild	1883 per application	Choteau Co.	34
James Short [b.1809]	grandchild	1885 birth g'grchild	Malta	152
Joseph LaFournaise [b.1776]	g'grandchild	1900 c. 2g'grchild	[Valley Co.]	15
Angus McGillis [b.1775]	grandchild	1902 birth g'grchild	Dupuyer	38
George Fidler [b.<1807]	g'grandchild	1926 birth 2g'grchild	[Blaine Co.]	10
John Kipling [b.1770]	3g'grandchild	1931 birth 4g'grchild	Teton Co.	25
George Kipling [b.1801]	2g'grandchild	1931 birth 3g'grchild	Teton Co.	25

SOURCES: U.S. Census 1880; Interior 7/16/1917 [McLaughlin roll]; BIA 1937 [Roe Cloud roll applications]; McFarlane 1981 [St. Peter's Mission records]; White Weasel n.d., 106-124 [1850 census]; Petitioner's ancestry charts.

NOTES:

See Table 1 for additional information about the petitioner's 1835 ancestors.

<sup>1</sup> Some dates of birth and dates of marriage are estimates.

<sup>2</sup> Because some of the petitioner's members are descendants of more than one of these individuals, this column can not be added to obtain a total.

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TABLE 8

MIGRATION TO MONTANA OF PETITIONER'S 1850 PEMBINA ANCESTORS

<u>Name of 1850 Ancestor</u>	<u>Descendant in Montana</u>	<u>Date Descendant in Montana</u> <sup>1</sup>	<u>Location in Montana</u>	<u>Descendants in Petitioner</u> <sup>2</sup>
Alexis Belgarde	child	1868 birth grchild	Milk River	44
Michael Kline	child	1869 birth grchild	"Lewistown"	37
Francois St. Pierre	child	1869 birth grchild	"Lewistown"	37
Francois Fayant	child	1878 birth grchild	St. Peter's	129
Andrew Trotchie	child	1880 census	Ft. Benton	26
Pierre Berger	self	1880 census	Judith Basin	189
John Baptiste Charette	child	1880 census	Judith Basin	33
Joseph Doney	self	1880 census	Judith Basin	536
Joseph Gourneau [Sr.]	grandchild	1880 census	Judith Basin	55
Joseph Gourneau [Jr.]	child	1880 census	Judith Basin	55
Pierre Laverdure	self	1880 census	Judith Basin	168
John Baptiste Wilkie	child	1880 census	Judith Basin	293
Gabriel Azure	self	1880 census	St. Peter's	328
Antoine LaPierre	child	1880 census	St. Peter's	79
Antoine Azure	child	1880 census	St. Peter's	61
Charles Azure, Sr.	child	1880 census	St. Peter's	59
Edward Wells	grandchild	1880 marriage	Judith Basin	46
Frank Kline	child	1882 birth grchild	[Valley Co.]	96
Charles Peltchie	grandchild	1883 birth g'grchild	Choteau Co.	104
Louis Landrie	grandchild	1893 marriage	St. Peter's	24
John Moursette	child	1896 birth grchild	Flathead Co.	10
Jean Baptiste LaFournaise	grandchild	1900 birth g'grchild	[Valley Co.]	15
Joseph Renville	grandchild	1907 birth g'grchild	Wolf Point	19
John Baptiste Davis	grandchild	1919 birth g'grchild	Wolf Point	18
Antoine Houle [Sr.]	grandchild	1934 birth g'grchild	Blaine Co.	18

SOURCES: U.S. Census 1880; Interior 7/16/1917 [McLaughlin roll]; BIA 1937 [Roe Cloud roll applications]; McFarlane 1981 [St. Peter's Mission records]; White Weasel n.d., 106-124 [1850 census]; Petitioner's ancestry charts.

NOTES:

See Table 2 for additional information about the petitioner's 1850 ancestors.

<sup>1</sup> Some dates of birth are and dates of marriage estimates.

<sup>2</sup> Because some of the petitioner's members are descendants of more than one of these individuals, this column can not be added to obtain a total.

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159, 483).

A variety of sources – including the Federal census, St. Peter's Mission marriage and baptismal records, enrollment application files of the Office of Indian Affairs, and the petitioner's membership records – provide evidence about when and where members of the petitioner's families arrived in Montana (Census 1880; Interior 7/16/1917; BIA 1937; McFarlane 1981; White Weasel n.d., 106-124). The petitioner has not attempted such an analysis using these sources. The large number of the petitioner's members, and much larger number of the petitioner's ancestors, prevents a comprehensive analysis of the migration of the ancestors of the petitioner's members to Montana. However, a meaningful analysis of migration to Montana can be made, even if it is based on a selective segment of the ancestors of the petitioner's members, by using various cohorts of the petitioner's ancestors found on pre-1892 lists: the residents of the British Red River Settlement about 1835 and 1870, the residents of Pembina County in 1850, and the scrip recipients under the treaties with the Pembina Band of 1863 and 1864.

Members of the petitioning group descend from at least 16 men who resided in the British Red River Settlement before 1835. The available evidence indicates that none of these men migrated to Montana, but that their children, grandchildren, and great grandchildren did so (see Table 7). The earliest arrival in Montana of a descendant of an 1835 resident of the Red River Settlement was about 1868, when one resident had a grandchild born along the Milk River. This could be evidence, of course, only of a seasonal presence of Red River residents in Montana while hunting buffalo. All the other evidence of the arrival in Montana of descendants of 1835 Red River Settlement residents dates after 1874 and, therefore, after the 1870 Riel rebellion in Manitoba. The majority of the 1835 ancestors had a descendant arrive in Montana before the 1885 Riel rebellion and before the 1892 Turtle Mountain agreement. There is clear evidence of only one 19th-century arrival on the Front Range, a birth on the Sun River. The available evidence indicates that most of the 19th-century migrants arrived in north-central Montana or in the vicinity of Fort Benton (see Table 7).

Members of the petitioning group descend from at least 25 families on the 1850 census of the Pembina district. The 1850 census included only the earliest settlers at Pembina, of course, and in the years after 1850 members of other Pembina or St. Joseph families who had not been on the 1850 census likely were leaving for Montana as well. A tentative arrival date in Montana can be ascertained for these 25 families who were at Pembina in 1850 (see Table 8). This evidence indicates that members of at least 76 percent (19 of 25) of these family lines arrived in Montana before the creation of the Turtle Mountain Reservation in 1884, and before the 1892 agreement. This evidence also suggests that the migration to the west may have begun in the late 1860's. The ages and birthplaces of the children of descendants listed on the 1880 census of Montana show that these families arrived in Montana between about 1871 and 1879. Three of the eight household heads whose descendants arrived after 1880 were at the Red River Settlement in 1870, and their descendants may have migrated to Montana from Canada. Only 4 of the 25 heads of households at Pembina in 1850 migrated to Montana themselves. It was the children of

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these 1850 Pembina families, rather than the family heads, who left for Montana (see Table 8).

The pattern of migration to Montana of the descendants of the 28 ancestors of the petitioner's members who received treaty land scrip as "mixed blood" relatives of the Pembina Band was similar to that of the descendants of the 1850 residents of Pembina County, in part because 11 of the 28 scrip recipients also had been counted on the 1850 census. The available evidence indicates that 8 of the 28 recipients of treaty scrip migrated to Montana themselves, and did so before the creation of the Turtle Mountain reservation in 1884. At least 64 percent (18 of 28) of the scrip recipients arrived or had a descendant arrive in Montana prior to the 1892 agreement (see Table 9). Half of the pre-1892 migrants first appeared in historical records in Montana as residents of the Lewistown and Judith Basin region. The other early migrants settled in north-central Montana or within the jurisdiction of St. Peter's Mission. Most of the late migrants, those whose arrival in Montana can not be dated prior to 1910, settled in the northeastern corner of the state. Only 1 of the 28 scrip recipients clearly had a descendant settle on the Front Range. The ten scrip recipients who had descendants arrive in Montana after the 1892 agreement have relatively few descendants in the petitioner's current membership (see Table 9). Thus, the petitioner's members who descend from treaty scrip recipients descend disproportionately from those family lines which had arrived in Montana by the early 1880's.

Members of the petitioning group descend from at least 46 individuals who were living in the British Red River Settlement in 1870. The available evidence indicates that only 8 of these 46 men migrated to Montana themselves. It was overwhelmingly the children or grandchildren of these 1870 Red River residents who migrated to Montana (see Table 10). The available evidence indicates that the descendants of 17 of these 46 men were in Montana prior to 1885. Thus, most of these Red River Métis did not have descendants arrive in Montana until after the 1885 Métis rebellion. All five of the 1870 Red River settlers who also had been on the 1850 census of Pembina had a descendant arrive in Montana by 1893. If this analysis of migration from the Red River Settlement is limited to residents who had not previously been on the Pembina census of 1850, then the descendants of at least 63 percent (26 of 41) of these residents of the Red River Settlement arrived in Montana after 1885, and thus after the failure of the rebellion of that year. The descendants of the 1870 residents of the Red River Settlement were more likely than the descendants of the 1850 residents of Pembina to migrate to locations west of the Missouri River and Fort Benton. The largest difference between these two groups of ancestors is that while 11 of 46 descendants of Red River Settlement ancestors migrated to a location on the Front Range other than St. Peter's Mission, only 1 of 25 descendants of Pembina ancestors migrated to a location west and north of St. Peter's (see Table 8 and Table 10).

Some of the early settlers of Montana who had documented past links to the Pembina Métis or the Turtle Mountain band were denied Turtle Mountain membership in the early 20th century. When John B. Berger, Sr., applied for membership in the Turtle Mountain

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TABLE 9

MIGRATION TO MONTANA OF PETITIONER'S 1863 TREATY SCRIP ANCESTORS

Name of 1863 Ancestor	Descendant in Montana	Date Descendant in Montana <sup>1</sup>	Location in Montana	Descendants in Petitioner <sup>2</sup>
Antoine Gladeau	child	1877 marriage	Milk River	68
Frank Courchane	self	1877 per McLaughlin	[Cascade Co.]	9
Charles Trotchie [Trottier]	self	1880 census	Ft. Benton	27
Pierre Berger	self	1880 census	Judith Basin	183
John Charette	self	1880 census	Judith Basin	33
John B. Charette [Sr.]	child	1880 census	Judith Basin	33
Joseph Gourneau [Jr.]	grandchild	1880 census	Judith Basin	74
Joseph Gourneau [3d]	child	1880 census	Judith Basin	29
Pierre Laverdure	self	1880 census	Judith Basin	166
John Baptiste Wilkie [Sr.]	child	1880 census	Judith Basin	287
Charles [Charlience] Azure	self	1880 census	St. Peter's	57
Charles Azure [Sr.]	child	1880 census	St. Peter's	57
Gabriel Azure	self	1880 census	St. Peter's	227
Daniel Wells	child	1880 marriage	Judith Basin	58
Joseph Dussome	child	1881 marriage	Malta	258
Paul Kipling	child	1881 birth grchild	Lewistown	26
Antoine [La Belle] Azure	self	1884 birth child	St. Peter's	18
Joseph Amelin [Hameline] <sup>a</sup>	child	1885 birth grchild <sup>a*</sup>	Choteau Co.	? <sup>b</sup>
Antoine LaPlante	grandchild	1898 birth g'grchild	Toole Co.	10
Jonas Emely [Amlin]	child	1912 birth grchild	Phillips Co.	33
Louis Thomas, Jr.	grandchild	1913 birth g'grchild	Fergus Co.	1
Joseph Jerome	child	1913 birth grchild	Sheridan Co.	3
Charles St. Arneau	grandchild	1913 birth g'grchild	Sheridan Co.	3
Pierre Bottineau	grandchild	1914 birth g'grchild	Wolf Point	9
Joe Flammand [Flament]	child	1915 birth grchild	Pondera Co.	9
Isadore Walette	grandchild	1933 birth g'grchild	Ft. Peck	5
Joseph Walette	g'grandchild	1933 birth 2g'grchild	Ft. Peck	5
Pete Flammand [Pierre Flament]	child	1937 application	Roosevelt Co.	6

SOURCES: U.S. Census 1880; Interior 7/16/1917 [McLaughlin roll]; BIA 1937 [Roe Cloud roll applications]; McFarlane 1981 [St. Peter's Mission records]; White Weasel n.d., 106-124 [1850 census]; Petitioner's ancestry charts.

NOTES:

See Table 3 for additional information about the petitioner's ancestors who received 1863 treaty scrip.

<sup>1</sup> Some dates of birth and dates of marriage are estimates.

<sup>2</sup> Because some of the petitioner's members are descendants of more than one of these individuals, this column can not be added to obtain a total.

<sup>a</sup> Joseph Francis Amelin or Joe Emely in petitioner's ancestry. <sup>a\*</sup> Descendant of Joseph F. Amelin.

<sup>b</sup> Undetermined; possibly 68 (Joseph Amelin), 56 (Joe Emely), or 124 (combined).

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TABLE 10

MIGRATION TO MONTANA OF PETITIONER'S 1870 RED RIVER ANCESTORS

<u>Name of 1870 Ancestor</u>	<u>Descendant in Montana</u>	<u>Date Descendant in Montana</u> <sup>1</sup>	<u>Location in Montana</u>	<u>Descendants in Petitioner</u> <sup>2</sup>
Bonaventure Gardipee	self	1874 birth child	Sun River	16
James (Napolean) Whiteford	self	1874 birth child	?	72
Modeste McGillis	self	1875 birth child	"Fergus Co."	18
Hugh Ross	child	1877 birth grchild	"Wolf Point"	27
John J. Ross	self	1877 birth child	"Wolf Point"	27
Francois Fayant	child	1878 birth grchild	St. Peter's	126
Calaise LaFountain	child	1879 marriage	St. Peter's	236
Oliver LaRoque	child	1879 birth grchild	Yellowstone [R.]	104
Eli Paranteau	self	1879 birth child	Yellowstone [R.]	104
Joseph Paranteau	child	1879 birth grchild	Yellowstone [R.]	104
Alexander Gardipee	self	1880 census	Choteau Co.	81
Baptiste Gardipee	self	1880 census	Teton River	29
Louis Gardipee	grandchild	1880 census	Ft. Benton	182
Andre Trottier / Trotchie	child	1880 census	Ft. Benton	26
Daniel Wells	self	1880 census	Ft. Benton	60
Antoine Houle [b.1787]	grandchild	1883 birth g'grchild	"Rocky Boy"	107
Charles Peltier	grandchild	1883 birth g'grchild	Choteau Co.	104
Alexander McGillis	grandchild	1885 birth g'grchild	Phillips Co.	254
Moses Carrier	child	1886 birth grchild	[Teton Co.]	26
Emmanuel Champagne	grandchild	1886 birth g'grchild	[Teton Co.]	26
Joseph Laverdure	grandchild	1890 birth g'grchild	Dearborn River	54
John Swan / Swain	child	1890 birth grchild	Dearborn River	54
Louis Landry	grandchild	1893 marriage	St. Peter's	24
Moses Landry	child	1893 marriage	St. Peter's	24
Jean Baptiste Fayant	grandchild	1894 birth g'grchild	Valley Co.	36
Angus McGillis	child	1894 birth grchild	Valley Co.	38
Jean Baptiste Trottier	child	1897 birth grchild	Blaine Co.	82
Cuthbert McGillis	grandchild	1902 birth g'grchild	Pondera Co.	38
Joseph Pocha [Sr.]	grandchild	1902 birth g'grchild	Lewis & Clark Co.	79
Joseph Pocha [Jr.]	child	1902 birth grchild	Lewis & Clark Co.	79
Jean Baptiste LaFrambois	grandchild	1905 birth g'grchild	Cascade Co.	25
Alexander Bremner	grandchild	1906 birth g'grchild	Milk River	14
Charles Bremner	child	1906 birth grchild	Milk River	14
Andrew St. Germaine	child	1907 birth grchild	Wolf Point	7
Francois St. Germaine [Sr.]	grandchild	1907 birth g'grchild	Wolf Point	47
John Baptiste Dubois	child	1910 birth grchild	Hill Co.	15
Francois Dubois	grandchild	1910 birth g'grchild	Hill Co.	15
Andre Desjarlais	grandchild	1919 birth g'grchild	Wolf Point	18
Alexander Jeannotte	child	1919 birth grchild	Phillips Co.	74
Leander St. Germaine	grandchild	1919 birth g'grchild	Wolf Point	27
William Fiddler	g'grchild	1926 birth 2g'grchild	[Blaine Co.]	10
Francois St. Germaine [Jr.]	grandchild	1927 birth g'grchild	Roosevelt Co.	13
George Ram Kipling [Jr.]	g'grchild	1931 birth 2g'grchild	Teton Co.	25
George Kipling [Sr.]	2g'grchild	1931 birth 3g'grchild	Teton Co.	25
Alexander Moran	g'grchild	1949 birth 2g'grchild	Wolf Point	9
Louis Moran	2g'grchild	1949 birth 3g'grchild	Wolf Point	9

SOURCES: U.S. Census 1880; Interior 7/16/1917 [McLaughlin roll]; BIA 1937 [Roe Cloud roll applications]; McFarlane 1981 [St. Peter's Mission records]; White Weasel n.d., 106-124 [1850 census]; Petitioner's ancestry charts.

NOTES:

See Table 4 for additional information about the petitioner's 1870 ancestors.

<sup>1</sup> Some dates of birth and dates of marriage are estimates. <sup>2</sup> Because some of the petitioner's members are descendants of more than one of these individuals, this column can not be added to obtain a total.

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band in 1905, the agency superintendent rejected it on the grounds that Berger, of Lewistown, had not resided in the vicinity of the North Dakota reservation since 1871 (BIA 3/16/1905b). Also in 1905, the superintendent sought to cancel the enrollment of Vital Turcotte of Montana on the grounds that his personal interview with Turcotte in Montana revealed that "he had not been on the . . . reservation, or with the tribe but once in the last 27 years," or since about 1878 (BIA 9/26/1905). Other ties of the petitioner's ancestors to North Dakota have been asserted, but not documented. Myrtle Bushman Reardon of Choteau claimed that before her father had settled in the Choteau area, about 1877, he had been born near Fort Benton and had "spent most of his time down around Turtle Mountain and in Fort Benton," although those places were separated by more than 500 miles (Reardon 1994, 22). The granddaughter of some of the first settlers of Fergus County, Marie Doney Morin, suggested that the "French Canadian" Métis who settled the area had moved from the East into North Dakota, then to Canada, and then to Montana. If her own grandparents had resided in North Dakota, they clearly had arrived in Montana, judging by the date and place of birth of their children, before the late 1880's (Roy Comm. 1990, 159).

An analysis of the migration to Montana by the petitioner's ancestors based on the cohorts of the 1835 and 1870 residents of the Red River Settlement, the 1850 residents of Pembina County, and the 1863 treaty scrip recipients reveals little about the origins of the petitioner's ancestors who settled along the Front Range. A history of Teton County, however, has revealed that several of the petitioner's ancestors apparently settled in Montana along the Front Range during the 1870's or early 1880's. Michael Gray and his wife Caroline Campion were said to have moved west of Choteau in 1872, and then to have continued to live on the Teton [Tansey] River. The Ameline family was said to have settled in the area of Augusta in 1875. Daughter Frezine Ameline was born in Canada before the move to Montana, and son Alfred Ameline was born in 1886 in a camp near Augusta. Adolph Bushman, reportedly born in a buffalo camp north of Fort Benton in 1862 to French Canadian parents, was said to have moved to Teton County in 1877 and eventually to have settled on a homestead in the Deep Creek area. Joseph Bruno was born in Canada, immigrated to Montana in 1880, and became a resident on the Front Range. Baptiste Guardipee, who was born in the Red River Settlement in 1832, was described as having acquired a ranch in 1882 about 18 miles from Choteau (Teton Comm. 1988, 101, 122, 127, 136, 192; BAR 1998).

Métis families who arrived from Canada in flight from the failed Riel rebellion of 1885 were among the earliest people to settle along northern Montana's Front Range, according to local histories of the Choteau area and Teton County (Hansen 1980; Teton Comm. 1988). Both these county histories and the oral histories of members of the petitioning group indicate that these Métis migrants included some ancestors of the petitioner's members. These immigrants moved south down the eastern slopes of the Rockies and settled in various places. Non-Indian residents of Teton County said that they had been told stories by the local Indians or Métis of how their ancestors had come to the Choteau area after the Riel rebellion and "hid out" along the mountains (Kenck 1994a, 6-7). After the Riel rebellion, another non-Indian resident said, the Métis "fled

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down here. They settled up in the foothills . . . and wherever they could without being disturbed in the canyons" (Zion 1994, 5). The petitioner's members along the Front Range remain proud today that their ancestors "rode with Riel" (FD 1998).

Some of these Métis immigrants to Montana after the Riel rebellion settled in the canyon on the South Fork of the Teton River, 25 miles west of Choteau (see Figure 6). A local history therefore referred to this settlement as the "Canyon People" (Teton Comm. 1988, 14). In 1896, there reportedly were 10 to 15 cabins in the South Fork canyon (Hansen 1980, 12). At its peak, according to a county history, the South Fork Canyon Métis settlement consisted of over 100 residents and about two dozen dwellings. By 1914, when the local school closed, however, most of the younger South Fork Canyon residents were moving out of the mountains (Hansen 1980, 18; Teton Comm. 1988, 221). Among the first settlers on the South Fork Canyon of the Teton River after 1885 were Basil LaRance, Sr., and his wife Marguerite or Margaret, ancestors of the petitioner. The first burial in the Métis cemetery in the canyon was that of Marguerite LaRance, who died in 1890 (Teton Comm. 1988, 15, 221; A. Wiseman 1994, 21). These early Métis settlers also included the Bruno or Brunneau, St. Germaine, and Gray families which have descendants in the petitioning group (Teton Comm. 1988, 14-15). Other Métis families joined this Teton Canyon settlement, apparently during the 1890's. Frezine Ameline and Joseph Bruno, who were married about 1890, settled on the South Fork of the Teton and raised eleven children there (Hansen 1980, 12; Teton Comm. 1988, 127). The family of Morris or Jacob "Jack" Jocko and Angeline McMillum, who had four sons born in Canada before 1885, settled in the Teton Canyon about 1892 (Teton Comm. 1988, 215).

The Dupuyer area of the Front Range was settled by Boushie and Salois families which have descendants in the membership of the petitioning group (see Figure 6). The Salois brothers, Gabriel, Toussaint, and Sam, arrived from Canada and settled on Dupuyer Creek after the Riel rebellion (Dupuyer Comm. 1977, 157; Nault 1977, 16). Ellen Salois, who was born in Alberta, migrated to the Dupuyer area in 1888 (Teton Comm. 1988, 137). The petitioner's researchers say that their informants were able, in 1994, to reveal the location of the Salois family's "contiguous homesteads" on Dupuyer Creek, west of Dupuyer (Franklin and Bunte 1994, 59). William Boushie was a "Cree-French" Métis from Canada according to his grandson, and Shoshone, Cree, and French according to application records at Rocky Boy's reservation (Nault 1977, 1, 11; Interior 6/26/1917).<sup>28</sup> According to the recollections of his grandson, Boushie first moved from Canada to Red Lake, Minnesota, in the late 1870's. He then led a group of "mostly mixed bloods" up the Missouri River in an expedition that took several years. Boushie first trapped in the area from Augusta to the Canadian border and then moved to St. Peter's Mission when he had children of school age. His first homesteading site was about 15 miles south of Dupuyer, and his second site was about 18 miles west of Dupuyer. His grandson gave no dates for

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<sup>28</sup> The petitioner's researchers claim that the Boushies or Bushies "appear to have been Pembina Métis," and cite Fred Nault, Boushie's grandson, as their source (Franklin and Bunte 1994, 59, citing Nault 1977, n.p.). However, Nault's account of William Boushie's life makes no mention of Pembina, St. Joseph, or Turtle Mountain.

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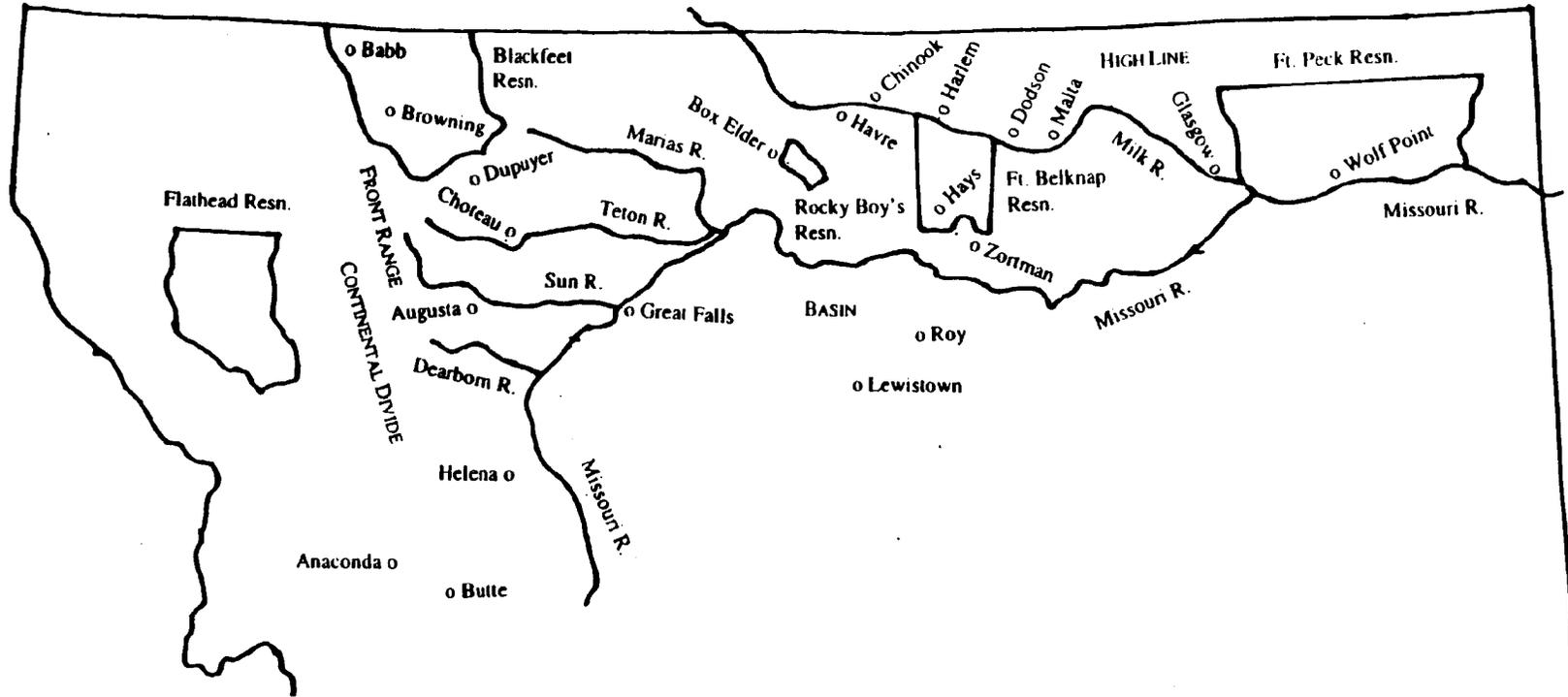


FIGURE 6: AREA MAP OF MONTANA

Source: Branch of Acknowledgment and Research

100 mi.

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these homesteading efforts, but said that Boushie moved away from Dupuyer in 1917 when he was denied the right to homestead, or failed to prove up his homestead (Nault 1977, 1-14). Another explanation for the move from Dupuyer is that Boushie was enrolled at Rocky Boy's reservation in 1917.

The historian Larry Burt concluded that Little Bear's band of Cree made its winter camp in 1886 on a creek fifteen miles west of Augusta, where it was only one-quarter mile from a camp of Métis on a different creek (Burt 1987, 200). Some ancestors of the petitioner settled in the vicinity of Choteau and Augusta, but the available accounts are not clear on the specific areas of settlement or the specific dates of settlement. The family of Alphonse Carrier and Angeline Grant, who were married in Canada and had sons born at Fort Assiniboine in 1885 and Malta in 1894, moved to the Choteau area in the early 1900's (Teton Comm. 1988, 140-141). Cecelia LaRance Wiseman, descended from Basil LaRance on her father's side, recalled that her mother's family had settled in the Sweetgrass Hills area of Montana before moving to the Choteau area at an unknown date (C. Wiseman 1994a, 15-16).

Because they feared deportation to Canada, a local history argued, the Métis settlers in the canyon on the South Fork of the Teton "stayed close to the canyon" (Teton Comm. 1988, 14). Myrtle Bushman Reardon of Choteau, a member of the petitioning group, recalled that her mother would not talk about having migrated to Montana from Canada after the Riel rebellion because of her fear of being "transported" back to Canada (Reardon 1994, 8-10). An attempted removal of Canadian Indians from Montana gave credence and emphasis to these fears. Congress passed an act in 1896 to provide "for the deportation of refugee Canadian Cree Indians" from Montana (Statutes 1896). Canadian officials expected that Métis individuals would not be removed with the Cree. The U.S. Army collected Indians presumed to be Cree and escorted them to the Canadian border. Historians of this removal have concluded, however, that most of the Cree returned to Montana (Dusenberry 1954, 6; Allison 1968, 56; Wessel 1974, 18; Burt 1987, 202-203). A county history stated that the Métis settlers in the South Fork canyon attempted to remain "out of sight" during the removal of the Canadian Cree in 1896 (Teton Comm. 1988, 15).

From the available sources, 22 families of the petitioner's ancestors can be identified as settlers along the Front Range prior to the 1910 Federal census. These 22 families consisted of 39 identifiable individual spouses. An American origin can be attributed to one or both spouses in six of these 22 families.<sup>29</sup> In each of these six families, one spouse or his or her parents appeared either on the 1850 Pembina census or in a historical source which indicated that they had been born in Minnesota Territory or a location in modern

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<sup>29</sup> The six families are those of Caroline Campion Gray, Henry M. Ford and his wife Mary Ann Courchene, Moses LaPierre, Pascal LaPier, Alfred Ameline, and Frezine Ameline Bruno. If the analysis is expanded beyond the Front Range to include the Rocky Mountains generally, then there was an additional family of early settlers which included 1850 Pembina resident John Moursette, who was in Flathead County and had a child born there before 1910.

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North Dakota. The dates of birth of all of these ancestors were 1860 or earlier. An American origin can be attributed to seven of the 39 individual spouses. The available evidence indicates that an additional 11 of these 22 Front Range families had originated in the British Red River Settlement, or had descent from someone there, without any known descent or connection to Pembina or Dakota. These families contained 13 spouses who had origins in the British Red River Settlement. The other five of the 22 Front Range families had descent from ancestors born somewhere in Canada.

The ancestors of the petitioner's members who were early settlers in Montana, whether at Lewistown, the Highline, or the Front Range, were described in both the oral histories of the petitioner's members and the biographical sketches in local histories as having lived on "homesteads." It is not clear whether these sources used the term "homestead" merely to refer to a residence or to state factually that these settlers had acquired land ownership under the terms of the Homestead Act. The petitioner's researchers have said that, "in many cases," the Métis in Montana "applied for formal homestead rights under the Homestead Act" as citizens (Franklin and Bunte 1994, 57). Both oral histories and local histories described ancestors of the petitioner's members as having had homesteads, both in their own right and through marriage to non-Indian settlers, along the Front Range and north of the Missouri River in the Highline area (Nault 1977, 16; Teton Comm. 1988, 136, 158; A. Wiseman 1998; C. Salois 1998a; Hill Comm. 1976, 36; Phillips H.S. 1978, 174, 300; Centennial Comm. 1989, 362, 390; Roy Comm. 1990, 483; Plummer 1991; S. Doney 1998; Vogel 1998; Short 1998). South of the Missouri River, a local history referred to homesteads of the petitioner's ancestors near Roy and Black Butte (Roy Comm. 1990, 73, 159, 333). At Lewistown, according to historian Joseph Kinsey Howard, the "early arrivals declared their citizenship intention and took up homesteads. . . ." (Howard 1952, 344). Although these accounts may have documented successful homestead claims, William Boushie's grandson contended that Boushie "couldn't prove up on his homestead because he was an Indian. . . ." (Nault 1977, 5).<sup>30</sup>

This evidence from a variety of sources about the presence in Montana of ancestors of the petitioner's members indicates that Métis individuals, and individuals of Chippewa descent, were in Montana by the 1870's and 1880's. However, the absence of a Chippewa tribe in Montana before 1888 was affirmed by the decisions of the Indian Claims Commission. The area of Montana north of the Missouri River, east of the Blackfeet Reservation, and west of the mouth of the Milk River, the Indian Claims Commission concluded, had been ceded to the United States by agreements with the Blackfeet, Assiniboine, and Sioux tribes in 1886 and 1887, which were ratified by Congress in 1888. The Commission found that the country bordering the Milk River was occupied aboriginally by the Gros Ventre (Ind.Cl.Comm. 1967, 241, 243, 245, 249). The Commission dismissed the claim of the Little Shell Chippewa plaintiff that this area of north-central Montana was aboriginal Chippewa or Cree-Chippewa territory, except as a hunting ground used by many tribes (Ind.Cl.Comm. 1974, 480-482, 508-509). In a report

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<sup>30</sup> It is possible that this failure arose from Boushie becoming an enrolled member on the new Rocky Boy's reservation in 1917.

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TABLE 11

PETITIONER'S ANCESTORS: TURTLE MOUNTAIN RESERVATION, 1890-1892

Name	1890	1892	Age	Family Size	Category on Rolls	Notes
	#	#				
Michael Allard	6	-	48 /	8	Mixed blood ON resn.	f
Andrew Allery	4	6	37 / 49	9	Mixed blood OFF resn.	
Anthony Azure	2	12	65 / 68	3-4	Mixed blood ON resn.	[a]
Charles Azure, Sr.	19	16	75 / 76	2	Mixed blood ON resn.	a,e
Charles Azure, Jr.	21	17	53 / 55	4-5	Mixed blood ON resn.	{a},e
Louis Belgarde, #1	30	16	57 / 50	11	Mixed blood OFF resn.	[a]
Susan [Susette] Belgarde	41	30	61 / na	1-2	Mixed blood ON resn.	
Antoine Brien	17	45	64 / 67	5-6	Mixed blood OFF / ON	
[John] Baptiste Charette, [Sr.]	54	53	85 / 88	6	Mixed blood ON resn.	a,e
John Baptiste Davis, Sr.	89	70	71 / 73	4	Mixed blood ON resn.	a,f
Louis Davis	64	-	33 /	8	Mixed blood ON resn.	[a],f
Charles Demontgine [Demontigny]	87	-	72 /	1	Mixed blood ON resn.	d
Joseph Gourneau, [3d]	117	105	63 / 62	4-7	Mixed blood ON resn.	a,e
John Hayes	132	118	25 / 26	3	Mixed blood ON resn.	
Antoine Houle, [Jr.]	129	121	65 / 65	5	Mixed blood ON resn.	[a]
Alexander Jeanotte	59	-	53 /	6	Mixed blood OFF resn.	b,f
Gaspar Jeanotte, Jr.	64	-	27 /	5	Mixed blood OFF resn.	[b],f
Margaret Gourneau Kipling	142	131	63 / 63	1	Mixed blood ON resn.	[a]
Charlotte Adams LaFontaine	159	163	60 / 63	3	Mixed blood ON resn.	
Moses LaPierre	167	134	49 / 50	3-4	Mixed blood ON resn.	
Oliver LaRoque	80	-	28 /	5	Mixed blood OFF resn.	f
Pete LaValley	178	147	44 / 45	7-8	Mixed blood ON resn.	
Alexander Martell	204	177	na / 38	4	Mixed blood ON resn.	
Alexander Morin	187	-	55 /	7	Mixed blood ON resn.	b,f
Peter [St. Pierre] Morin	101	57	44 / 46	8	Mixed blood OFF resn.	
Susanna Daigon Parenteau	233	-	78 /	1	Mixed blood ON resn.	c
Charles Putra, [#2]	219	197	47 / 50	12	Mixed blood ON resn.	
Andre St. Germaine	122	-	52 /	4	Mixed blood OFF resn.	b,f
Cherez St. Germaine / Theresa Bonneau	124	-	65 /	4	Mixed blood OFF resn.	c
Joseph Thomas	250	227	43 / 46	7	Mixed blood ON resn.	
Vital Turcotte	-	74	/ 33	8	Mixed blood OFF resn.	

SOURCES: Mahone et al. 1890 [Mahone roll];<sup>c</sup> McCumber et al. 10/1/1892 [McCumber roll].

NOTES:

- <sup>a</sup> On the 1850 Pembina census. <sup>(a)</sup> Father on the 1850 Pembina census.
- <sup>b</sup> In the Red River Settlement, ca. 1870. <sup>(b)</sup> Father in the Red River Settlement, ca. 1870.
- <sup>c</sup> Husband in the Red River Settlement, ca. 1870.
- <sup>d</sup> In the Red River Settlement before 1870, according to Sprague and Frye 1983, Table I.
- <sup>e</sup> Received 1863 treaty scrip.
- <sup>f</sup> On the January 1892 list of the "Grand Council" of the Turtle Mountain Band (Turtle Mtn. 1892).

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for the Commission, ethnohistorian John Ewers stated that his review of the evidence prior to 1888 had found, "No references to a 'Chippewa Cree tribe' . . . in the contemporary writings of those who had knowledge of the Indian occupation of the area" of northern Montana (Ewers 1974, 13).

### **The McCumber Agreement, 1890 - 1899:**

The Indian appropriation act of August 1890 authorized the President to appoint a commission of three persons to "negotiate with the Turtle Mountain band of Chippewa Indians" for the "cession and relinquishment . . . of whatever right or interest they may have" in all the land in North Dakota "to which they claim title," and for their removal to the White Earth Reservation, or any other Chippewa reservation in Minnesota. Before the Turtle Mountain band could be removed, however, the commissioners would have to obtain the consent of the Minnesota Chippewas to the relocation of the Turtle Mountain Indians on one of their reservations (Statutes 1890). The commission was appointed, with A.H. Mahone of West Virginia as chairman, and received its instructions in October 1890 (Mahone et al. 1891, 1). The Acting Commissioner of Indian Affairs instructed the commissioners to exclude from the negotiations individuals who were not entitled to be recognized as members of the Turtle Mountain band because of their "foreign birth or long residence and affiliation with the Indians of the British possessions." The Indian Office did "not recognize the great body of half breeds who are scattered over the country . . . as being proper members of the Turtle Mountain band of Chippewas," the Commissioner said, although some Métis individuals might be recognized by the Indians as members because of their long "affiliation" with the band. The commissioners were directed to make an accurate census of the Indians as part of their work (BIA 10/4/1890).

The Mahone commission arrived at the agency in early December 1890. The commissioners ordered a census of the band to be prepared. It is unclear who actually compiled this list. When completed, the census contained 2,327 names, a number significantly larger than the agency's census earlier in the year of 1,458 people (Mahone et al. 1891, 14-15, 34; BIA 1885-1940, roll 94). The commissioners said that they had been informed that the list did not include "scores of these people" who were "hundreds of miles away in Montana or the British Possessions." Prior to the census, the commission had reported that the spokesmen for the Indians and Métis claimed that their band consisted of 3,000 to 4,000 people who were "scattered along the border from Pembina County to Montana." The commission accepted everyone on the completed census as "American Chippewas," although it concluded that it was extremely difficult to prepare a census of only genuinely American Indians (Mahone et al. 1891, 18, 34-37). Thirty heads of families on the Mahone Commission's census of the Turtle Mountain Band in 1890 can clearly be identified as ancestors of the petitioner's members by comparing their names, ages, and family relationships on the list to information from other sources about the petitioner's ancestors (see Table 11). All 30 of the petitioner's ancestors on this census were listed as "mixed bloods," with 21 recorded as on the reservation and the other 9 as off the reservation, but in the vicinity (Mahone et al. 1890).

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About 25 percent (980 of 3,893) of the petitioner's members descend from an ancestor who was on the Mahone Commission's census in 1890.<sup>31</sup>

The main council between the commissioners and the band was held on December 6. After the commission stated its objectives, nine speakers, starting with Chief Little Shell, outlined the grievances of the band and made it clear that they opposed removal and wanted a larger reservation. The commissioners then traveled to Minnesota, where they found that the chiefs of the White Earth and Red Lake Reservation Chippewas, and their Indian agent, were opposed to receiving the Turtle Mountain band. The commission held another council at Turtle Mountain on December 31, at which Chief Little Shell and 17 other members of the band spoke, but did not obtain an agreement with the band (Mahone et al. 1891, 15-34). The chief, headmen, and other "representative" men of the Turtle Mountain band then assembled and adopted a resolution on January 7, 1891, which stated that the band was entitled to the recognition of its territorial claim and demanded a final settlement of that claim and a reservation. This statement indicated the band's opposition to removal by declaring that "we have resolved to live and die here at our old home, the Turtle Mountain country. . . ." The resolution was signed by 111 adult males, beginning with "Head Chief" Ayabe-way-we-tung, or Little Shell (Turtle Mountain 1891).

The Mahone Commission issued its final report on February 9, 1891. After describing its travels and its councils with the Indians, the commission observed that the Indians had declared themselves to be of one mind in wishing to have a reservation comparable to the lands reserved in 1882. Existing settlement near the present reservation made it practicable to expand the present reserve only to the west, the commission concluded. It would be possible to create a new and larger reservation farther to the west, but the commission admitted that a removal of the Turtle Mountain Indians to that new location would not be satisfactory to them (Mahone et al. 1891, 33, 40-41). Because the commission did not reach an agreement for the removal of the band to Minnesota, and did not settle the band's land claims in North Dakota, the Indian Office concluded that the commission had failed to achieve its objectives (BIA 9/21/1891, 7/6/1893). Thus, two months after the commission concluded its work, Indian Agent John H. Waugh suggested that he and his staff could begin to prepare for another commission (BIA 4/18/1891).

In the summer of 1891, a "Committee of Thirty-Two" was organized on the Turtle Mountain Reservation. The committee claimed that it was "organized by a vote of the people at a general council. . . ." (Committee of Thirty-Two 12/11/1893). Sub-agent Brenner stated the purpose of the new committee as being to represent the band in any settlement of its land claim with the Government. He described the committee as being made up of 16 "full bloods" and 16 "mixed bloods." Both Brenner and Agent Waugh said that its members had been elected (BIA 9/3/1892, 9/30/1892). Chief Little Shell was

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<sup>31</sup> Several of the individuals on the list were father and son, father-in-law and son-in-law, or had descendants who married each other in later generations. The count of 980 descendants is a result of eliminating the multiple lines of descent to get the actual number of the petitioner's living members who descend from individuals on the 1890 census.

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not a member of this committee. According to a statement of the Turtle Mountain Band in 1892, "our Chief, Little Shell left us, to be absent for some time," about July 1891, and appointed Red Thunder to act as chief in his place (Turtle Mountain 1892). In January 1892, Agent Waugh praised the members of a proposed delegation from the Committee of Thirty-Two as consisting of "progressive young American Indians and mixed bloods," and assured the Indian Office that "all Indians or mixed-bloods of doubtful nationality" had been excluded from it. By contrast, Waugh reported, Chief Little Shell "has but 4 or 5 Indians with him who are known here, and . . . the balance of his so called Turtle Mountain Band are Canadian mixed bloods" (BIA 1/28/1892). Thus, by early 1892 at least, Agent Waugh had come to think of the new Committee of Thirty-Two, not Little Shell, as the legitimate representative of the Turtle Mountain Band.

On August 22, 1891, attorney John B. Bottineau submitted to the Secretary of the Interior the Turtle Mountain Band's "preamble and resolutions" of January 1891 and asked that its claim against the Government for the lands around the Turtle Mountains be settled (Bottineau 8/22/1891). Soon after that, the Indian Office received a letter from Chief Little Shell, which was dated August 28, 1891, at Wolf Point, Montana, where Little Shell said that he was visiting his uncle, an Assiniboine chief. In the letter, Little Shell claimed that the Government's commission had promised him a new reservation in exchange for the Turtle Mountain Reservation. Therefore, he asked for a reservation in Montana along the north side of the Missouri River above the mouth of the Milk River which would measure 30 miles by 25 miles. He asserted that he would not sign a cession agreement unless he received a reservation which was at least 25 miles square. According to the Acting Commissioner of Indian Affairs, Little Shell said that most of the tribe with him in Montana were "not contented to live at the Turtle Mountain," but would be satisfied with the proposed location in Montana. Little Shell concluded, the Commissioner reported, "that he can never live at Turtle Mountain again under the circumstances. . . ." (BIA 9/21/1891). The Indian Office, naturally, was struck by the differences between the band's "preamble and resolutions" of January 1891, which asserted that the band would never leave the Turtle Mountain region, and this letter of August 1891, which proposed to do just that.

A year later, confronted with this "seeming conflict," Bottineau argued that the letter from Little Shell was not legitimate.<sup>32</sup> He asserted that no member of the Turtle Mountain band had any relationship with the Assiniboine by blood or marriage, so the claim that the chief was visiting his Assiniboine uncle demonstrated that the letter was phony. He contended that the hereditary chief would not have acted without consulting his representative men still at Turtle Mountain. A proposition to surrender the Turtle Mountains for a reservation in Montana, Bottineau said, would create a great disturbance among the members of the band (Bottineau 7/8/1892, 43-44). Bottineau's argument,

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<sup>32</sup> Although the petitioner's researchers consistently relied upon Bottineau's versions of events against contending accounts, in this instance they rejected Bottineau's argument and accepted Little Shell's letter from Montana as legitimate. This allowed them to use the letter as evidence of the band's interest in a future Montana home (see Morris and Van Gunten 1984, 47; see also 59-60, 183).

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however, could be understood as an attempt to deny that the proposition was made by Little Shell precisely because a great disturbance or split within the band already had occurred. In response to the conflicting resolution and letter received in August 1891, Acting Commissioner of Indian Affairs R.V. Belt reported to the Secretary of the Interior that the territorial claim of the Turtle Mountain band "is of such doubtful and uncertain nature that I do not look upon it as having any great value." Therefore, he was willing to negotiate an agreement with the band, but would agree to pay the band only \$150,000 to \$200,000 for it to relinquish its claim. The Acting Commissioner also stated that he was opposed to enlarging the Turtle Mountain Reservation to accommodate the Métis, and said that if they were entitled to land from the Government they should receive it in the form of allotments or homesteads from the public domain (BIA 9/21/1891).

On January 29, 1892, a "Grand Council" meeting of the Turtle Mountain Band, under the leadership of "Acting Chief" Misko-be-naice, or Red Thunder, stated the band's territorial claim, resolved to maintain its "title" and "possession" of that territory until its claim was settled by the executive branch or a court, and appointed Bottineau to be its attorney to prosecute its claim against the United States. As a challenge to the prevailing policy of the Government and Agent Waugh, this council resolved that "all the mixed bloods [*sic*] descendants of our tribe belonging to our said band are hereby recognized to be Indians" and entitled to all benefits "the same as any of the full bloods of our said tribe and band" (Turtle Mountain 1892). Bottineau made a contract with this band in February 1892, but it was not approved by the Department of the Interior (Bottineau 4/11/1899). He prepared a lengthy brief on the Turtle Mountain land claim in July 1892 which argued that the band held Indian title to the territory which had not been ceded or purchased, but had been "wrongfully taken from them and opened to white settlement" (Bottineau 7/8/1892). The "proceedings and resolutions" of January 1892 were signed by 272 individuals (Turtle Mountain 1892). Bottineau later argued that these signers constituted the majority of the adult males of the band (Bottineau 4/11/1899). The Government's interpretation was that this council had not been regularly called, was not properly constituted, and did not represent the majority of the band (BIA 10/27/1898).

The January 1892 list of the adult males of the Turtle Mountain band did not contain enough identifying information about these individuals to make it a useful source for recognizing ancestors of the petitioner on the list. The signatories were identified only by their name (some with only an Indian name, some with only an English name, and some with both) and age. The list did not include information about an individual's family relationships or other distinguishing factors (Senate 1900, 118-123). Despite these inadequacies, nine of the petitioner's ancestors can be identified on this list of 272 names.<sup>33</sup> Only 3 percent (132 of 3,893) of the petitioner's members trace their ancestry to

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<sup>33</sup> The ancestors of the petitioner on the January 1892 list were Mikel Allard (Lavoij, 49); Anthony Azure (68); Charles Azure, Sr. (75); Charles Azure, Jr. (55); Pierre Gladeau (Pooh-yarkar, 54); John Hayes (Chonz, 27); Gaspard Jeannotte (Osh-Ke-nar-wins, 27); Charles Poitras [Putra] (50); and Andrew St. Germaine (60). In addition, there is also a Joseph Laverdure (Tchee-zo-zay, 55) on this list who may be one of the two men by that name who are ancestral to the petitioner, but there is not enough available evidence to confirm this connection. Also, Joseph Azure (63) and Francois St. Germaine (26) on the 1892

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a man on the list of January 1892. Five of the nine ancestors on this list also were on the McCumber roll of October 1892 (McCumber et al. 10/1/1892).<sup>34</sup> Thus, the January 1892 list and the October 1892 roll were not mutually exclusive lists of the Turtle Mountain band, although they did have some differences. All four of the ancestors on the January 1892 list but not on the McCumber roll appeared in the records of the Red River Settlement in 1870. Less than 2 percent (71 of 3,893) of the petitioner's members trace their ancestry to a man on the January 1892 list who was not on the McCumber roll. Although this information is limited, it fails to demonstrate the validity of a hypothesis that the petitioner's members principally descend from individuals who pledged their support to Chief Little Shell in January 1892, refused to support the McCumber Agreement, and therefore were excluded from the McCumber roll of October 1892.

In the Indian appropriation act of July 1892, Congress authorized the creation of a commission to "negotiate with the Turtle Mountain band . . . for the cession and relinquishment to the United States of whatever right or interest they may have" in any land "to which they claim title. . . ." In addition, the commission was to negotiate with the band for its "removal" to a location to be recommended by the commission, determined by the Secretary of the Interior, and approved by Congress (Statutes 1892). The Turtle Mountain Indian Commission appointed by the President in 1892 would be known as the McCumber Commission after its chairman, Porter J. McCumber of Wahpeton, North Dakota. The Indian Office issued instructions to the commission which made it the commission's "duty" to do four things. First, it was to make a careful census of the members of the Turtle Mountain band. Second, the commission was to obtain the consent of the Indians of the Fort Berthold Reservation in North Dakota, or some other reservation, to allow the Turtle Mountain Indians to live with them. Third, it was to negotiate with the members of the Turtle Mountain band for the cession and relinquishment of their claim to land in North Dakota, as directed by the act. Fourth, the commission was to negotiate with the Turtle Mountain Indians for their removal to whatever location would be selected for the band (BIA 7/6/1893).

Agent Waugh argued that only those individuals who had "undoubted rights" as members of the band should participate in the upcoming negotiations. Achieving this objective, he acknowledged, meant that some individuals of uncertain American citizenship had been "stricken off the rolls" of the agency (BIA 8/26/1892). Earlier in the year, the agent had reported that the Turtle Mountain Indians had "at my suggestion finally taken action to get rid of the Canadian [element] among them. . . ." (BIA 4/12/1892). After the creation of the Committee of Thirty-Two in 1891, sub-agent Brenner said, the committee had created a subcommittee of five men, who were "thoroughly acquainted with the family

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list do not have descendants in the petitioner's membership, but their siblings do have descendants in the petitioning group.

<sup>34</sup> The five ancestors on the McCumber roll were Anthony Azure; Charles Azure, Sr.; Charles Azure, Jr.; John Hayes; and Charles Putra. The four ancestors not on the McCumber roll who appeared in the 1870 records of the Red River Settlement were Mikel Allard, Pierre Gladeau, Gaspard Jeannotte, and Andrew St. Germaine.

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history of all," to designate the "foreign element" of the band. The result of this process, the sub-agent reported, was that "112 families, comprising 525 individuals, were found as not entitled to recognition as Turtle Mountain Chippewas. . . ." Brenner said that 177 of these ineligible members, about one-third of the total, however, actually resided on the reservation (BIA 9/3/1892). The Committee of Thirty-Two said that it recognized that the first step to achieve a settlement with the Government was "the elimination of foreign Indians" from its membership. This resulted "in the striking off of the rolls of 512 individuals. . . ." (Committee of Thirty-Two 5/29/1893). Thus, as the negotiations were set to begin, Agent Waugh referred to the Committee of Thirty-Two as the representative of "the American Turtle Mountain Indians. . . ." (BIA 8/26/1892).

When the McCumber Commission arrived at the reservation in September 1892, it indicated that before holding a council with the band, it would, in accordance with its instructions, first make a "correct census of the band. . . ." The commission requested the Committee of Thirty-Two to assist it in taking this census (McCumber et al. 12/3/1892, 9-10). When Little Shell appeared before the commission, it told him that he and his council also could assist in this work, but that they would not be fed while doing so. Little Shell left (Bottineau 12/20/1892, 5-6). After reviewing the committee's list of foreign members, the commission made a list "of all persons whose names were stricken off the rolls, whether by the committee or this Commission," and posted copies of the list throughout the reservation and had the list read at local churches (McCumber et al. 12/3/1892, 10). The notice posted by the commission listed the names which had been "stricken off" the roll of those "entitled to the benefits of a treaty with the Turtle Mountain Chippewa Indians." The notice informed the individuals on the list that "you are not accepted as members of the Turtle Mountain Band of Indians. . . ." (McCumber et al. 9/24/1892). The commission then heard appeals from excluded individuals who claimed membership in the band, but, with "a few exceptions," these claims were rejected (McCumber et al. 12/3/1892, 10).

McCumber later recalled that the commission had excluded from the tribal roll "any Indian who had lived for any portion of his life or had taken his residence practically in Canada. We excluded those who had taken government lands under the Canadian laws. . . ." (McCumber 1904). Attorney Bottineau argued against the use of the commission's roll by stating that it is "only those who are recognized by the chief and his council (and not those who are recognized by the Indian agents) that constitutes the members of a tribe" (Bottineau 12/20/1892, 11). Refusing to credit any Federal concern about the nationality and citizenship of members of the band as legitimate, Bottineau later complained that the Committee of Thirty-Two had "expelled" more than 500 individuals from the tribe (Bottineau ca. 1896, 41-42). Perhaps because of the efforts of Little Shell and Bottineau on behalf of those individuals stricken from the tribal roll on the grounds that they were, or had been, Canadian citizens, a later superintendent concluded that at the time of the McCumber Commission negotiations, Little Shell and Bottineau had been the leaders of "a large aggregation of mixed bloods, almost entirely from Canada. . . ." (BIA 12/19/1905). The McCumber Commission's list of the names "stricken off" the roll in 1892 contained 107 names. If these individuals were the heads of families, then the

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number of people stricken off by the commission was similar to that of the 112 families previously rejected by the Committee of Thirty-Two (McCumber et al. 9/24/1892).

Chairman McCumber reported that when the commission arrived at the reservation, it discovered that there were "two factions" of the tribe. He said that one faction, led by Little Shell,<sup>35</sup> insisted that all the names stricken off the roll by the Committee of Thirty-Two be restored to the tribal roll. The other faction, which McCumber called the larger faction, insisted that the names stricken off should not be restored to the roll. Because the commission, in most cases, had refused to restore the names stricken off the roll, McCumber reported that the "ill feeling" had been "intensified" (McCumber et al. 9/29/1892). Agent Waugh informed the Commissioner of Indian Affairs that "a terrible bitter feeling by those who have been cut off" existed against the commission, and warned that it would be difficult to hold a council "without precipitating a fight. . . ." (BIA 9/30/1892). Citing threats of personal injury against members of the Committee of Thirty-Two, and the advice of the committee and agents, the commission requested that a company of U.S. troops be sent to the reservation to maintain the peace during the negotiations (McCumber et al. 9/29/1892). Agent Waugh issued a notice which ordered all individuals who were not "enrolled as members of the Turtle Mountain Band and accepted by the commission . . . as entitled to participate in any proceedings" with it, to "withdraw from within the limits of the Turtle Mountain Reservation at once or be arrested" (BIA 10/15/1892a).

The McCumber Commission's "Census of the Turtle Mountain Band of Chippewa Indians," of October 1, 1892, contained the names of 1,759 members of the band (McCumber et al. 12/3/1892, 21, 23-67). The McCumber roll identified each member by name, gender, relationship to head of the house, and age, and assigned them a census number and family number. The roll was divided into categories of "Full Bloods on Reservation," "Mixed Bloods on Reservation," and "Mixed Bloods in Vicinity of Reservation," thus following the practice of the agency's census rolls. Twenty-one heads of a family on the McCumber roll can clearly be identified as ancestors of the petitioner's members by comparing their names, ages, and family relationships on the roll to information from other sources about the petitioner's ancestors (see Table 11). None of the "Full Bloods" on the McCumber roll can be identified as ancestors of the petitioner. Seventeen of the petitioner's ancestors on the roll were listed as "Mixed Bloods" on the reservation, and four were listed as "Mixed Bloods" in the vicinity of the reservation (McCumber et al. 10/1/1892). These 21 individuals have 780 descendants in the petitioner's modern membership. Thus, only about 20 percent (780 of 3,893) of the petitioner's members descend from an ancestor who was on the McCumber

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<sup>35</sup> For a photograph of Chief Little Shell in 1874, see Murray 1984, 14, and Campisi and Starna 1987a, 4/5 (from the Bureau of American Ethnology, No. 549). A photograph of Chief Little Shell also appeared as a frontispiece to a printed version of Senate Document 444 of the 56th Congress. This source also provided a brief sketch of the genealogy of the three hereditary chiefs known as Little Shell, but without providing birth or death dates, or the dates when they had served as chief (Senate 1900, *In* Item #114, Irregularly Shaped Papers (Entry 310), RG 75, National Archives).

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Commission's roll in 1892.<sup>36</sup>

In its final report, the commission said that although it did not accept as members individuals who were said to be away in Canada or with western tribes, it did not want to be understood as concluding that "there may not possibly be other persons entitled to recognition" (McCumber et al. 12/3/1892, 23). McCumber later recalled that his commission had not claimed to have made a comprehensive list of all members of the band, because it had been told that many individuals who were related to the Turtle Mountain band "were outside of North Dakota at that time. . . ." (McCumber 1904). Of the 21 ancestors of the petitioner on the 1892 roll, at least nine of them, or some of their children who are ancestral to the petitioner, had appeared on census or church baptismal records in Montana prior to 1892. Nine of the 21 ancestors of the petitioner on the McCumber roll also had been on the 1850 Pembina census, or were the sons of someone on that census. None of these 21 ancestors had been living in the Red River Settlement about 1870.

In negotiating the cession of 1892, the Indian Claims Commission later concluded, "all parties assumed that the Turtle Mountain Band properly included mixed bloods as well as full bloods" (Ind.Cl.Comm. 1970, 329). This was a departure from the treaty negotiations of 1851 and 1863. Before the McCumber Commission, sub-agent Brenner at Turtle Mountain had noted that it was "generally believed" that few of the Métis in the immediate vicinity of the reservation were entitled to any of the benefits of any agreement which might be made with the Government to settle the band's land claims. He pointed out, however, that these Métis "participate in the general councils" of the Turtle Mountain Indians. He requested that the Department decide on "the relation these people hold as Indians and wards of the United States" (BIA 9/12/1891). Since 1886, the agency had been keeping separate lists for its Indian census rolls of "full bloods" and "mixed bloods" on the reservation or in its vicinity (BIA 1885-1940). This practice also indicated the agents' uncertainty and ambivalence about whether or not the Métis in the vicinity of the reserve should be considered members of the band. Little Shell and his followers, however, had a clear position that they were part of the band. Thus, in an initial appearance before the McCumber Commission, Red Thunder said that the Métis should be recognized as members of the tribe (Bottineau 12/20/1892, 4-6).

The McCumber Commission noted in its final report that the Department of the Interior had assumed that the Turtle Mountain band consisted of not more than 300 persons. "This is approximately correct," the commission argued, "if the term 'Indians' is intended to apply only to full bloods." The commission, however, said that it had recognized "all persons as members of the band" who had one parent who was a member of the band. By including "mixed bloods" and their descendants as entitled to membership in the band, this interpretation resulted in a count of 1,759 members (McCumber et al. 12/3/1892, 21).

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<sup>36</sup> Due to the intermarriages of McCumber roll descendants with other of the petitioner's ancestral lines, most of the McCumber roll descendants in the petitioner's current membership also descend from other family lines.

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The Indian census roll taken earlier in the year appeared to count 245 "full bloods" and 1,266 "mixed bloods," or 1,511 people on the reserve, and 1,804 Indians and "mixed bloods" either on the reserve or in the vicinity (BIA 1885-1940, roll 95). Compared to the agency's census roll, the commission either brought about a minimal decline (from 1,804 to 1,759) or a slight increase (from 1,511 to 1,759) in members. From the perspective of Little Shell and Bottineau, the commission had excluded one-quarter of the individuals who had been accepted as members of the band by the 1890 commission (a reduction from 2,327 to 1,759). Compared to the expectations of the Interior Department, the commission claimed to have enlarged the band by six times (from 300 to 1,759). Although Little Shell and Bottineau criticized the commission for cutting down the size of the band, the McCumber Commission contended that it had increased the size of the band, perhaps dramatically so, by including the Métis as members in a departure from the past practice of the Department.

A total of 31 ancestors of the petitioner's members were listed on a roll prepared for either the Mahone Commission in 1890 or the McCumber Commission in 1892 (see Table 11). About 26 percent (1,017 of 3,893) of the petitioner's current members descend from one of those individuals who was accepted by one of the Federal commissions as a member of the Turtle Mountain Band prior to the negotiation of the 1892 agreement. A comparison of the rolls of the two commissions shows that 20 of the 30 ancestors included on the 1890 census were also on the 1892 roll, while one ancestor not on the 1890 census was added to the 1892 roll. The one ancestor added to the roll in 1892 was later removed from the Turtle Mountain roll in 1906 on the grounds that he had separated from the band and not affiliated with it after 1878 (BIA 12/20/1906, 208-210; 6/29/1906, 15; 9/26/1905). Ten ancestors on the 1890 census were not on the 1892 roll. These ancestors consisted of five families that had been among the "mixed bloods" on the reservation on the 1890 Mahone census and five families that had been among the "mixed bloods" off the reservation on the 1890 census (see Table 11).

Because the 1890 census for the Mahone Commission was the most inclusive list of members of the Turtle Mountain Band of the 19th century, including more members than any of the agency's Indian census rolls prior to 1899, it is possible that those ancestors of the petitioner's members who were listed on the Mahone census of 1890 but were not on the McCumber roll in 1892 may never have been included on any agency census roll of the Turtle Mountain Band. Seven of the 10 individuals who were listed on the 1890 list but not on the 1892 roll appear to have been part of the British Red River Settlement in 1870, and thus may have been excluded from the 1892 roll as Canadians (see Table 11). Three of these 10 individuals were 65 or older in 1890, and thus may have died by 1892. About 7 percent of the petitioner's current members (281 of 3,893) descend from the 10 ancestors on the 1890 list but not on the 1892 roll. However, 41 of these 281 descendants can also trace their descent from another ancestor who was on the 1892 McCumber roll. Thus, only 6 percent of the petitioner's current members (240 of 3,893) descend from an individual on the 1890 census but not on the 1892 roll, without also descending from someone included on the 1892 roll.

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After completing the census of the band, the McCumber Commission moved on to the second task given to it by its instructions, obtaining the approval of the Indians of the Fort Berthold Reservation for the removal of the Turtle Mountain band there. The commission took with it six representatives of the band, including Chief Little Shell. The commission, however, found "it impossible to secure the assent of the Berthold tribes to admit the Chippewas. . . ." (McCumber et al. 12/3/1892, 10-11). The commission's third task was to negotiate a cession agreement. When it returned to the Turtle Mountain Reservation, the commission called a council "of all adult males on the roll. . . ." In its presentation to the assembled members, the commission urged them to lay aside their "factional differences" and to arrive at a settlement with the Government. The commission told them that the Government "had never directly recognized their claim to the lands they sought to be paid for," but was willing to pay them a "reasonable sum" to settle that claim and to assist them to become self-supporting. Because the Congress could not be induced to increase the size of their reservation, the commission stated that "they must lay aside once and for all any hope of having their present reservation increased to 30 miles square or extended a single foot. . . ." It would not be possible to give everyone an allotment of land on the present reservation or in the vicinity of the reservation, but the commission pledged that any adult head of a family would be able to select 100 acres on vacant public land (McCumber et al. 12/3/1892, 11-12).

After the commission's presentation, members of the band replied with speeches. Attorney Bottineau was not present because Agent Waugh had informed him that the commissioners had indicated that "they are instructed to deal directly with the people and will not recognize an attorney" (BIA 10/15/1892b). According to the commission's report, at this council the "faction headed by Little Shell, hereditary chief, . . . complained bitterly of the action of the committee of thirty-two and the commission in cutting down the membership roll. . . ." The commission responded that that action "would not be open for discussion." The faction headed by Kakinawash, chairman of the Committee of Thirty-Two, complained of their treatment as a friendly band and asked if their land had been ceded. The commission responded that no cession had been made and that the Government was willing to pay to extinguish their claim, whether it was well-founded or not. When the commission again indicated that discussion of an increase of the size of the reservation was useless, its report stated, "Little Shell and adherents then declared . . . that they agreed that further discussion was useless, and that they would leave, as they would never consent" to an agreement that would not give them the 30-mile square reservation at Turtle Mountain they desired (McCumber et al. 12/3/1892, 13).

The Committee of Thirty-Two remained to negotiate. The McCumber Commission suggested provisions for a settlement. Even after Little Shell's departure, however, the Committee of Thirty-Two continued to press for a reservation 30-miles square. The committee proposed that as compensation for its land claim the band should receive an appropriation of \$50,000 per year for 100 years, which would total \$5 million (McCumber et al. 12/3/1892, 13-14). In its report, the McCumber Commission said that it was "forced to report that the Turtle Mountain Band of Chippewa Indians have as valid an original Indian title to this entire tract of land as any Indian tribe had to any tract"

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(McCumber et al. 12/3/1892, 20). Arguing in favor of ratification of this agreement a decade later, McCumber said that there was "no question about the title" of the band to its own territory, but "considerable question as to . . . the extent" of that territory in view of "their roaming over the other sections of this unceded land." In his view a payment of \$1 million was fair because it was based not on the number of acres the band claimed, but on its population (McCumber 1904). Chairman McCumber had to leave Turtle Mountain a few days prior to the final agreement because of an illness in his family. "After some days and nights of constant negotiations," the commission reported, the other commissioners secured a "final contract" with the Turtle Mountain band (McCumber et al. 12/3/1892, 13-14).

The Articles of Agreement were dated October 22, 1892. The agreement was signed for the United States by the three commissioners and for the Turtle Mountain band by 258 individuals, led by Kakinewash. Little Shell did not sign the agreement. The agreement included eleven articles. By the terms of the agreement, the band ceded its lands in North Dakota, except for the executive order reservation established in 1884.<sup>37</sup> The United States agreed to pay the band \$1 million, in twenty annual payments of \$50,000. The bulk of this compensation was to be paid in the form of supplies and improvements, but the agreement provided that \$5,000 of the annual payment would be distributed per capita and paid in cash. The agreement provided that the reservation would be surveyed so that individual Indians could take homesteads on the reserve. It also provided that members of the band could select homesteads from any vacant public land belonging to the United States. In addition, individuals who took such a homestead would continue to share in all tribal funds, annuities, and property of the band, as if they were located on the reservation. One article stated that the agreement would not take effect until it was ratified by Congress (McCumber et al. 12/3/1892, 14-18).<sup>38</sup>

The McCumber Commission submitted its report to the Secretary of the Interior on December 3, 1892. The commission admitted that the agreement it had secured "does not meet the exact object for which the Commission was appointed, as expressed by the act of Congress." The agreement also was not "such a one as the Commission desired to make." The commission had prepared a census of the Turtle Mountain band and had negotiated a relinquishment of the band's claim to land in North Dakota. The commission, however, had failed to obtain the removal of the Turtle Mountain band to another reservation. It obtained neither the consent of the band to move nor the approval of another tribe to allow the band to relocate on its reservation. After unsuccessfully seeking the relinquishment of the band's existing reservation, the commission had to

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<sup>37</sup> The unceded lands claimed by the band, the commission concluded, consisted of about 8 to 10 million acres north and west of Devil's Lake (McCumber et al. 12/3/1892, 20). The area ceded by the agreement of 1892, the Indian Claims Commission would later find, consisted of 8.1 million acres (Ind.Cl.Comm. 1978, 253-254, 273, 276-277).

<sup>38</sup> Although the 1892 agreement is referred to by the petitioner's researchers, members, and many others, as the "Ten-Cent Treaty" (Morris and Van Gunten 1984, 53), it was not formally a treaty because Congress had legislated an end to the negotiation and ratification of treaties with Indian tribes in 1871.

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settle for an article which allowed the lands of the reservation to be allotted to its individual members. The commission, however, came to the conclusion that it had to accept these terms or have no agreement at all. The compensation of \$1 million for the band's relinquishment of its territorial claim, the commission argued, was "exceedingly favorable to the Government" and should be paid (McCumber et al. 12/3/1892, 18-20).

The day after the McCumber Commission had concluded its negotiations and obtained an agreement, Little Shell and his councilmen held a meeting. In their "proceedings," they claimed that "the majority of those who signed" the agreement "would not have done so if they had had proper opportunity of listening and participating in the proceedings," but "were induced to sign" by the "undue influence" exercised by the agent's committees. Because the commission's meetings had been held in the agency storehouse, they contended, only one-quarter of the tribe was able to attend, and those who did attend found it difficult to hear the speakers. They alleged that Agent Waugh and his agency police had prevented a "great number" of the Indians who were "not in harmony" with his position from participating in the discussions. The next day the same group formally assembled off-reservation at the courthouse in Rolla with attorney J.B. Bottineau, and with a judge and missionary present to certify the proceedings. The group resolved to confirm the power of attorney it had given to Bottineau in January and to give him the authority "to protest against the ratification by Congress" of the agreement. They also authorized Bottineau to prosecute their land claim, presumably to obtain a new agreement for more than \$1 million. These "proceedings" were signed by 24 council members (Little Shell et al. 1892, 38-39; also Bottineau 12/20/1892, 9).

Bottineau prepared a legal brief, or "protest," dated December 20, 1892, which announced that Little Shell and his council protested against the ratification of the agreement by Congress.<sup>39</sup> While the McCumber Commission reported that it had had to engage in real negotiations with a legitimate representative of the enrolled members of the band, attorney Bottineau portrayed the agreement very differently. Bottineau alleged that the "interference" of Agent Waugh meant that the Turtle Mountain Indians had been "more or less under duress" in the negotiations. He argued that the agreement obtained by the McCumber Commission had not been made with the legitimate leadership of the tribe, which was Chief Little Shell and the council the chief had appointed. It had always been the tradition and practice of the tribe, Bottineau contended, for the hereditary chief to select his councilmen, who served on the council as long as they could "act in harmony" with the chief (Bottineau 12/20/1892, 2, 8, 10-11).<sup>40</sup> The agreement had been

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<sup>39</sup> For a photograph of attorney J.B. Bottineau in 1896, see Campisi and Starna 1987a, 4/5 (from the Bureau of American Ethnology, No. 556).

<sup>40</sup> The petitioner's researchers, following Bottineau, contend that Agent Waugh and the McCumber Commission removed from the agency roll all members who were opposed to the agreement. They maintain that the agent and commission refused to accept Little Shell's traditional political leadership because Little Shell had consistently opposed the land cession (Morris and Van Gunten 1984, 169). However, the tribal roll was established before the negotiations began and before anyone had refused to sign the agreement. Little Shell was included on the roll. Little Shell spoke before the commission and

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signed, Bottineau later contended, by the “younger element of the tribe” rather than by its “leading” members (Bottineau 4/11/1899, 7). Over the next decade, he argued that the agreement had been made with an unauthorized committee (Bottineau 11/18/1904). Bottineau also complained that the payment provided the band by the agreement was “entirely inadequate to the actual value” of the land (Bottineau 12/20/1892, 11). This brief was submitted to the Commissioner of Indian Affairs by Bottineau on January 13, 1893, after the Commissioner already had sent his report on the McCumber agreement to the Department (BLA 1/11/1898).

The petitioner's researchers argue that a list of Métis families which “apparently” was part of Bottineau's protest -- the “List[e] des familles métis américaine de Pembina” -- demonstrates both that Little Shell and Bottineau considered Métis families in Montana to be part of “their political followership,” and that they were able to “mobilize” the Montana Métis in 1892: They also state that this document “explicitly asserted that these families were affiliated with Turtle Mountain” (Franklin and Bunte 1994, 111-112, 119). The document referred to by the petitioner's researchers was actually a series of six different lists of the Pembina Métis, all titled in French. The lists appear to have been enclosures to a letter from Bottineau which the Indian Office received in January 1896, not exhibits to his 1892 brief (Anonymous ca. 1896). Not one of the six lists was dated. Not one of them referred to the Turtle Mountains. One of the lists referred to the Pembina Mountains, which the petitioner's researchers have confused with the Turtle Mountains. The document titled “List[e] des familles métis” actually contained no names known to be included in the petitioner's ancestry. Only two of the six lists contained the names of identifiable ancestors of the petitioner in Montana, a list of the American Métis and a list of American Métis having alleged rights to land in Dakota. Judging from the ages of some of the ancestors on these two lists, the documents can be dated to about 1889-1892. On the face of the documents, there was nothing to indicate that these individuals had given their consent to be listed in protest of the agreement or had indicated their support of Little Shell and Bottineau.

On January 6, 1893, Commissioner of Indian Affairs T.J. Morgan forwarded to the Department the final report of the McCumber Commission together with a draft of a bill to ratify the agreement (BLA 1/6/1893; 9/16/1893, 35). Commissioner Morgan observed that the commission had “failed to accomplish one of the principal objects of its mission, viz, the removal of the Indians from their present reservation. . . .” He said that he saw no

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accompanied it in its negotiations at Fort Berthold. Little Shell had not consistently opposed a land cession, but had consistently requested a cession agreement. He favored an agreement in 1892 and participated in the council with the commission. Little Shell opposed the specific agreement proposed by the commission and refused to sign an agreement not made on his terms. However, he was not removed from the agency's Indian census roll. The petitioner's researchers also contend that the agent and commission removed all those opposed to the agreement from the reservation (Morris and Van Gunten 1984, 169). Agent Waugh ordered non-members off the reservation during the negotiations. The order for them to remove was issued before anyone had rejected the agreement and before Little Shell withdrew from the negotiations. After the agreement, future agents continually complained about the presence on the reserve of these individuals who had not been accepted as members by the McCumber Commission.

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point, however, in conducting further negotiations to achieve their removal, and would not recommend their removal without their consent. The \$1 million payment, he implied, should be considered a reasonable, rather than excessive, compensation for the Indians' valid claim to the land (BIA 1/6/1893). The Department of the Interior's chief legal advisor argued that the agreement did "not fulfill the requirements of the act . . . authorizing the negotiations" because of its failure to provide for the removal of the band (Interior 2/2/1893). The Secretary of the Interior was advised by Senator Hansbrough of North Dakota that a recommendation that the Turtle Mountain Chippewa be removed from their present location would improve the chances of congressional approval of the agreement (Hansbrough 1893). The Acting Secretary of the Interior defended the commission's agreement to the President only as "the best available" agreement (Interior 2/4/1893). President Harrison transmitted the agreement and draft bill to Congress without making any recommendation as to whether or not the agreement should be ratified (President 2/6/1893). Congress took no action on the agreement in 1893.

In December 1893, Little Shell's followers adopted a motion to reject and repudiate the 1892 agreement, to approve the protest by Chief Little Shell, and to confirm the employment of Bottineau as the band's attorney.<sup>41</sup> A second council adopted, by a show of hands, a motion to create a new "executive committee" of 12 full-blood Indians named by Chief Little Shell and 12 mixed-blood Indians chosen by the "present assembly." The assembly also elected Tchewilliam, or William Davis, Jr., as chairman of the executive committee. These minutes were signed by approximately 252 individuals (Turtle Mountain 1893). This new committee replaced the traditional governance described by Bottineau with a new governing body and an elected chairman other than Little Shell. The Committee of Thirty-Two responded to the creation of this rival committee with a "formal protest" against the "interference" of Bottineau, saying that it did not want its work of negotiating an agreement undone by "the meddling of a notoriously irresponsible man" who only wanted to earn fees from claims on the Government. Bottineau was the attorney for only "a small portion of our people" and the rejected Canadian Métis, the

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<sup>41</sup> From 1892 to 1905, Bottineau struggled unsuccessfully to have the Indian Office approve him as the attorney for the Turtle Mountain band. Bottineau maintained that in December 1893 he made a supplemental and amended agreement with the band to act as its attorney (Bottineau 4/11/1899). This 1893 agreement was not executed and submitted to the Indian Office, however, until June 1896 (Turtle Mountain 1896). The timing of this submission may be explained by the fact that the Indian Office had recently received an attorney contract made in March 1896 between the recognized Turtle Mountain band and another attorney (BIA 10/27/1898). Commissioner of Indian Affairs D.M. Browning stated that he would not approve the contract submitted on behalf of Bottineau, "nor will I approve any contract between the Turtle Mountain Band of Chippewas and the said John B. Bottineau" (BIA 6/24/1896). In 1898, however, Bottineau informed the United States Senate and House of Representatives that he was the "accredited representative and attorney" of the "Turtle Mountain Band of the Pembina Chippewa Indians" (Bottineau ca. 1898). Arguing that Bottineau had "been doing his utmost to thwart the purposes of the Government, . . . and to substitute therefor [sic] some plans of his own, out of which he hopes to obtain a large fee," the next Commissioner of Indian Affairs, W.A. Jones, stated in 1898 that he was "unwilling to approve his contract" (BIA 10/27/1898). The Interior Department calculated that the settlement proposed by Bottineau would provide the Turtle Mountain Indians with \$6 million, and that the attorney's 7 percent fee would earn him \$420,000 (Interior 4/15/1899).

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committee claimed, and it warned that Bottineau would “split us up into factions. . . .” (Committee of Thirty-Two 12/11/1893). By the end of 1893, two competing committees claimed to be the legitimate representative of the Turtle Mountain Band. In 1898, Indian Agent F.O. Getchell's judgment was that the much smaller faction recognized Bottineau as its attorney, while the larger faction favored ratification of the agreement made with the commission in 1892 (BIA 9/17/1898).

After the failure of Congress to act on the McCumber agreement in 1893, the Indian Office continued in 1894, 1895, and 1896 to recommend ratification of the agreement (BIA 12/9/1895, 9/15/1896, 1/11/1898). In 1895, Commissioner of Indian Affairs D.M. Browning argued that the Indians of the Turtle Mountain band strongly favored ratification of the agreement, and that ratification was opposed only by a Canadian Métis faction of the band (BIA 12/9/1895). However, from 1894 to 1899 the 53rd, 54th, and 55th Congresses considered, but did not pass, bills to obtain a relinquishment of the unceded lands of the Turtle Mountain band. In 1898, bills were introduced in Congress to refer the land claim of the Turtle Mountain band to the Court of Claims (Senate 2/18/1898; House 3/18/1898). The House bill was recommended for approval by the House committee, but it did not pass (House 1898). Thus, at the turn of the century, Congress had neither ratified the negotiated agreement of 1892, as favored by the Indian Office, nor agreed to submit the land claim of the Turtle Mountain band to the Court of Claims, as favored by Bottineau.

### **Chippewa and Métis Settlements, 1890's - 1900's:**

The petitioner's researchers contended that Chief Little Shell, his tribal council or headmen, and several hundred tribal members “had gone into exile” in the band's traditional hunting grounds along the Milk River in northern Montana after rejecting the McCumber Agreement of 1892 (Morris and Van Gunten 1984, 53). The researchers referred to the “banishment” of Chief Little Shell and his followers, and claimed that they were removed from the reservation as well as from the tribal roll because of their opposition to the 1892 agreement (Morris and Van Gunten 1984, 62, 169). This interpretation implied that Little Shell's band relocated as a band soon after 1892. However, the petitioner's researchers also asserted that Little Shell's followers migrated west to Montana because of the Government's “continued” failure or refusal to recognize them as tribal members. They referred to a political “purge” of members “over the decades. . . .” (Morris and Van Gunten 1984, 59, 62). This interpretation implied that a gradual migration of individual members took place over time. The petitioner's researchers noted that Little Shell ancestors settled in a variety of locations in Montana, and thus acknowledged that ancestors did not settle as a band in a single location. The researchers argued, however, that the area of settlement constituted both a single geographical region and a traditional tribal use area. They contended that this residential pattern has remained consistent since 1892 (Morris and Van Gunten 1984, 180-181).

Contrary to allegations that Little Shell was removed from the Turtle Mountain

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Reservation and its roll, and that he either chose to relocate, or was forced to relocate, to Montana, agency records recorded Little Shell's continued presence on the reservation after 1892. Little Shell was listed on every Indian census roll from 1893 to at least 1897 as a member of the Turtle Mountain Band (BIA 1885-1940).<sup>42</sup> On every "family register" of the Turtle Mountain Agency from 1884 to 1900, Little Shell or "Essens" was listed as the head of one of the families of the reservation (BIA 1884-1900).<sup>43</sup> An annotation in the last volume stated that Little Shell "died [June 1], 1901." In these registers, Little Shell was described as 50 years old in 1884 and 70 years old in 1900, and consistently as an age to have been born about 1830 to 1834. Little Shell was listed consistently during these years as having had two wives, "great woman" or "chief woman" (who was about 5-10 years older than he was, but who died in 1892) and "young woman" (who was about 25-30 years younger than he was), and perhaps a third wife (about 22 years younger than he was, who appeared only on the 1893-94 list). He appears to have had four children by his second wife after 1880, and perhaps a son by his first wife, living in his household until 1887. These volumes also gave a list of Little Shell's property, which usually, but not consistently, reported that he had a house and a stable.

In 1895, when a conflict arose over the cutting of timber on Government lands in the vicinity of the reservation, a North Dakota newspaper reported that a "big show of resistance [was] offered by Chief Little Shell and his following." It stated that "a letter signed by Little Shell and 150 of his tribe" was given to a deputy U.S. marshal, and that the U.S. marshal then went to St. John and held a council with the Indians, who were "headed by Little Shell, Red Thunder and others. . . ." (Grand Forks *Plaindealer* 1895). Indian Agent Ralph Hall also described Little Shell's role in this conflict (BIA 5/10/1895). To investigate this incident and to hear the Indians' grievances, Indian Inspector James McLaughlin visited the reservation in May 1895. His report indicated that Little Shell had been one of the speakers at this council (Interior 5/15/1895). In 1896, Little Shell wrote to Bottineau to inform him that another attorney had been to the reservation to seek a contract to become the band's claims attorney. The letter was written at Loreat, North Dakota (Little Shell et al. 1896). In 1897, E.W. Brenner referred to "Little-shell, the chief," in his annual report from the sub-agency at the Turtle Mountain Reservation (BIA 8/12/1897). In 1898, Little Shell wrote to Bottineau to ask for help in again bringing a delegation to Washington, D.C. The letter was written at Belcourt, North Dakota (Little Shell et al. 1898). A local historian claims that Little Shell was buried at Belcourt (Law 1953, 23). This evidence indicates that Chief Little Shell remained in the Turtle Mountain region throughout the 1890's and did not relocate to Montana.

The individuals who had been stricken from the tribal roll in 1892 had been described as

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<sup>42</sup> Post-1892 entries for Little Shell on the Indian census rolls (roll 95) can be found for 1893 (frame 195), 1894 (frame 316), 1895 (frame 329), 1896 (frame 445), and 1897 (frame 583).

<sup>43</sup> "Family Register" volumes: 1884-1886, p.1; 1887-1888, p.4; 1889-1890, p.167; 1891-1892, p.124; 1893-1894, p.52; 1895-1896, p.156; 1897-1898, p.148; and 1899-1900, p.138.

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Canadians by the McCumber Commission. Since the tribal roll included both on-reservation and off-reservation residents, not everyone removed from the roll would have been actually living on the reservation. In 1893, Kakenawash and the Committee of Thirty-Two wrote to the agent to point out that some of the individuals who had been removed from the tribal roll continued to reside on the reservation and had ignored posted notices telling them "to go away. . . ." The committee asked that action be taken to remove these people from the reserve (Committee of Thirty-Two 5/29/1893). These rejected members claimed, however, to have located on their lands prior to its being reserved as an Indian reservation (BIA 7/6/1893). Sub-agent Brenner put the number of persons who were not accepted as members but who continued to live on the reservation in 1893 as 177 persons in 40 families (BIA 8/29/1893). In 1895, Brenner reported that 175 people who were not recognized as Turtle Mountain Chippewas were being allowed to remain on the reservation pending action by Congress on the 1892 agreement (BIA 8/23/1895). He repeated similar observations in his annual reports of 1896, 1898, and 1900 (BIA 8/17/1896, 8/11/1898, 8/22/1900; see also Murray 1984, 29). Brenner's 1900 report stated that there were 120 individuals in 27 families residing on the reservation who were not enrolled in the tribe (BIA 8/22/1900). It is clear, then, that individuals dropped from the agency roll in 1892 were not forced to leave Turtle Mountain.

After the Turtle Mountain Reservation was created in 1884, Indian agents noted that a group of Chippewa "full bloods" had refused to reside on the reserve and had settled together near the town of Dunseith. In 1887, sub-agent Brenner observed that 15 families of "full bloods" were residing at Dunseith (BIA 8/31/1887). Senator Hansbrough said in 1891 that he had been informed that a group of Indians was wintering in the hills back of Dunseith, 15 miles from the reserve, because they had been "crowded off the reservation" by the Métis (Hansbrough 1891). In the years after the 1892 agreement, agents continued to refer to this group. In 1899, sub-agent Brenner said that "the full bloods have just squatted on land in the mountains" in the immediate vicinity of the reservation because they refused to file for homesteads in the unceded area (BIA 8/14/1899). Agent F.O. Getchell in 1900 reported that "the full-bloods" of the band "reside at or near Dunseith, some miles from the reservation" (BIA 8/21/1900). Although the "full-blood population is badly scattered," sub-agent Brenner said in 1902, 36 families of 105 individuals made their homes near Dunseith (BIA 8/11/1902). In 1904, Superintendent Davis noted the existence of a "full blood band of Turtle Mountain Chippewas, living near Dunseith. . . ." (BIA 10/26/1904 quoted, 9/1/1904). At the time of the ratification of the McCumber Agreement in 1905, Davis referred to "the full bloods living near Dunseith" as "a band somewhat to themselves. . . ." (BIA 2/24/1905). Reports by the Indian Office, therefore, indicated that an existing full-blood band did not relocate to Montana, but persisted at Dunseith after 1892.

Contrary to allegations that Little Shell's band and those opposed to the 1892 agreement were removed from tribal membership, the McCumber Commission roll had little effect on the agency's annual Indian census roll. The commission completed its roll between the annual agency censuses of 1892 and 1893. The total of "full bloods" and "mixed bloods" on the Turtle Mountain Reservation was 1,511 in 1892 and 1,514 in 1893. If the "mixed

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bloods" in the vicinity of the reservation are added to the reservation totals, then the total number of people listed on the agency census actually increased from 1,804 in 1892 to 1,895 in 1893. There was a gradual and uninterrupted increase in the total of the "full bloods" and "mixed bloods" on the reservation from 1888 to 1897, a decade surrounding the McCumber Agreement. There was a slight decline in the combined total of Indians and "mixed bloods" on and off the reservation from 1889 to 1892, before the McCumber roll was made, but a gradual and uninterrupted increase from 1892 to 1897 (BIA 1885-1940, rolls 94-95). An examination of the total number of people listed on the Indian census roll for the Turtle Mountain Reservation, therefore, provides no obvious confirmation for a contention that Little Shell's band was purged from the agency roll after the McCumber Agreement of 1892.

Attorney J.B. Bottineau claimed, during the decade prior to ratification of the McCumber Agreement in 1905, that a portion of the Turtle Mountain band was residing in Montana. In 1898, Bottineau said that the Turtle Mountain Chippewa Indians claimed to have a population of not less than 3,000 individuals, "including all those scattered and living in different parts of North Dakota, Montana, and Minnesota, and . . . in the British Possessions" (Bottineau ca. 1898, 3). In 1900, he stated that the Turtle Mountain Band claimed to have a population of about 3,200 individuals, including 500 persons living away from Turtle Mountain, "the majority of whom are in Montana" (Bottineau ca. 1900, 4). Bottineau's geographical references were not very specific. In one brief, he referred to Chippewa residences near Basin and Boulder, Montana, towns in Jefferson County south of Helena (Bottineau 11/18/1904). In 1904, Bottineau asserted that there were "between 300 and 400" members of the Turtle Mountain band "who are temporarily living in the Basin, so called, and other parts of the state of Montana. . . ." (Bottineau 12/24/1904). Jefferson County and its towns of Basin and Boulder have no known connection to any ancestors of the petitioner. If "the Basin" referred to the Judith Basin or the Milk River basin, then that would have been an area containing a portion of the petitioner's ancestors.

Superintendent Charles Davis recognized that some descendants of the Turtle Mountain band in 1904 were living "at distant points in this and other states" (BIA 5/12/1904). However, he judged that some of the absentees had "permanently departed from the tribe. . . ." (BIA 9/27/1904). In 1905, the superintendent noted that "a minor portion [of members] are found scattered from Duluth to the Rocky Mountains" (BIA 8/17/1905). In 1906, Davis said that, "Many of the Turtle Mountain mixed bloods were born in Montana, and many have gone there every few years for hunting, to find profitable employment, and to visit friends and relatives." The superintendent added that there were many Turtle Mountain Métis "now residing in Montana all the way from the eastern boundary to the Rocky mountains" (BIA 3/26/1906). Other sources noted the existence of unrecognized groups of Indians in Montana, but did not identify them as Chippewa or link them to the Turtle Mountains. For example, several years after the 1896 attempted removal of the Cree, a Montana newspaper referred to the existence of "strolling bands of Canadian Cree Indians" in the state, and said that the Commissioner of Indian Affairs had acknowledged that some of the Canadian Cree had taken up residence near Havre (Great

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Falls *Tribune* 9/7/1899).

### The Turtle Mountain Reservation, 1899 - 1916:

The possibility of ratifying the 1892 agreement improved when the chairman of the commission, Porter J. McCumber, became a United States Senator from North Dakota in 1899. Bills to confirm the 1892 agreement were introduced by Senators Hansbrough and McCumber of North Dakota in the 56th Congress in December 1899, the 57th Congress in December 1901, and the 58th Congress in November 1903 (Senate 12/6/1899, 12/4/1901, 11/1/1903). In 1900, the Senate also printed a compendium of documents relating to the 1892 agreement which appears to have been compiled by Bottineau (Senate 1900). The actual ratification of the McCumber Agreement consisted of both congressional approval of a modified agreement and tribal approval of the agreement as amended by Congress. Congress approved the agreement by an act passed in April 1904. Members of the Turtle Mountain Band signed a ratification document in October 1904, and signed a required release of their claims against the United States in February 1905.<sup>44</sup>

In its report on McCumber's bill in 1904, the Senate Committee on Indian Affairs amended the 1892 agreement to revise the terms of the payment of \$1 million to the band, limit the maintenance of reservation schools to a period of twenty years, and eliminate a 640 acre grant to Red Bear (Senate 1/25/1904). During consideration of the bill, both Senator McCumber, the chairman of the commission when the agreement was made in 1892, and Senator Teller, the Secretary of the Interior when the reservation was created in 1884, gave their accounts of the history of the band's land claim and urged passage of the bill. The Senate approved the committee's amendments, passed McCumber's bill, and incorporated its provisions into the annual Indian appropriation bill (Senate 3/21/1904, 3/22/1904). The House then amended the bill to require that the agreement as amended "be ratified and accepted by a majority of the adult members" of the Turtle Mountain band in a lawfully convened "general council." The House's amendment also provided that no part of the \$1 million would be paid until the Indians executed a general release of all claims against the United States, except for their right to the existing reservation and the allotments provided by the agreement. The House provided for the payment of fees to three attorneys, but not to Bottineau (House 4/8/1904). This act was signed into law on April 21, 1904 (Statutes 1904). Thus, almost twelve years after it had been negotiated, Congress approved the 1892 agreement, but made ratification of the agreement contingent upon an approval of the amendments and a release of its claims by the Turtle Mountain band.

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<sup>44</sup> The petitioner's researchers claim that the ratification of the McCumber Agreement of 1892 was completed when a congressional act became law on February 17, 1905, is in error (Morris and Van Gunten 1984, 61). Congress took no action on the bill cited by the petitioner's researchers (H.R.18519, 58th Congress), a bill introduced in January 1905 at Bottineau's request (House 1/30/1905). A congressional act was involved in the ratification of the 1892 agreement, but it was a different piece of legislation from that mentioned by the petitioner's researchers, and contained very different provisions (Statutes 1904).

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The Indian Office informed Superintendent Charles Davis of the Fort Totten School, which had jurisdiction over the Turtle Mountain Reservation, that he had been selected to conduct the negotiations with the Indians. Davis' instructions directed him first to make a census of the Indians eligible to participate in the general council required by the act, and then to assemble that council and present its members with the question of whether or not they would approve the amended agreement. The census was to consist of the "surviving male adults" from the census prepared by the McCumber Commission in 1892, and the adult male descendants of individuals on the 1892 list. Individuals on the 1892 census who had "permanently departed" or "separated themselves from the band" were to be stricken from the roll. The Indian Office took the position that "there has been no legal addition to the band, other than by birth" since 1892 (BIA 8/22/1904). This directive was responsive to the superintendent's concern that the agency "enrollment" had been expanded to include persons, including non-Indians, who had married members of the band, and the Indian Office's worry that impending ratification of the agreement might attract an influx of new members (BIA 4/26/1904, 6/6/1904; Interior 6/1/1904). The census prepared for the council held in October 1904, which included the "full bloods" and the "mixed bloods" both on and off the reservation, contained 2,094 names. This count represented a reduction of 620 members from the annual Indian census roll which had been prepared in June 1904 (BIA 4/22/1905, 8/17/1905; BIA 1885-1940, roll 97; Murray 1984, 33).

On October 8, 1904, Superintendent Davis sent a telegram to the Commissioner of Indian Affairs to report that the amended agreement had been ratified on October 6 by a majority of the Turtle Mountain band (BIA 10/8/1904). He also said that the general council had consisted of three days of deliberations, which implied ratification on October 8 (BIA 8/17/1905). A document for the band to "accept and ratify the modified and amended agreement" was dated October 6. Attached to this document was a list of 272 voters (although numbered to 278) which contained the information that the voter had signed or made his mark in favor of ratification. Another list of 218 voters presumably consisted of men who did not sign the ratification document (BIA 10/6/1904). The superintendent's opinion was that the voters who were absent from the council were young men who were in favor of ratification (BIA 10/10/1904). This explanation indicates that the voters who did not sign the ratification document included absent and non-voting members as well as members opposed to ratification. An actual vote for or against the agreement appears not to have been held. Superintendent Davis and the Indian Office both argued that ratification was made by a majority of eligible voters, not just of participating voters (BIA 10/10/1904, 10/18/1904, 12/9/1904). Whether the number of eligible adult male voters on the October 1904 census was 464, as Davis reported (BIA 10/18/1904), or 490, as his lists suggested (272+218), the 272 voters who signed the ratification document constituted a majority. The superintendent thus determined that a majority of the band had ratified the amended agreement.

The Department of the Interior's Assistant Attorney-General issued an opinion on January 19, 1905, that the ratification of the amended agreement was not complete because the Turtle Mountain band had not provided a document releasing all of its claims

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against the United States as was required by the Act of 1904 (Interior 1/21/1905; BIA 9/30/1905). This was one of the points that Bottineau had made in a brief against ratification (Bottineau 12/24/1904). Bottineau claimed to have had a meeting with the Department's legal advisor, even though the Acting Commissioner of Indian Affairs had dismissed his objections and pointed out that none of the four signatories of Bottineau's "notice" requesting a hearing had been found eligible to be members of the band and to participate in the negotiations in 1892 (BIA 12/9/1904; Bottineau 11/18/1904, 2/6/1905). In view of the Assistant Attorney-General's opinion, the Secretary of the Interior directed the Commissioner of Indian Affairs to "take proper steps to have a release executed as indicated" (Interior 1/21/1905). The Indian Office then instructed Superintendent Davis to call another council of the Indians entitled to participate in the ratification of the agreement, and to submit to them the matter of executing such a release. It provided the form and language of a release for the superintendent to use (BIA 1/25/1905). Superintendent Davis said that he called the general council to meet on February 15, 1905, because that date already had been established as a day on which supplies would be issued to members of the tribe. Therefore, members already would have made plans to be at the agency on that date (BIA 2/1/1905, 2/24/1905).

Superintendent Davis said that the general council of the band in February 1905 lasted for "several days" (BIA 8/17/1905). The superintendent explained the purpose for which the council had been called. He pointed out that the band would retain its reservation and its members would retain their rights to acquire homesteads on the public domain. If they did not agree to the release of their other claims against the United States, he noted, the \$1 million payment would not be made. That payment was for a relinquishment of the tribe's claims to land and, Davis observed, since the Government "did not agree that this land all belonged to the Indians," it was not a payment of 10 cents per acre but a payment for a release of the claim (BIA 2/17/1905, minutes for Feb. 15). On the third day of the council, Kakenowash spoke for the tribe and announced that the band had arrived at a consensus of opinion. "We will take the million dollars," he stated, but added that there were several things the band wanted. Davis summarized the band's position as accepting the payment and asking that certain "requests" be considered. He stated that he would send the requests to Washington with his support, but added, "I do not promise that I can do all of these things. . . ." Davis said that his instructions were to take the names of all those willing to accept the agreement (BIA 2/17/1905, minutes for Feb. 17). The release form, or "Ratification by the Turtle Mountain band," was signed by 300 individuals, and certified by the superintendent on February 17, 1905 (BIA 2/17/1905).<sup>45</sup> Superintendent Davis informed the Indian Office that the release had been obtained with no votes against it (BIA 2/18/1905, 2/24/1905).

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<sup>45</sup> Verne Dusenberry wrote that "Little Shell and his followers refused to sign" the release of February 15, 1905, but cited no evidence for this claim (Dusenberry 1958, 37). Other evidence indicates that Little Shell had died in 1900 or 1901. Dusenberry was unaware of the tribal ratification of October 1904, and unaware that the general release signed in 1905 was required by the act of 1904. He implied that the act of 1904 introduced new provisions allowing Turtle Mountain members to take homesteads on the public domain, although that had been provided by Article 6 of the 1892 agreement.

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After examining the report and papers provided by Superintendent Davis, the Secretary of the Interior informed the Commissioner of Indian Affairs that, "This action by the Indians, supplementing that heretofore taken by them, constitutes full compliance with the provisions of the act of April 21, 1904. . . ." The Secretary directed the Commissioner to "carry into effect" the provisions of the amended agreement (Interior 3/10/1905). The Commissioner of Indian Affairs, in turn, informed Superintendent Davis that the Department had found the documents he had submitted to constitute "full compliance" with the provisions of the Act of 1904, and that it desired that steps be taken at once to carry the ratified agreement into effect (BIA 3/16/1905a). The superintendent prepared a letter to the Turtle Mountain Band which informed its members that the agreement made with the McCumber Commission in 1892, as modified by Congress in 1904, was now "fully in force" because it had been ratified by the tribe (BIA 4/6/1905). It was the date on which this release was executed in 1905, completing the ratification of the agreement of 1892, which the Indian Claims Commission later determined was the date of the "taking" of the Turtle Mountain Band's aboriginal lands by the United States (Ind.Cl.Comm. 1970, 325, 339).

The petitioner's researchers claim that changes in the enrollment criteria at the Turtle Mountain Agency between 1905 and 1916 disenfranchised Little Shell's followers from tribal membership (Morris and Van Gunten 1984, 62). They argue generally that the Métis became the predominant portion of tribal members at Turtle Mountain after ratification of the McCumber Agreement in 1905. They specifically allege that new enrollment criteria were adopted in 1910 and that members were purged and the roll closed in 1916 (Morris and Van Gunten 1984, 72, 77, 171). A historical survey of Turtle Mountain enrollment written in 1941 did not identify any such changes (BIA 12/1/1941). The ratification of the McCumber Agreement required the Department of the Interior in the years from 1904 to 1906 to clarify enrollment standards and to produce a tribal roll so that the Government would know who could vote on the ratification question and who should receive the benefits of the ratified agreement. These enrollment criteria were determined and announced by 1906, not 1910. Many new applicants who attempted to enroll at Turtle Mountain after 1905 were rejected because of these enrollment criteria. The petitioner's researchers assert, rather than demonstrate, that Little Shell's followers and the opponents of the 1892 agreement were kept off the roll by these rulings. They imply, but do not show, that these rejected individuals became the Little Shell petitioner of Montana.

On January 24, 1905, the Assistant Attorney-General of the Interior Department stated his opinion that the only test of an entitlement to benefits under the McCumber agreement was membership in the tribe, and that these rights were held by every member regardless of his or her degree of Indian blood (BIA 9/30/1906).<sup>46</sup> An effect of this opinion was to uphold the right of the Métis to be members of the band. By affirming the principle that

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<sup>46</sup> The petitioner's researchers claim that the Department of the Interior's opinion of January 24, 1905, was an "unusual standard," without attempting to explain how that opinion departed from the Government's traditional standards of tribal membership (Morris and Van Gunten 1984, 62-63).

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membership in the tribe was the crucial test for benefits, this opinion compelled the Indian Office to define the criteria for membership in the tribe. In addition, Superintendent Davis noted that after ratification of the McCumber agreement in 1905 “a very large number of mixed blood Indians living in North Dakota, Minnesota, [and] Montana who are related to various members of the tribe” were claiming rights to enrollment at Turtle Mountain, and thus rights to share in the benefits of the agreement. He wanted a clear standard for deciding the merits of these new applicants. The superintendent argued that the “supreme test” of membership should be whether, at the time of the 1892 agreement, the applicant lived in the vicinity of the reservation and was recognized as being part of the band (BIA 3/27/1905).

In July 1905, the superintendent prepared rules to govern the consideration of applications for membership at Turtle Mountain. His rules prohibited from membership applicants who had not been living in 1892 on the tract ceded by the McCumber Agreement, and applicants who had come to the vicinity of the reservation from Canada after the agreement of 1892. These rules were approved by the Department of the Interior on August 11, 1905 (BIA 8/19/1905; 9/30/1906). The Indian Office agreed with the superintendent that successful applicants “must show a long and continued residence among the tribe,” and that the essential test for membership was whether the applicants had “actually lived among and affiliated with the tribe to such an extent as to be recognized as members” by the Indians (BIA 9/22/1905, 5/7/1910). The Department upheld this as “a proper general rule.” The opinion of the Assistant Attorney-General of the Department was that a member’s voluntary withdrawal from affiliation with the tribe forfeited his or her tribal rights. Whether or not this had occurred, he said, would have to be determined by the facts in each particular case (BIA 10/13/1905, 9/30/1906). On enrollment questions, the Department of the Interior in October 1905 made it clear that it would not be bound by the action of the Indian council or the superintendent, but would decide enrollment cases itself (BIA 5/7/1910).

Superintendent Davis observed that he had received about a thousand applications for new memberships in the band, mostly from persons who were away from the reservation (BIA 8/17/1905, 10/31/1905). In 1906, the Department sent Special Agent Edgar Allen to the reservation to consult with the band about these enrollment applications (BIA 6/21/1906). After the council passed judgment on the merits of a large number of “additional applications,” Allen recommended that only 29 of these 747 applicants be admitted to the tribe. In addition, he suggested that 27 enrolled persons have their membership canceled (BIA 12/20/1906). In one case, the council unanimously recommended that the family of Vital Turcotte of Montana, an ancestor of the petitioner’s members, be dropped from the roll for the reason that he had “separated himself from the band” by not having “affiliated with it for the past 27 years” (BIA 6/29/1906). According to Allen, the new applicants consisted of Métis who had remained at Pembina and Walhalla, Canadian Métis who had settled in the vicinity of the reservation, and a few Indians and Métis who had been omitted from the McCumber roll. The special agent’s characterization of these applicants did not suggest that any significant number of them were living in Montana (BIA 12/20/1906).

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The 1906 report of Special Agent Allen included a group of 20 applicants who were grouped together as one case. These applicants were described as residents, or the descendants of residents, of the vicinity of Pembina who belonged to the former Pembina band of Chippewa and lived away from the reservation (BIA 12/20/1906). None of these 20 applicants, who were rejected for enrollment at Turtle Mountain in 1906, appear to be ancestral to members of the petitioner. Also in 1906, the Indian agency created one of the primary sources for confirming membership in the Turtle Mountain Band of Chippewa, the collection of records called the 1906 "Family History Books." These volumes recorded detailed information about members, their nuclear families, and their close relatives (BIA 1906a). In addition, information relating to members of the Turtle Mountain Band, and three generations of their families, was recorded on "family data cards," which were created mostly for couples who married between 1878 and 1906 (BIA 1906b).

In 1906, the Indian Office prepared a statement of "General rules governing applications for enrollment" at Turtle Mountain. Following the principles approved in 1905, it stated that applicants not living on the ceded tract at the time of the 1892 agreement were "debarred from applying," unless they could show that they had been temporarily absent. Applicants who had arrived from Canada after the 1892 agreement were "prohibited from membership," unless they could show that they had been in Canada temporarily. In general, applications would be considered only if it appeared that an error or omission in the case had been made by the McCumber Commission. Potential members were advised that it was the Department of the Interior which would approve or reject their applications (BIA ca. 1906). These membership criteria did not represent any significant change from the standards adopted in 1892 by the McCumber Commission, nor were new criteria adopted in 1910. Rather, in response to questions about enrollment from the band, the Commissioner of Indian Affairs in 1910 reviewed the history of enrollment and the standards for membership since 1892. He concluded that, "The fact that the band or its council recognizes an applicant as entitled to enrollment will be given proper weight by the Office, but cannot be accepted as decisive of the rights of an applicant." Although the Turtle Mountain band urged "purging the rolls of those names that should not be there," the Commissioner said that no person would be stricken from the roll unless the band furnished evidence that an individual had obtained membership by fraud (BIA 5/7/1910).<sup>47</sup>

When Superintendent Davis informed the members of the Turtle Mountain Band that the 1892 agreement had been ratified and was in effect, he also informed them that they were entitled to take allotments of land, either on the reservation or on the vacant lands of the public domain. The superintendent assumed that, with some exceptions mandated by an

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<sup>47</sup> The petitioner's researchers claim that the Bureau of Indian Affairs created new enrollment criteria in 1910 (Morris and Van Gunten 1984, 70, 76) and imply that it cut off further allotment applications (Franklin and Bunte 1994, 113). They have misinterpreted the 1910 review of the history of the adoption of the existing enrollment criteria as an announcement of the adoption of new enrollment criteria or the closing of the roll.

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1897 law, the children born to members of the tribe between the agreement of 1892 and the ratification of 1904 would be entitled to allotments. "Members having left the Turtle Mountain tribe since . . . 1892, in such manner as to sever their connections with such tribe," the superintendent said, "will not be entitled to land" under this agreement (BIA 4/6/1905). Departmental instructions in 1907 said that there was nothing in the ratification act of 1904 which prevented a child born after a certain date from receiving an allotment, but that interpretation would be overruled in 1916 (Interior 9/30/1907; Statutes 1904). The twelve-year delay in the ratification of the 1892 agreement, Senator McCumber explained, meant that the band's members were no longer able to take homesteads in the vicinity of the reservation and were compelled to select lands in western North Dakota or Montana (McCumber 1912). The Commissioner of Indian Affairs, in his annual report for 1905, observed that because there was "very little public land near the reservation," it would be necessary for members of the band "to go a long distance to find suitable land" to take as homesteads or allotments. He pledged, however, that the Indian Office would provide a man to assist members in locating such lands (BIA 9/30/1905).

In response to public opposition from Montana citizens and politicians to allotment in that state, Superintendent Davis said that his agency did not intend to make allotments in Montana in extensive and contiguous tracts, or to confine allotments to a single county (BIA 3/26/1906). In his annual report for 1906, the superintendent stated that allotments had been made in four land districts. About one-quarter of the allotments made to that time, 149 of 583, were in Montana (BIA 8/27/1906). The superintendent personally visited Montana to aid in this work and to inspect the allotments selected by members of the band (BIA 9/8/1906, 9/13/1906). In 1907, the Commissioner of Indian Affairs reported that 326 allotments had been made on the reservation and another 650 on the public domain, and suggested that another 1,370 individuals receive cash in lieu of land (BIA 9/30/1907). A year later, however, an Indian inspector reported that 1,066 allotments had been made to Turtle Mountain members in Valley County alone, in the northeastern corner of Montana (Interior 11/10/1908). In 1910, the Commissioner of Indian Affairs reported that 1,177 members had received allotments or homesteads during the past year. These land entries had been filed in nine land offices, including those in Glasgow, Miles City, Lewistown, and Great Falls in Montana (BIA 11/1/1910). By 1914, almost all new allotments were being made in Montana (BIA 9/21/1914). Some Turtle Mountain members did relocate to these allotments in Montana at this time (Lafromboise 1994, 1, 9). Recipients of these allotments remained enrolled members of the Turtle Mountain band.

In 1916, the Department of the Interior concluded that in order to be entitled to an allotment on the public domain under the Act of April 21, 1904, a Turtle Mountain member must have been born before October 8, 1904, the date on which the agreement of 1892 was ratified. This case, *Voight v. Bruce*, came to the Department as an appeal from a decision of the General Land Office on an allotment claimed in the Glasgow, Montana, land district by a Turtle Mountain member on behalf of his minor child. The Department reasoned that the Government had agreed in the 1892 agreement to pay a consideration

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for the relinquishment of the band's land claim, and that the consideration to be paid was a fixed amount. The privilege of members to take lands on the public domain "was part of the consideration for the cession," the Department argued, and it was "not reasonable to suppose that it was intended that this consideration was to be increased indefinitely," as would happen if each new child born to a member, or each new person admitted to membership, were allowed to receive an additional payment in the form of land. Therefore, the Department concluded, receipt of the payment of the consideration specified in the Act of 1904 was limited to those persons "in being at that time." It followed that all persons whose names appeared on the roll at the time of the ratification of the agreement in 1904 were entitled to take lands either on the reservation or on the public domain (Interior 1/15/1916, 2/23/1916).

Although this decision prevented some children from receiving a patent for an allotment of land previously made, it did not remove them from the Turtle Mountain roll. The petitioner's researchers, however, argue that in 1916 the Turtle Mountain roll was closed and that many allottees were purged from the roll and had their land taken from them (Morris and Van Gunten 1984, 72, 77, 171; Franklin and Bunte 1994, 113). In his 1941 survey of the history of the Turtle Mountain roll, John Holst mentioned no change in 1916. Although the Turtle Mountain roll had been regarded as closed after Superintendent Davis' roll of 1904, Holst concluded that the agency roll "was never closed" (BIA 12/1/1941, 9, 10). Holst noted that the agency census was kept up after 1905 like any other agency census. It was the enrollment criteria affirmed in 1905 and 1906 which acted to close the roll to new applicants who did not meet those criteria. The effect of the Department's decision in *Voight v. Bruce* was to deny allotments to persons born after 1904, and thus to reverse the agency's policy of making allotments to those minors. At a later date, the Department concluded that this decision resulted in the cancellation of allotment selections made by about 607 children born after October 1904 (Interior 4/16/1928). This decision, however, did not remove these minors from the agency roll. Because the 1916 opinion established a closing date for persons eligible for allotment, it could be said that the allotment roll was closed by this ruling. This opinion, however, did not alter the criteria for tribal enrollment. Allotment depended upon membership, but membership did not depend upon allotment.

The petitioner's researchers have argued that many of the petitioner's ancestors unfairly had their applications for allotments of land rejected, that they lost their land at an uncertain date, and that they therefore formed an organization in 1927 (Morris and Van Gunten 1984, 72, 77; Franklin and Bunte 1994, 60-61, 113, 120). The first mention of this issue came in 1929 in a statement submitted to the Senate Committee on Indian Affairs and published in the *Survey of Conditions of the Indians in the United States*. The statement, titled "The Turtle Mountain Abandoned Chippewa Indians," was made by David LaRoque, who identified himself as a resident of Wolf Point, a member of the Fort Peck Indian tribe, and a "Turtle Mountain Chippewa." In 1927, he had been elected a leader of the "lost band" of the Chippewa, the first formal organization in Montana which the petitioner claims as its predecessor. LaRoque stated that in 1910 some "unallotted Turtle Mountain Chippewa Indians were allowed to make allotment selections on the

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public domain” under Section 4 of the Allotment Act of 1887, only later to have the allotments canceled by the General Land Office at the recommendation of the Office of Indian Affairs (LaRoque 1929). After 1931, the argument that Chippewa Indians in Montana had lost land and become “landless” because their allotment applications had been rejected was made regularly by Joseph Dussome and several successive organizations led by him which the petitioner claims as its predecessors (Dussome 12/5/1931, 4/4/1934; BIA 7/10/1934; Pembina Band 7/2/1941; LIM ca. 1950).

These claims that Chippewa descendants applied for allotments about 1910 and lived on them and worked them for two to seven years before they were rejected is consistent with allotments made to minors about 1910 to 1914 and canceled by the decision of 1916, except for the idea of minors born after 1904 living on and working their own land. LaRoque and Dussome and others consistently claimed, however, that the lost allotments were made under the provisions of the Allotment Act of 1887, not the Act of 1904 which ratified the Turtle Mountain agreement.<sup>48</sup> Section 4 of the 1887 act provided that any Indian “not residing upon a reservation,” or whose tribe did not have a reservation, might be entitled to have public land allotted to him or her. In such applications, the filing fees would be paid from the Treasury of the United States (Statutes 1887). An advantage of filing for land under the Allotment Act of 1887 rather than the Homestead Act was not having to pay filing fees. One of Dussome's complaints, however, was that filing fees for allotments had been made and lost, which he demanded to have refunded to the applicants (Dussome 4/4/1934).<sup>49</sup> The available evidence includes only two examples of such a rejected public domain allotment application (LaRoque 1929; BIA 1/12/1933). In the absence of evidence, it is impossible to say how many of the petitioner's ancestors had allotment applications rejected, where the allotments were located, why they were rejected, and when they were rejected. Without such evidence, it is difficult to interpret the issue of allotments as the catalyst for the formation of an organization in 1927.

### **Montana Settlements, 1900's - 1920's:**

The petitioner claims always to have been separate from Rocky Boy's band and the Chippewa-Cree Tribe of the Rocky Boy's Reservation, but others have attributed common origins to the two groups (Morris and Van Gunten 1984, 77-78). A history of the creation of the Rocky Boy's Reservation has concluded that the Office of Indian Affairs had been unaware of the existence of Rocky Boy's band in Montana until it

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<sup>48</sup> One interviewee presented detailed documentation showing that several members of his family had applied for Turtle Mountain allotments in an area just east of the Rocky Boy's Reservation (Burchard 1998). The documentation indicated that the allotments had been rejected on the grounds that these family members were not maintaining tribal relations with the Turtle Mountain Band.

<sup>49</sup> Several interviewees said that their parents or grandparents had been able to get homesteads in the period from 1900 to 1930, but that they were not economically viable (Sinclair 1998; Vogel 1998). The homesteads were described as too small or lacking water, and the homesteaders as lacking the funds to develop and “prove up” their claim (Sinclair 1979).

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received a petition from him in 1902 (Wessel 1974, 22).<sup>50</sup> The Indian Office supported legislation introduced in 1904 to provide “the American-born part of Rockyboy’s [sic] band” with land on the Flathead Reservation (BIA 1/8/1904; Senate 2/26/1904). In 1908, Congress appropriated \$30,000 to settle Rocky Boy’s band on available public lands, or on an existing reservation if an agreement could be concluded with an Indian tribe in the state to do so (Statutes 1908; Ewers 1974, 124-125). Indian Inspector Frank Churchill then investigated and found that all the Indian tribes and agencies in Montana were opposed to locating Rocky Boy’s band on their reservation. He recommended that the band be located on the public domain in northeastern Montana, where the Government was allotting members of the Turtle Mountain band (Interior 11/10/1908; Wessel 1974, 25-26). Rocky Boy’s band, however, did not assemble to be relocated there. The Secretary of the Interior then ordered in October 1909 that the band be placed instead on the Blackfeet Reservation. A majority of the band left the reservation by 1911 (BIA 9/4/1912; Wessel 1974, 28-30).

In 1912, the Indian Office sent Fred Baker, a supervisor of Indian schools, to Montana to investigate how to provide for Rocky Boy’s band and other non-reservation Indians in the state (Wessel 1974, 38). Baker reported that reservation Indians were not willing to accept Rocky Boy’s band on their reserves, and that he could not find vacant public lands suitable for the band. Therefore, Baker recommended using the abandoned Fort Assiniboine military reservation southwest of Havre as a permanent Indian reservation for Rocky Boy’s band and other non-reservation Indians (BIA 9/4/1912; Wessel 1974, 39). In a compromise with local officials, the Government agreed to limit the proposed reservation to the southern part of the former military reserve (Wessel 1974, 47, 70). The Department of the Interior prepared draft legislation to create the reservation and urged that the reserve be adequate to support 500 Indians (Interior 3/17/1916). After the Senate removed one of the four townships from the proposed reserve, the bill was passed by Congress (Wessel 1974, 70-71). The act, which was signed into law on September 7, 1916, established a reservation for “Rocky Boy’s Band of Chippewas” and other “homeless Indians” in Montana, of 56,000 acres of the former Fort Assiniboine military reservation (Statutes 1916) (see Figure 6).<sup>51</sup>

The origins of Rocky Boy’s band were unclear. The agent from the Flathead Agency visited Rocky Boy, in his camp near Anaconda, and reported in 1904 that the band consisted of Chippewas and Crees. Although some of them were from Canada, he said that many reported that their relatives were from Wisconsin (BIA 1/8/1904). According to the *Great Falls Tribune*, in 1905 Rocky Boy “related the story of his separation from the . . . band of Chippewa Indians who inhabited the northern part of Wisconsin,” and said that his people were now “wandering about” Montana (*Great Falls Tribune*

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<sup>50</sup> For a photograph of Rocky Boy, see Burt 1987, 203.

<sup>51</sup> In an article purportedly about the creation of Rocky Boy’s reservation, historian Larry Burt did not consult the text of the authorizing legislation or other primary sources and thus was simply wrong in stating that the reservation originally was created by an Act of February 11, 1915 (Burt 1987, 206; Stat. 38:807).

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10/12/1905). The agent at the Flathead Agency reported in 1908 that Rocky Boy claimed that his band had come to western Montana about 18 years earlier, or about 1890 (Ewers 1974, 124). Inspector Churchill reported in 1908, however, that Rocky Boy claimed to be a Chippewa Indian and to have been born in Montana in the country around Butte and Anaconda (Interior 11/10/1908). The 1910 Federal census listed a Rocky Boy with the information that he had been born in Minnesota to parents born in Wisconsin (Census 1910). In a 1910 article about Rocky Boy's band, the *Great Falls Tribune* claimed that the band had its origins in Wisconsin, but had temporarily "spent some time" on the Turtle Mountain Reservation in North Dakota before arriving in Montana (*Great Falls Tribune* 6/14/1910). Verne Dusenberry, who studied the band in the 1950's, concluded that Rocky Boy was "a Wisconsin-born chief who came with his small band of Chippewas to Montana after having lived many years in Canada" (Dusenberry 1954, 2, quoted; Burlingame and Toole 1957, 1:185).

The size of Rocky Boy's band also was poorly known. In November 1908, Chief Rocky Boy provided Inspector Churchill with a list of his band which contained 100 names. Rocky Boy implied, however, that more names should be added to the list. In 1908, Churchill recommended that an enumeration of Rocky Boy's band be made by allotting clerk Thralls W. Wheat (Interior 11/10/1908). In March 1909, Wheat was directed by the Commissioner of Indian Affairs both to compile "an accurate census" of the Indians belonging to Rocky Boy's band and to prepare a separate census of the Canadian Indians affiliated with the band. Wheat said that he found Chief Rocky Boy and "the greater part" of his band camped east of Helena, but that he also found camps of Rocky Boy's Indians at Birdseye, Townsend, Clancy, Garrison, and Anaconda. Wheat concluded that there were 120 American Indians affiliated with Rocky Boy's band, and another 17 individuals affiliated with the band who were Canadians. His census, however, contained 139 rather than 137 names. Each of the Canadian Indians on Wheat's census appears to have been either a spouse, child, parent, or sibling of an American member of the band (BIA 4/20/1909). The superintendent of the Blackfeet Agency estimated in 1910 that Rocky Boy's band had 400 members. He also said, however, that Rocky Boy could not keep his people together (Wessel 1974, 36).

Anthropologist Verne Dusenberry, on the basis of his personal fieldwork and the previous assessments of bureaucrats and observers, concluded that the Indians of the Rocky Boy's Reservation included people from two bands, Rocky Boy's Chippewas and Little Bear's Canadian Crees, that had been separate entities for the previous 30 years (Dusenberry 1954, 2; Burlingame and Toole 1957, 1:186). Historian Larry Burt suggested that the two bands began merging while living near Helena about 1905 (Burt 1987, 204). As early as 1908, Inspector Churchill noted that the common understanding in Montana was that Little Bear's band of Canadian Cree was part of Rocky Boy's group of roving Indians (Interior 11/10/1908). A memoir of a member of Rocky Boy's band, however, concluded that the "Little Bear Crees and the Rocky Boy Chippewa were not really a single group" until they camped together in 1914. In this view, the two bands came together in the vicinity of the proposed reservation after Baker's recommendation to create an Indian reservation from the old military reserve. The interpretation of this Rocky Boy's member

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was that Little Bear's band of Cree was included on the new reservation under the provision of the statute which allowed other "homeless Indians" to be located there (Nault 1977, 13 and map p.). After the creation of the Rocky Boy's Reservation, some Métis who earlier had settled along the Front Range, like William Boushie at Dupuyer Creek, moved to the new reserve. Boushie's grandson argued that Boushie, who was a Métis of Cree ancestry, had been associated with Chief Little Bear and advised him on obtaining the reservation (Nault 1977, 5, 13-14).

Indian Inspector James McLaughlin organized an enrollment of the Indians of the Rocky Boy's Reservation. Applicants appeared before the inspector and a group of advisors at Browning on the Blackfeet Reservation and at the band's camp in Hill County during May 1917 (Interior 6/26/1917, 7/7/1917). McLaughlin prepared a tentative roll on May 30, 1917 (Interior 5/30/1917). This list consisted of 657 names and included, McLaughlin said, "every Indian who applied to me for enrollment" (Interior 7/7/1917). The Commissioner of Indian Affairs described this list as a census of all Indians "claiming to be members of the band" (BIA 10/15/1917). In preparing the "corrected roll," McLaughlin reported, 206 applicants were eliminated from the list (Interior 7/7/1917). The final roll, approved by the Department of the Interior on July 16, 1917, contained 451 names (Interior 7/16/1917, roll; see also Interior 7/7/1917; BIA 10/15/1917; Dusenberry 1954, 14; Wessel 1974, 77). Only about 45 of the 139 names on Wheat's 1909 census of Rocky Boy's band can be clearly identified on the final roll of the Rocky Boy's Reservation in 1917. This means that perhaps as few as 10 percent (about 45 of 451) of the individuals on the 1917 Rocky Boy's roll had been listed on Wheat's 1909 census of the band.

Inspector McLaughlin noted that the reservation had been created for Rocky Boy's band and "other homeless Indians" in Montana. Therefore, he reported, he had "given first consideration to the needs of the older and homeless Indians, without means of support," and had included "practically all" of them on the final roll. McLaughlin acknowledged that "many of the older Indians were born in Canada," but claimed that "they have been in this country for years" and were "recognized as members" of the band (Interior 7/7/1917). Anthropologist John Ewers, noting that the 1917 roll of the Rocky Boy's Reservation was several times larger than the 1909 census of Rocky Boy's band, argued that the expansion of the band consisted of "mixed bloods" and Canadian Crees. Ewers' report for the Indian Claims Commission, which focused on individuals on the 1917 roll who had been born before the Indian cession of the territory in 1888, concluded that 68 percent of the members of the Rocky Boy's band in 1917 had been born in Canada (Ewers 1974, 131, 132, 136).

Ancestors of the petitioner's members can be identified in five households with a total of 17 individuals on Wheat's 1909 census of Rocky Boy's band. In addition, one Canadian woman on the census can be identified as an ancestor of the petitioner's members. One other American family of three individuals also may be ancestral to the petitioner. The petitioner's ancestors constituted about 12 percent (17 of 139) of the membership of Rocky Boy's band in 1909. The final roll of the Rocky Boy's Indians in July 1917

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contained 18 households or families, with 51 individuals, who can be identified as ancestors of the petitioner's members. There may be six additional individuals from two different families on the 1917 roll who have descendants on the petitioner's roll. The petitioner's ancestors constituted about 11 percent (51 of 451) of the membership of the Rocky Boy's Reservation in 1917. Fourteen of the 17 ancestors of the petitioner's members who had been listed on the 1909 census also were listed on the 1917 roll. Therefore, 37 of the 51 ancestors on the 1917 roll, more than two-thirds of them, had not been on the 1909 census. The petitioner has 922 members who trace their ancestry to someone in Rocky Boy's band according to either Wheat's 1909 census or McLaughlin's 1917 roll (BIA 4/20/1909; Interior 7/16/1917; BAR 1998). Thus, about 24 percent (922 of 3,893) of the petitioner's members descend from someone on either the 1909 or 1917 lists of Rocky Boy's band.

The petitioner has identified 796 ancestors of its members on the 1910 census of Montana (Franklin and Bunte 1994, 7; Census 1910). The petitioner's researchers found that 69 percent (550 of 796) of those ancestors were identified by the census takers as "Indians." In addition, they point out, 60 percent (476 of 796) of them were listed on the separate "Indian Population" schedules of the 1910 census (Franklin and Bunte 1994, 7). This also means that only 23 percent (74 of 320) of ancestors not listed on the separate Indian schedules were identified as "Indians." The petitioner's researchers say that almost all of these ancestors were identified on the census as having "Chippewa" or "Cree" ancestry, or a combination of both (Franklin and Bunte 1994, 7). Their finding that 476 ancestors of the petitioner in 1910 were listed on the Indian schedules of the census is consistent with the report of a prominent anthropological reference work, and suggests that the Indian population schedules may have been its source. Anthropologist John Swanton, in his 1952 guide to *The Indian Tribes of North America*, wrote that there were 486 Chippewas in Montana in 1910 (Swanton 1952, 390).

The 1910 Federal census can be used to analyze the origins of the ancestors of the petitioner's members who settled on the Front Range. Few ancestors appeared in Front Range locations on the 1880 Federal census of Montana except at St. Peter's Mission. Other evidence has suggested that most of the migration to the Front Range by the petitioner's ancestors occurred after 1885. The 1890 census was largely destroyed by fire, and the petitioner did not submit evidence about the location of its ancestors on the 1900 census. The petitioner's researchers have identified 51 households on the 1910 Federal census in the only two Front Range counties in 1910, Teton County and Lewis and Clark County (Census 1910). All of these households contained individuals with surnames found in the petitioner's ancestry. It is not possible with the evidence available on the petitioner's census abstracts, however, to confirm that an ancestor of the petitioner's members resided in 13 of these 51 households, which limits the analysis to 38 households.

The geographical origins of these Front Range families can be partially determined by looking at the place of birth of the parents of these 38 household heads and their 31 spouses. These 69 individuals had 138 parents. The place of birth was unknown for 6 of

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these 138 parents, while 8 were born in Montana, 7 elsewhere in the United States (all but one in Dakota, Minnesota, and Wisconsin), 116 in Canada, and 1 in a European nation. For the purposes of examining migration to Montana from North America, the parents born in Montana can be excluded, as can those with an unknown or European place of birth. Because 116 parents were born in Canada and 7 in the United States, about 94 percent of the petitioner's families on the Front Range had previously resided in Canada. If this analysis is performed with all 51 households selected by the petitioner's researchers, then these 51 household heads and their 43 spouses had 188 parents, of whom 144 were born in Canada and 20 in the United States. On the basis of the petitioner's data, about 88 percent of the petitioner's families on the Front Range had previously resided in Canada. This analysis alone, however, cannot determine either how many of these Canadians migrated to Montana through Pembina, St. Joseph, or Turtle Mountain, or how many American Métis migrated to Montana through Canada.

On the 1910 census, the petitioner's researchers have noted an area of Métis settlement along the Front Range at Dearborn Canyon on the Dearborn River (Franklin and Bunte 1994, 59-60) (see Figure 6). This area was settled by the Métis, presumably, at some time between 1880 and 1910. The earliest reference in the available evidence to such a possible settlement is information that Virginia Swan, a descendant of the British Red River Settlement residents John Swan and Joseph Laverdure, was born in 1890 on the Dearborn (BAR 1998). One household head on the 1910 census, Jack Swan, appears to have been listed previously on the 1880 census at St. Peter's Mission. He was the son of James Swan of the Red River Settlement (Sprague and Frye 1983, table 1; Riel 1985, 5:347). On the 1910 census, the petitioner's researchers have identified six households of 49 people in the district of Dearborn Canyon (Enumeration District 181). They considered another three households of 22 people in another census district (Enumeration District 177) to have been part of the same settlement along the Dearborn River, thus making its size nine households and 71 people (Franklin and Bunte 1994, 59-60). A non-Indian resident of Augusta recalled, in a 1994 oral history interview, that the Métis people on the Dearborn River in the 1910's lived in seven or eight cabins "scattered" about a half-mile to a mile or two miles apart from each other. "There wasn't really a settlement" in the area, he said, as "most of those people lived in tents, year around" (Kenck 1994b).

Some evidence suggests that local Métis settlements in Montana in the first quarter of the 20th century had forms of local Métis leadership. The reminiscences of a non-Indian resident of Phillips County referred to the brothers Lalley and "Big" Gregory Doney as "chief of the Doney tribe." Furthermore, he ascribed their leadership to include other families in the local area, saying that "their word was an unwritten law that took in such breed families as the Gladeaus, the Parenteous, the Azuers [Azures], the La Treys and the LaPlaunts [LaPlantes], and the tribe of fabulous old John Moran [Morin]" (Coburn 1966, 11; Franklin and Bunte 1994, 116). The petitioner's researchers reported that their interviews indicated that Lally Doney had been a leader among an extensive group of families (Campisi and Sarna 1987a, 12). The oral history of a non-Indian resident of Augusta described Jack Swan as the "chief of the whole bunch" of Métis living along the Dearborn River in Lewis and Clark County (Kenck 1994a, 3-4). The petitioner's

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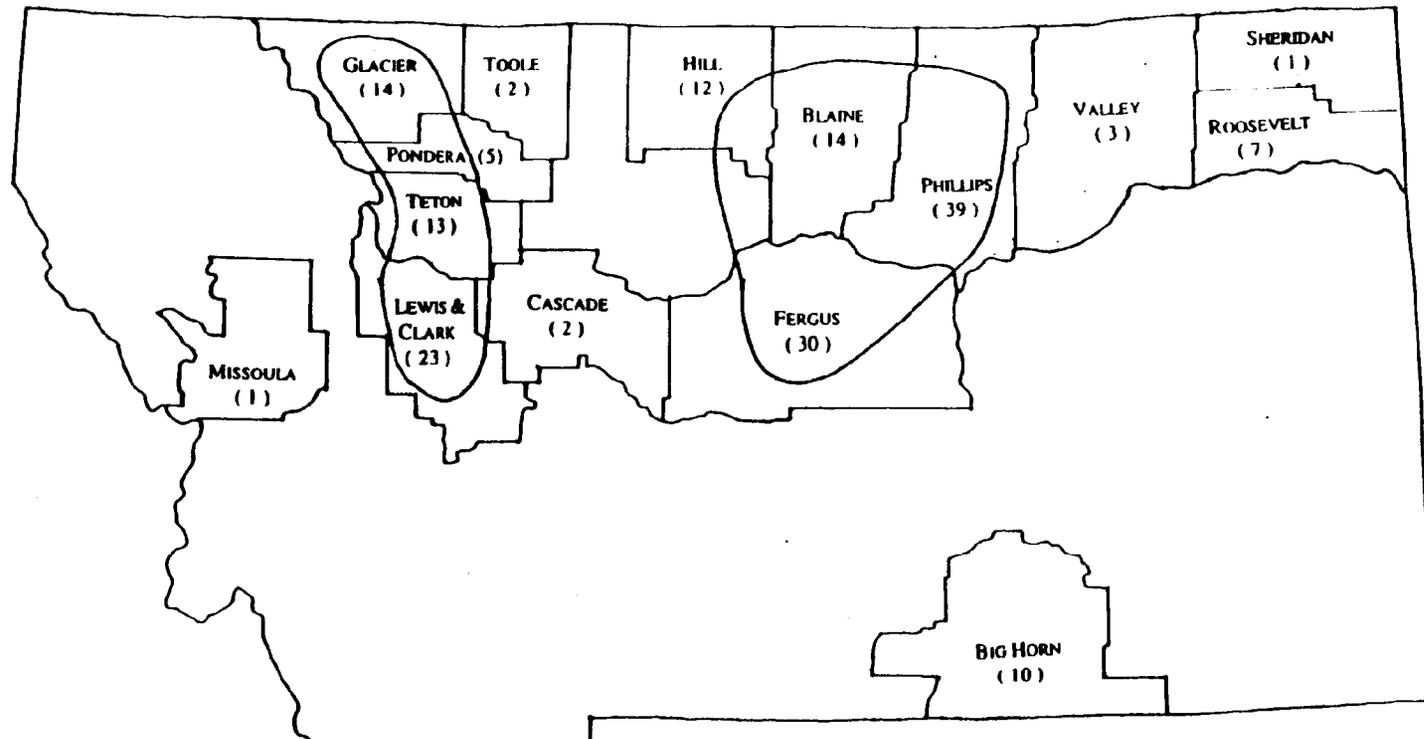


FIGURE 7: NUMBER OF HOUSEHOLDS CONTAINING ANCESTORS OF THE PETITIONER'S MEMBERS, 1920

Source: Petition Document: 1995 Exhibit 31; William Thorndale and William Dollarhide, *Map Guide to the U.S. Federal Censuses, 1790-1920* (1987), 205.

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TABLE 12

LOCATION OF PETITIONER'S ANCESTORS IN MONTANA, 1920

<u>County</u>	<u>E.D. #</u>	<u># Households</u>
Big Horn	Crow Resn.	10
Blaine	10	3
Blaine	242	5
Blaine	244	2
Cascade	31	2
Fergus	84	5
Fergus	86	4
Fergus	87	1
Fergus	90	1
Fergus	91	3
Fergus	103	2
Fergus	106	5
Fergus	111	8
Fergus	112	1
Glacier	125	2
Glacier	126	6
Glacier	Blackfeet Resn.	6
Hill	130	2
Hill	131	2
Hill	132	2
Hill	136	2
Hill	Rocky Boy Resn.	4
Lewis & Clark	102	1
Lewis & Clark	106	1
Lewis & Clark	107	3
Lewis & Clark	114	1
Lewis & Clark	119	1
Lewis & Clark	125	16
Missoula	169	1
Pondera	163	5
Phillips	152	2
Phillips	153	3
Phillips	156	15
Phillips	157	3
Phillips	158	1
Phillips	160	2
Phillips	161	3
Phillips	162	1
Phillips	239	1
Phillips / Blaine <sup>a</sup>	Belknap Resn.	12
Roosevelt	188	3
Roosevelt	189	1
Roosevelt	191	2
Roosevelt	196	1
Sheridan	200	1
Teton	207	7
Teton	208	3
Teton	214	3
Toole	216	2
Valley	226	3

SOURCE: U.S. Census 1920 (Petition Document: 1995 Exhibit 31).

NOTES:

<sup>a</sup> Ft. Belknap Resn. = Phillips Co. (8), Blaine Co. (4).

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researchers claim that this childhood recollection described Swan enforcing community standards of behavior and representing the community in making farm labor contracts with local whites (Franklin and Bunte 1994, 117). The recollections of a non-Indian of his boyhood on a ranch in the Dupuyer area in Pondera County referred to a "Chief Salois" (Shatraw 1970, 176, 181-182; Franklin and Bunte 1994, 117-119).<sup>52</sup> While these examples demonstrate that some individual settlements had Métis leaders at the local level, none of this evidence suggests leadership which transcended the local level to unite geographically separate local settlements as a larger entity.

The petitioner has identified 953 of its ancestors on the 1920 census of Montana (Franklin and Bunte 1994, 8; Census 1920). The petitioner's researchers found that 60 percent (576 of 953) of those ancestors were identified by the census takers as "Indians." There were no separate "Indian Population" schedules for the 1920 census. The researchers found 176 households in Montana in 1920 which contained an ancestor of the petitioning group (see Table 12). About 24 percent (42 of 176) of the households containing ancestors were located on a Montana Indian reservation, including households in the reservation towns of Browning and Wolf Point. The largest number of off-reservation ancestors were in Phillips County (31 households), Fergus County (30 households), and Lewis and Clark County (23 households). If grouped by geographical areas, then 76 households of ancestors in 1920 were located in northern Montana, 59 were along the Front Range or in the area west of the great bend of the Missouri River, 30 were in the area south of the Missouri in central Montana, 10 were on the Crow Reservation in southern Montana, and 1 was west of the continental divide.

The larger residential pattern in 1920 was that ancestors of the petitioner lived in two separate geographical regions, one in north-central Montana on both sides of the Missouri River and the other along the Front Range of the Rocky Mountains (see Figure 7). The region containing ancestors in north-central Montana consisted of Phillips, Fergus, and Blaine counties. The region containing ancestors along the Front Range consisted of Lewis and Clark, Teton, and Glacier counties. In 1920, there was an extent of territory between these two regions which contained few ancestors. The petitioner's researchers have recognized this geographical pattern, and have referred to these two areas of the petitioner's members and their ancestors as the "Front Range" and the "Havre-Wolf

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<sup>52</sup> According to the petitioner's researchers, Shatraw "described Toussaint Salois as leading his group of several related families on their annual subsistence hunting and gathering trips in the nearby Rockies. . . ." (Franklin and Bunte 1994, 119). Shatraw, however, made no reference to "several related families." Shatraw wrote that, "At least once every year Chief Salois and his large family would come by on their hunting and berrying trips." When the young Shatraw visited Salois's temporary camp, he saw the "old chief and two younger men," but said that "there was no sign of the women and children" (Shatraw 1970, 181-182). Shatraw did not provide enough evidence to identify "families." The petitioner's researchers assert that Shatraw's reference to "Chief Salois" was "almost certainly a reference to Toussaint" Salois (Franklin and Bunte 1994, 118). Shatraw described how Chief Salois had removed his shirt to show his "badly crippled" left arm with its "shrunk" muscles, the result of his having been attacked by a grizzly bear when he was "a young man" (Shatraw 1970, 182). The petitioner's researchers, however, have presented a photograph of Toussaint Salois as an adult aiming his rifle at a presumed hunting target in which he appears to have a normal left arm (Dupuyer Comm. 1977, 153).

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Point-Lewistown triangle” (Franklin and Bunte 1994, *passim*). These two areas of settlement were widely separated. The straight-line distance between Zortman, in the southwestern corner of Phillips County near the Missouri River, and Augusta, along the Front Range at the northern end of Lewis and Clark County, is almost 200 miles. The modern driving distance between those towns is at least 250 miles.

The petitioner’s ancestors in 1920 were dispersed throughout 46 enumeration districts and four reservations, and across hundreds of miles (see Table 12; see Figure 7). Concentrations of ten or more households of ancestors of the petitioner in 1920 existed in only two census districts and two Indian reservations (see Table 12). There were 16 households of ancestors in the Augusta district of Lewis and Clark County (Enumeration District 125), and 15 households of ancestors in the enumeration district for the southwestern quarter of Phillips County (Enumeration District 156). There also were 12 households of ancestors on the Fort Belknap Reservation and 10 households on the Crow Reservation. In none of these districts did the ancestors of the petitioner constitute a majority of the population. There were only two smaller areas or neighborhoods in 1920 which might be labeled as exclusive areas in which the petitioner's ancestors were in the majority. In the Tyler district of Fergus County (Enumeration District 111), the petitioner’s ancestors resided in six of seven consecutive households. In School District 9, just north of Malta, in Phillips County (Enumeration District 157), ancestors of the petitioner were listed in five of nine consecutive households. The 32 households of ancestors residing on Indian reservations were located in areas of exclusive settlement, of course, but only the four households on the Rocky Boy's Reservation could be said to have been residing exclusively among its own ethnic group.

During the first half of the 20th century, Montanans were aware of the existence of non-reservation Indians in the state. Newspapers in the state noted, at least as early as the 1920's, that many of these “homeless” or “landless” Indians resided in small groups or camps on the edges of many of the state's towns. Despite the creation of Rocky Boy's Reservation, a local newspaper columnist observed in 1925, there were “still poverty-stricken Crees hanging about our cities. . . .” (*Brady Citizen* 8/22/1925). The *Great Falls Tribune* reported in 1926 that the city council had failed in an attempt to remove “the Indians who have been long encamped” on the city's west side. “The Indians for several years occupied a small site on the west banks of the Missouri river,” it said, and had avoided eviction by leasing two and one-half acres of private land near their previous site (*Great Falls Tribune* 4/6/1926). In 1931 the state's senators, in the words of the *Great Falls newspaper*, had visited “the communities that have the vagrant Indian problem” (*Great Falls Tribune* 1/9/1932). In 1937, the *Great Falls Tribune* observed that Montana's “homeless Indians” had “encampments near several large cities of the state. . . .” (*Great Falls Tribune* 7/25/1937).

Contemporary reports on Montana's non-reservation Indians during the 1920's and 1930's neither identified them as a single tribe or community, nor as the descendants of a single tribe. The most common observation was that these Indians were Crees from Canada. The newspaper in Brady in 1925 referred to the state's urban Indians as Crees (Brady

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*Citizen* 8/22/1925). An employee of the city-county health board identified the Indians at Great Falls as Crees and Chippewas (*Great Falls Tribune* 4/14/1927). The opinion of the superintendent at the Rocky Boy's Agency was that the Indians in the camp at Great Falls were "principally Crees from Canada." The superintendent said that Indians from Canada were found at many places along the main line of the Great Northern railroad and at cities like Great Falls and Helena (*Great Falls Tribune* 4/21/1927). A survey by the local Red Cross in 1933 concluded that the residents of the settlement west of Great Falls, which became known as "Hill 57," were descendants of at least seven or eight different Indian tribes (*Great Falls Tribune* 4/13/1933). The Indian Rights Association published a report at the start of 1936 which said that the state had "some 3,000 homeless Cree Indians who have roamed in small groups around Montana for some years" (*Indian Truth* 1936). D'Arcy McNickle of the Office of Indian Affairs, in a 1937 article about Hill 57, offered the opinion that its residents, and those on the edge of Montana's prairie towns, were the descendants of individuals who had been Hudson's Bay employees on the Red River a century earlier, and who had fled to Saskatchewan after 1870 and to the United States after 1885 (McNickle 1937).

Accounts by non-Indians living in the vicinity of Métis families in rural settlements during the early 20th century described them as socially and culturally distinct. They usually referred to the Métis as "half-breeds" or "breeds." These non-Indians provided descriptions of their own, and collected first-hand accounts from Métis individuals, of a distinct Métis culture such as the New Year's celebrations and other celebrations, which they sometimes referred to as "fiddle dances" (Coburn 1966, 11; Dupuyer Comm. 1977, 154-155; Franklin and Bunte 1994, 24; Kenck 1994a, 6). However, both some of these non-Indian observers and Métis individuals recalled that non-Indians as well as the Métis had participated in these dances (Coburn 1966, 11; A. Wiseman 1993b, 5; Kenck 1994a, 6; Reardon 1994, 30; C. Wiseman 1994b, 33). An interview with a former chairman of the petitioning group described large joint hunting parties by men from different Métis families (Plummer 1991). Despite the more or less uniform Catholicism of the Métis families, there was little or no mention of the church or Catholicism in any of the interviews with the Métis or accounts of their social life. Thus, there was no indication that all the Métis within a geographical area attended the same church, or that their churches were a nexus of Métis social life.

According to the petitioner's researchers, the petitioner's ancestors along the Front Range began during the 1910's to move out of their isolated settlements in the foothills and into the towns of Choteau and Augusta and the cities of Helena and Great Falls. Their comparison of the 1910 and 1920 censuses revealed that the cluster of ancestors along the Dearborn River declined from 71 to 8 people during the decade, while the number of ancestors increased from 33 to 88 people in the town of Augusta and from none to 36 in the town of Choteau (Franklin and Bunte 1994, 60). Some of the Front Range families moved to reservations. According to one account, some of the Salois sold out and moved to the Rocky Boy's Reservation when it was established in 1917. Families from Dearborn Canyon also reportedly went to Rocky Boy's (Franklin and Bunte 1994, 32, 49). Oral history from one interviewee suggested that some of the Front Range Métis

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remained at the Blackfeet Reservation after Rocky Boy's group left (Bremner 1998). Métis intermarried and living at Blackfeet include individuals from the Bremner, Salois, Boushie, and Gray family lines. In north-central Montana, in what the petitioner's researchers have called the "Havre-Wolf Point-Lewistown triangle," however, the petitioner's ancestors in 1920 continued to live in what those researchers characterized as "a relatively dispersed settlement pattern" of "rural homesteads." Population movement into rural towns in this area came after 1920, perhaps because of the agricultural depression and environmental drought of the late 1920's and the entire decade of the 1930's (Franklin and Bunte 1994, 57-58, 60-61).

During the period from the 1910's to the 1930's, some of the petitioner's members have claimed, the Métis families that had settled on homesteads in relatively remote areas were no longer able to maintain the independent living which had been based on a mix of stock raising, subsistence farming, hunting, and selling wood. Thus, Métis individuals came to be laborers employed by others (e.g. A. Wiseman 1998). These changes in the economic subsistence of Métis families also led to the movement of many of the ancestors of the petitioner's members into small rural towns over the course of the two decades from the mid-1910's to mid-1930's (Franklin and Bunte 1994, 32). A Métis descendant also has attributed the movement of her ancestors from the Front Range into Great Falls to the depression of the 1930's (LaPier 1997, 114). Some families continued to hold land in the 1920's and 1930's, however, especially in the Lewistown area. For example, the petitioner's researchers have described the Berger family as having had a "ranch" near Lewistown (Morris and Van Gunten 1984 172). A Doney descendant referred to her family having landholdings, which were south of Zortman toward the Missouri River, at the time of her birth in 1935 (Vogel 1998). An Indian Service employee, discussing land planning in 1937, indicated that some of the landless Indians had only recently sold their failing homesteads (BIA 4/14/1937).

### **The Creation of Organizations in Montana, 1920 - 1936:**

The first evidence of organizational activities in Montana by the ancestors of the petitioner's members comes from the memories of Howard Paul, a former chairman of the petitioning group. Paul remembered that, when he was about 7 years old, a meeting which consisted of 40 to 60 persons was held sometime during 1920 on the ranch of his grandparents about 40 miles east of Lewistown. His grandfather was Jacob Berger, one of the founding members of the Lewistown settlement. He said that the attendees included the Bergers, Isador LaFromboise, Mose Ouellette, Jack Guardipee, and Joe Dussome. Paul recalled the purpose of the meeting as having been to discuss the "lands claim against the federal government" and to decide who should represent the group in a meeting to be held at the Turtle Mountain Agency (H. Paul 1998; Morris and Van Gunten 1984, 172). A bill to authorize the Chippewa Indians of Minnesota to submit their claims against the Government to the Court of Claims was introduced in Congress in 1920 (House 3/8/1920). This action may have led Chippewa descendants in Montana to hold meetings in 1920 and to request a similar opportunity. On April 13, 1921, a bill was

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introduced in Congress to authorize "the Indians residing on or belonging to the Turtle Mountain Reservation, N.Dak.," to submit claims to the Court of Claims (Senate 4/13/1921). Perhaps, then, the first meetings which Paul remembered as having occurred in May or June of 1920 actually occurred in May or June of 1921 in response to the introduction of this bill on behalf of the Turtle Mountain Indians. Congress took no action on this bill.

In a resolution proposed in 1971 for the Little Shell Band of Chippewa Indians of Montana, but not certified as approved by the organization, it was asserted that the Little Shell Band of Montana was organized by Joseph Dussome in 1924 "to employ legal counsel to prosecute land claims. . . ." (Little Shell Band of MT 3/13/1971, quoted; see also Campisi and Starna 1987b). No contemporary documents support the claim that an organization was formed in 1924 or that it used the Little Shell name. Former chairman Howard Paul recalled that another meeting of 50 to 60 persons was held at a barn about four miles outside of Lewistown during the autumn of 1925 or 1926. The attendees he mentioned were the Doney, Swans, Turquottes, and Joe Dussome (Morris and Van Gunten 1984, 172). According to the petitioner, it was the rejection of the descendants of Little Shell's band from the rolls of the Rocky Boy's Reservation after 1916 which prompted Dussome to form an organization (Morris and Van Gunten 1984, 80). The petitioner contends that an organization of the "Abandoned Chippewa Indians of Montana" was formally established by Dussome in 1927. It asserts that this organization "was the result of several years of meetings with various leaders of the Landless Chippewa Indian camps along the 'Highline,'" which refers to the towns along the railway line across northern Montana (Morris and Van Gunten 1984, 172 quoted, 72-73). The only available evidence the petitioner presents for meetings prior to 1927, however, are Howard Paul's recollections of the two meetings during the 1920's held in the vicinity of Lewistown.

On August 20, 1927, Joseph Dussome (or Disume) was elected as the "Chief Headman" of "the lost band of the Chippeways."<sup>54</sup> This group identified itself as the lost band "of the late Red Bear Band, formerly of North Dakota, now residing in Montana. . . ." It claimed that its mixed-blood Chippewa members were "Indians, for all intents and purposes," who were "entitled to the benefits" due them as "American Indians." In addition to electing Dussome as "chief," the meeting selected a "special committee" of five men and authorized it to act on behalf of the band. The committee consisted of Dussome and J.L. Doney, both from Malta; Joe Fyant from Zortman; Dan Belcourt from Rocky Boy; and Dave LaRoque from Wolf Point. Four of the five members of the special committee were from north-central Montana. None of these five officers came from south of the Missouri River or from the Front Range of the Rocky Mountains. This meeting was held at the fairgrounds in Hays. The minutes of the meeting were signed by 50 individuals. Since none of the 5 members of the special committee appear to have signed this document, the total attendance would have been at least 55 persons. The Doney family was prominent in these proceedings, constituting 16 of these 55 attendees,

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<sup>54</sup> For a photograph of Joseph Dussome, see Dusenberry 1958, 26.

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and other attendees were from family lines intermarried with the Doney.<sup>55</sup> Nine family surnames accounted for 46 of the 55 persons present at the meeting. No attendee was identifiably from one of the Front Range settlements (Lost Band 1927). Later, Dussome and others associated with him would consistently refer to 1927 as the date when the Landless Indians of Montana were first organized.

The petitioner has provided a list of its "tribal officers" for the years after 1927. During the years from 1927 to 1934, it claims, Joseph Dussome was president and Thomas Oulette [sic] was vice-president or secretary. From 1929 to 1934, it claims, Gabriel Gardipee was treasurer. The petitioner provides no citations to documentary evidence which demonstrates that these individuals were officers in an organization during the years from 1927 to 1933. The document which it cites as support for its detailed 1934 list of three officers and six district representatives is a brief letter by Dussome which named no officers or districts at all and was signed by Dussome as a "representative" of an unnamed organization (LSTCIM 1984, appendix F; Dussome 5/25/1934). The minutes of the organizational meeting of 1927 show Dussome as the leader of the "lost band," but as its "chief headman" rather than "president." Neither Thomas Ouellette nor Gabriel Gardipee appeared as an officer or participant in the 1927 meeting (Lost Band 1927). The available evidence indicates that Ouellette and Gardipee were not officers in an organization led by Dussome until 1939.

By 1928 the Indian Office had received several letters from Dussome which it characterized as regarding "the rights of certain persons claiming to be Chippewa Indians in Montana." The Commissioner of Indian Affairs explained to Senator Burton K. Wheeler of Montana that the 1892 agreement had been ratified and that Dussome and other persons of "like status" could not now be enrolled with the Turtle Mountain Band (BIA 4/16/1928). Dussome wrote to the Commissioner in 1931 as the representative of the "Abandoned Band of the Chippewa of Northern Montana," which he said was more commonly known as the "Cree Indians of Northern Montana." The Chippewa Indians of Montana, he said, had been rejected for allotments under the Allotment Act of 1887, did not receive assistance from the Federal Government, were kept from hunting by the State government, and were now homeless. He repeated the 1927 claim that these people were "Indians for all intent[s] and purpose[s]" and should have the rights extended to other tribes. Dussome asserted both that these Indians were descendants of "the Red River Indians" and that they could "lawfully claim this northern portion of Montana" as their own (Dussome 12/5/1931). In reply, the Assistant Commissioner of Indian Affairs referred to Dussome's "Abandoned Band of Chippewa" as "Chippewas of the Turtle Mountain Band" who had been under the leadership of Little Shell, refused to approve the 1892 agreement, and removed to Canada. "About the only place at which the Little Shell may be considered as having any rights," he concluded, "is on the Turtle Mountain

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<sup>55</sup> The family lines intermarried with the Doney's included the Gardipee, Kelsey, Wells, Fleury, Turcotte, and Lavenger. The list included other Highline families not linked by marriage to the Doney's, including several Azures, an Amiotte, and a few others. The background of a few individuals, with surnames Fyant, St. Pierre, and Ducharme, could not be determined.

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Reservation. . . ." (BIA 12/14/1931).

Joseph Dussome, however, rejected the Indian Office's apparent assumption that the Chippewa of northern Montana were related to the Turtle Mountain Chippewa who had been under the leadership of Chief Little Shell. Instead, Dussome asserted in 1931 that his "Abandoned Band of Chippewa Indians of Northern Montana" consisted of descendants of the band known as the "Pembina Band of Chippewa Indians" whose "Principal Chief" had been Red Bear. He stated that, "we are of the Pembina Band, and not of the Turtle Mountain Band." Dussome argued that these descendants of the Pembina Band had been in Montana long before the agreement with the United States was made by the Turtle Mountain Band in 1892, and long before a reservation was created for the Turtle Mountain Band by the Government in 1882. Dussome said that his band "had nothing to do with" the 1892 agreement "as we were in Montana at the time." He and his members, Dussome said, "know our own history best." When the Indian Office referred to the Turtle Mountain Band under the leadership of Chief Little Shell, Dussome concluded, it referred "to a different Band of Chippewa Indians" than his own (Dussome 12/21/1931).<sup>55</sup>

The contemporary oral history of the petitioner's members accords with statements made by Joseph Dussome in the 1930's about the economic problems of his members. In a 1931 letter, Dussome raised issues which he would repeat throughout the decade. He stated that, "Many of my fellow Chippewa Indians of Northern Montana have no place to call their homes" and are living "on some one else[']s land." These people, Dussome said, "can not afford to rent houses or farms to live in," and their poverty was so "extreme" that "you will see many of them living on the dump piles of our towns. . . ." He claimed that these Indians were landless because they had been rejected for allotments (Dussome 12/5/1931). The contemporary interviews of individuals who were alive during Dussome's tenure characterized the political issue for his members as simply that, "the old people wanted land, . . . they wanted a place to farm or run cattle" (Vogel 1998). An older member described the purpose of the meetings in the 1930's as "to organize people so they could [get] land and money" (R. Doney 1993). Interviewees also perceived land policy to have been unfair, allowing whites to get the best land while Indians had difficulty obtaining homesteads (Sinclair 1979). These interviews revealed a prevailing belief that, during the 1930's and 1940's, the Métis had come to a large degree from failed farms and ranches and were working as hired hands on big ranches, and saw the acquisition of land as the solution to their economic problems. During the 1930's and

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<sup>55</sup> This argument by Dussome directly contradicts the argument advanced for the petitioner by Morris and Van Gunten that Dussome's group was the successor to the Little Shell band which migrated to Montana because it knew it had been excluded from the Turtle Mountain Band in 1892 (Morris and Van Gunten 1984, *passim*). This argument by Dussome appears to contradict the argument advanced for the petitioner by Franklin and Bunte that Dussome's group considered itself to be part of the Turtle Mountain Band until the mid-1920's (Franklin and Bunte 1994, 113). However, since Dussome apparently had inquired about Turtle Mountain enrollment in 1928, his arguments may have been variable (BIA 4/16/1928). In 1948, Dussome adopted a completely different attitude to the Assistant Commissioner's 1931 letter (Dussome 3/3/1948).

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1940's, economic rehabilitation appeared to be the primary political issue for Dussome's organization and its members.

By 1934, state-wide activity was taking place on behalf of the landless Indians of Montana. Joseph Dussome and A.D. Nault visited Washington, D.C., in March and April of 1934 as "Montana representatives of homeless Indians" (*Great Falls Tribune* 3/25/1934). The delegates said that they were in the capital to demand the creation of a separate reservation (Dussome and Nault 1934a). According to a statement issued by delegates Dussome and Nault, they were representing "the abandoned band of the CHIPPEWA AND CREE INDIANS of Montana, more commonly known as the homeless Indians" of Montana. "Our people were known at one time," this statement said, "as the PEMBINA band of CHIPPEW[A] INDIANS of the RED RIVER of the North in North Dakota" (Dussome and Nault 1934b, emphasis in the original). At this time, Dussome also issued a set of thirteen demands on behalf of the "Lost Band of the Chippewa and Cree Indians of Northern Montana. . . ." He referred to this group as consisting of non-ward, non-treaty, and so-called homeless Indians. Dussome demanded recognition of the Lost Band's claims to territory in Montana and payment for the "lease" of that land since the date of Montana statehood. He defined the lands of the Lost Band as the territory between the mouth of the Milk River and the Rocky Mountains, and between the Missouri River and the Canadian line. He demanded an agreement for the cession of this allegedly unceded land and the creation of a reservation for the band (Dussome 4/4/1934; *Great Falls Tribune* 5/9/1934).

Later that month, a meeting in Augusta passed a resolution stating that the "members of the Chippewa and Cree Indians of Montana, known as the Homeless Indians," approved of both a proposed Indian rights bill and an expansion of the Rocky Boy's Reservation for the homeless Indians (Chippewa and Cree Indians 1934). The minutes of the meeting do not reveal whether this meeting was connected with the activities of Joe Dussome or not. The next month, Dussome wrote to Senator Wheeler to inform him that meetings had been held in various localities in Montana and that all were in favor of Wheeler's pending bill that would become the Indian Reorganization Act (Dussome 5/25/1934). Other evidence from 1934 suggests that Indian descendants along the Front Range were acting, independently of Dussome, under the leadership of James Brown. In November of 1934, Brown wrote to the Commissioner of Indian Affairs on behalf of the "Homeless Indians" in the vicinity of Dupuyer (Brown 1934). In January 1935, the *Great Falls Tribune* referred to Brown as the president of the "Homeless Indian organization," and indicated that he was seeking a reservation for some 300 individuals (*Great Falls Tribune* 1/3/1935).

After the passage of the Indian Reorganization Act in June 1934, the superintendent of the Fort Belknap Agency called a meeting "with non-ward and Turtle Mountain Indians" in July to advise them of his plans to request the Government to purchase 20,000 acres of land near the reservation for the use of the landless Indians of Blaine and Phillips counties. In response, Dussome spoke of his efforts to obtain an addition to the Rocky Boy's Reservation. A vote on the issue of the preferred location for new lands revealed

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that the attendees overwhelmingly favored an expansion of the Rocky Boy's Reservation over lands near the Fort Belknap Reservation. When the superintendent asked the audience to appoint a committee with which he could consult, the audience answered that "we have a representative in each district," and that Joe Dussome and Dave Doney were the representatives for their local districts (BIA 7/10/1934). While this exchange indicated the existence of organization among the landless Indians, it only identified Joseph Dussome as the district representative of an unnamed organization. These agency minutes did not acknowledge Dussome to be a statewide president or tribal leader.

Dussome was identified as the leader of a meeting of "Homeless Indians" held in Helena in December 1934. This meeting decided to call a state convention, to be held in January 1935, in order to "elect [a] slate of officers" to protect the rights of landless Indians under the recently passed Indian Reorganization Act (Pocha 1934). The first issue of a newsletter published by the Indian Federation of Workers also identified Dussome as the individual who had called the convention for January 1935, and said that he was acting as state organizer for the Indian Federation of Workers. The newsletter claimed that this organization had been formed under the authority granted by the Indian Reorganization Act of 1934, and already had a membership of over two thousand (*Indian Worker* 1935a). At a later date, however, one of Dussome's followers identified Raymond Gray as the man who had organized the Indian Federation of Workers, and who acted as chairman when the state convention assembled (Swan 1955). These reports suggested both that the Indian Reorganization Act had called new organizations into existence in order to organize under that act's provisions, and that Dussome, Brown, and Gray were seeking to form and to lead regional or statewide organizations during 1934 and 1935.

The meeting in Helena in January 1935 was referred to as "the first state convention of the Indian Federation of Workers" by that organization's newsletter. The meeting was attended by fifty delegates from various parts of the state, and lasted for three days. This convention elected Raymond Gray of Helena as "State Organizer" of the Indian Federation. After reporting on the convention, the newsletter then attacked Dussome for favoring the removal of landless Indians to new lands adjacent to the Rocky Boy's Reservation and for cooperating with that agency's superintendent (*Indian Worker* 1935b). In other accounts of this meeting, the superintendent at Rocky Boy's reported on the "radical tendency" of the state convention, and one of Dussome's followers later recalled having been offended because Gray had denounced the church and his followers had sung "soviet songs" (BIA 2/4/1935; Swan 1955). After his election, Gray wrote to the Commissioner of Indian Affairs, "as state organizer for the homeless and non-treaty Indians," to announce that the state convention had rejected the use of one large tract of land for the homeless Indians because the homeless Indians had lived for years "in small groups on the out skirts of different towns" and did not want to be removed to a reservation (Gray 1/24/1935). Four days later, Dussome wrote to the Commissioner and, without identifying his organization, said that several meetings of "the homeless of Montana" had unanimously voted in favor of receiving a reservation on lands adjoining the Rocky Boy's Reservation. "We are ready to move at any time that we get word to do so," he informed the Commissioner (Dussome 1/28/1935).

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Another organization was formed during the summer of 1935. The "Non-Treaty Chippewa-Cree Indians of Northern Montana" held a state convention in Chinook, adopted a constitution, and chose Joseph Dussome as president. According to the *Great Falls Tribune*, this convention of the "Chippewa-Crees" was attended by 500 members. The council consisted of six officers. In addition, there were nine regional representatives (*Great Falls Tribune* 3/29/1936).<sup>56</sup> Only two individuals, Joseph Dussome and Joe Fayant, served as officers in both this 1935 organization and the 1927 "Lost Band," which did not have district representatives. The first vice-president was Mrs. C.E. Thompson of Malta. The *Tribune* described her as a daughter of Lalley Doney, and said that the "Doney clan" was the organization's largest family. The newspaper contended that the Doney brothers had been the first settlers of the Missouri and Milk river area and noted that Mrs. Thompson had been born in Montana on the site of the future town of Malta (*Great Falls Tribune* 3/20/1936). The second vice-president was James Brown of Browning, who recently had been described as the president of a homeless group along the Front Range. The other officers were from north-central Montana. The district representatives came from Lewistown, Wolf Point, Glasgow, Harlem, Zortman, Hays, Havre, Great Falls, and Helena (*Great Falls Tribune* 3/29/1936). The district representative from Lewistown, Elizabeth Swan, later said that she held this position for the next twenty years (Swan 1955).

The *Great Falls Tribune* reported in 1936 that this "Chippewa-Cree tribe," whose members described themselves as the "first settlers" of Montana, was preparing one of the largest claims ever filed by Indians against the United States. Contending that their ancestors "occupied the territory between the Missouri river and the Milk river and the Dakota line and main range of the Rockies since time immemorial," they intended to ask for compensation for those lands taken by the Government or reserved by it for other Indian tribes. They claimed that they were the only Indians in Montana with whom the Government had not signed a treaty, and they argued that the treaty between the Blackfeet and the United States was "unconstitutional" because it ceded land which was "the property of the Chippewa-Cree nation." Joseph Dussome claimed to have evidence from historical maps and journals to support the Chippewa-Cree claim that this was their territory (*Great Falls Tribune* 3/20/1936, 3/29/1936). In contrast to the argument Dussome had made in 1931, this claim advanced no argument that these Indians had migrated to Montana from North Dakota or the Red River, but asserted instead that Montana had been their aboriginal territory from time immemorial.

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<sup>56</sup> These officers are different from the petitioner's list of officers in 1935. According to the petitioner, 1935 was the only year between 1927 and 1963 that Joseph Dussome was not the president of its organization. The officers listed by the petitioner for 1935 were president Joseph Venne and secretary Thomas Oulette [*sic*] (LSTCIM 1984, appendix F). Neither Venne nor Oulette was an officer or district representative of the "Chippewa-Cree Indians of Northern Montana" in 1935. Oulette would become an officer in Dussome's organization in 1939 and the 1940's. Venne would replace Raymond Gray as president of the rival Montana Landless Indians in 1941.

### The Indian Reorganization Act and the Roe Cloud Roll, 1934 - 1940:

The Indian Reorganization Act (IRA) of June 18, 1934, provided that any "Indian tribe, or tribes, residing on the same reservation" could organize and adopt a constitution (Statutes 1934, sec.16). The act's definition of an "Indian," in its Section 19, included not only the members of federally recognized tribes, but also all persons who were residing within the boundaries of an Indian reservation who were the descendants of members of a federally recognized tribe, and "all other persons of one-half or more Indian blood" (Statutes 1934, sec.19). During the administration of Commissioner of Indian Affairs John Collier, the Indian Office used these provisions of the Indian Reorganization Act to seek to extend the benefits of the act to Indians not under Federal jurisdiction. When outlining the plans of the Indian Service for the Secretary of the Interior at the end of 1935, Commissioner Collier stated that it was "clear that the Congress did not intend to limit the benefits conferred by this legislation to Indians now under Federal jurisdiction," but had intended that "other Indians of one-half or more Indian blood, should be included" as well (BIA 12/23/1935). Under this developing policy, the Government would purchase land for a group of "half-blood" Indians, put the land into reservation status, and organize a tribal government for the residents of the new reservation.

The Office of Indian Affairs had been considering plans to expand the Rocky Boy's Reservation by acquiring land from adjacent ranchers at least as early as 1933 (BIA 10/18/1933). In addition, in 1934 it was seeking funds to acquire a tract with which to provide 5-acre "subsistence" homesteads to Indian families residing around Great Falls, and to purchase "submarginal" lands near Fort Belknap under a Federal program which was not limited to Indians (Great Falls *Tribune* 3/30/1934; BIA 7/10/1934). After passage of the Indian Reorganization Act in 1934, however, the Indian Office began to consider plans to acquire additional lands for individuals who met the act's definition of an Indian as a person with "one-half or more Indian blood." Superintendent Earl Wooldridge recommended adding 80,000 acres to his Rocky Roy's Reservation and resettling the unenrolled "Chippewas and Crees" of Montana there (BIA 1/22/1935; Wessel 1974, 159-160).<sup>57</sup> The Office of Indian Affairs also considered proposals to purchase land in the vicinity of the Fort Belknap Reservation, and justified that land acquisition as meeting the needs of landless Chippewas. It was suggested that the Indian Office might acquire either 34,000 acres west of Fort Belknap, or 40,000 acres east of the reservation (BIA 2/12/1935, 3/25/1935). When the Indian Office sought the approval of the Secretary of the Interior to exercise its options to purchase land in early 1936, Assistant Commissioner of Indian Affairs William Zimmerman said that it planned to use the purchased lands to provide homesites for as many of the non-reservation Indians of Montana as possible (BIA 1/15/1936).

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<sup>57</sup> On this issue of the attempted use of the IRA, the petitioner provided a large number of documents from the records of the Bureau of Indian Affairs in the National Archives, but it appears not to have examined documents from the Office of the Solicitor in the records of the Secretary of the Interior at the National Archives.

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"The needs of the homeless Indians of Montana have long been recognized," Commissioner of Indian Affairs John Collier told Montana Representative Roy Ayers in February 1935 (BIA 2/28/1935). An Indian Office committee working to develop procedures to implement the act of 1934 told the Commissioner of Indian Affairs, in July 1936, that the "landless Montana Indians stand in great need of official recognition and aid, and many of them can no doubt qualify for recognition under Section 19 of the Indian Reorganization Act" (BIA 7/6/1936). When asked how the act would apply in Montana, the Assistant Commissioner of Indian Affairs noted, in January 1935, that the act would not provide benefits to all homeless Indians, but only to those who were entitled to benefits under the act by having one-half or more Indian blood (BIA 1/14/1935). Assistant Commissioner Zimmerman described the land purchase proposals as attempts to provide land for the "Chippewa Indians" of the state, but did not think it would be possible to create a single reservation for them (BIA 3/12/1935). He indicated that the Indian Office planned to acquire additional land both for existing reservations and for individuals "who may be entitled to benefits under the [Indian] Reorganization Act." Zimmerman noted that the Indian Office was seeking to prepare a "list of Montana homeless Indians of one-half or more Indian blood," and would choose the families to settle on the newly-purchased lands from the approved list, "giving preference to those of most Indian blood. . . ." (BIA 6/10/1935).

In reply to an inquiry from Joseph Dussome, the head of the land division of the Office of Indian Affairs informed Dussome that he hoped that "the group to which you belong" would be included in the land purchase plans being developed "for landless Indians in general. . . ." (BIA 3/2/1935). An Indian delegation, which included Dussome as a representative of "the landless Chippewa-Crees," visited the Office of Indian Affairs in Washington on June 12, 1936 (BIA 6/12/1936, 11/30/1937; Dussome et al. 10/6/1939). At about this time, a "petition" approved by delegates of the Rocky Boy's Band and the "Homeless Indians of Montana" stated their agreement that the land purchase should result in separate reservations for the two groups (Rocky Boy's Band n.d.). Dussome and the Rocky Boy's committee, however, disagreed about which group should get 1,500 acres of new "hay land" (Rocky Boy's Band 1936). After the meeting in Washington, Assistant Commissioner Zimmerman indicated that some of the new lands would be used for the benefit of the Rocky Boy's Reservation, and that the remainder of the lands in the vicinity of that reserve would be used for the "landless Indians." The landless Indians to be located on the newly purchased lands, he pointed out, "must first establish themselves as individuals of one-half or more Indian blood. . . ." He said that after a "reasonable number" of applications had been approved, "these individuals may form an organization. . . ." When the Indian Office concluded "that the number who have been located on these lands is adequate," he added, "then a permanent organization can be set up under the Indian Reorganization Act" (BIA 6/12/1936).

In conjunction with its efforts to obtain land for the landless Indians of Montana and then, perhaps, to organize and recognize them, the Office of Indian Affairs understood that it needed to determine the number of landless Indians and to produce a list of those who would be eligible for benefits under the Indian Reorganization Act of 1934. This effort

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would culminate, about 1938, with the creation of the "Roe Cloud Roll." It began, early in 1935, with Superintendent Earl Wooldridge of the Rocky Boy's Agency reporting that a census of the "non-ward" Indians of Montana would be undertaken by the State Relief office (BIA 1/22/1935). In May 1935, the superintendent reported that the census was complete (BIA 5/31/1935). The Indian Office, however, urged that the census be completed by giving particular attention to family histories in order to establish the individual's degree of Indian blood, so that the Indian Office would have a "census or list of Montana homeless Indians of one-half or more Indian blood, who may be entitled to benefits under the Reorganization Act" (BIA 6/10/1935). In August 1935, Superintendent Wooldridge submitted a census, compiled from information gathered by the state office of the Federal Emergency Relief Administration (FERA), as two lists intended to constitute a census of the "Montana homeless Indians of one-half or more Indian blood. . . ." (BIA 9/16/1935). The census made by the FERA, the Commissioner concluded, showed that there were more than 2,000 homeless Indians in Montana, and that they were "largely of the Chippewa Tribe, and related to the Rocky Boy's Band in that State" (BIA 12/23/1935).

The Commissioner of Indian Affairs made it clear, however, that approval by the Department of lists for such a purpose would require evidence to substantiate that these individuals did meet the requirement of the act that they have one-half or more Indian blood. Concluding that the lists prepared by the FERA were insufficiently documented, the Commissioner indicated that he would not approve the lists which the superintendent had submitted. Because a more detailed investigation would be needed before the Government extended benefits under the "half-blood" provisions of the act throughout the country, the Commissioner noted that the Indian Office would develop an application form for individuals who sought to enroll as Indians of more than one-half blood degree (BIA 9/16/1935). An Indian Office memorandum indicated that it prepared a procedure and form to deal with applications from individuals claiming to have one-half or more Indian blood throughout the country, not just in Montana (BIA 7/2/1936). To comply with the terms of the Indian Reorganization Act, the Commissioner sought a procedure which would produce a census which included individuals on the basis of their blood degree.

The proposed "registration application form" prepared by the Indian Office "for the enrollment or registration of Indians under the provisions of the Act of June 18, 1934" was submitted to the Department for approval by Commissioner Collier in December 1935 and was approved by the Acting Secretary of the Interior in January 1936 (BIA 12/23/1935). In March 1936, the Office of Indian Affairs published Circular No. 3134 on "Enrollment under the Indian Reorganization Act" to inform its employees of its interpretation of that act. The Indian Office construed the act to mean that its definition of an "Indian" in Section 19 applied only to the implementation of the act itself and to the identification of the individuals who could receive the benefits provided by the act. It held that "a person of one-half or more Indian blood" was eligible to participate in the benefits of the act "irrespective of tribal membership or residence on a reservation." This Indian Office circular noted that an application form had been prepared to identify such

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persons (BIA 3/7/1936). Later statements by Federal officials followed this policy, and indicated that to be considered a "half-blood" Indian under the act, an individual needed only to demonstrate this blood degree, and not affiliation with a tribe (Interior 7/4/1937; BIA 3/6/1939). Under this interpretation of the Indian Reorganization Act, to enroll or list an individual as eligible to participate in the benefits of the act did not assume that he or she was a member of an existing tribe or band of Indians.

The Commissioner of Indian Affairs directed that all applications under the act would be sent to the Washington office of the Office of Indian Affairs for decision. The Indian Office would act on the premise that the applicants bore the burden of proof of their claims. The Commissioner also noted, however, that he could appoint a field investigator or a committee of investigators to aid in gathering evidence. The Commissioner acknowledged that a determination of the degree of Indian blood would be "entirely dependent on circumstantial evidence," and his memorandum listed five classes of acceptable evidence (BIA 9/22/1936). The enrollment of landless Indians in Montana, judging from the application files received by the Indian Office (BIA 1937), relied primarily on three of these five classes: testimony of applicants, supported by family and official records; affidavits from persons who were familiar with the applicant's family background; and testimony of applicants and witnesses regarding the extent to which the applicant had retained "Indian culture and habits of living" (BIA 9/22/1936).

The Commissioner's memorandum also provided for the use of an advisory committee. When applicants claimed "affiliation with or relationship with a recognized tribe," or were expected to seek enrollment in a recognized tribe, the superintendent with responsibility over the tribe could appoint a "committee of Indians to act for the tribe" to advise the Indian Office's investigators (BIA 9/22/1936). In Montana, the Indian Office formed an "Enrollment Committee" to evaluate applicants. The committee appears to have begun its work at the start of December 1936. After meeting with the Enrollment Committee, the Rocky Boy's Business Committee agreed to appoint an "Advisory Committee" of three of its members to assist the Indian Office's Enrollment Committee "in offering information on the family history of applicants. . . ." After examining unenrolled families at the Rocky Boy's Agency, the Enrollment Committee visited Great Falls and the Fort Belknap Agency to gather applications and evidence (BIA 12/10/1936a). It planned to resume its work in the spring of 1937.

In March 1937, field agent Allan G. Harper submitted to the Commissioner of Indian Affairs applications for registration as Indians under the provisions of the Indian Reorganization Act from "members of the landless unenrolled Cree-Chippewa Indians of Montana. . . ." Harper said that the applicants were "members of a group of about 600 families of landless, unenrolled Indians" who were "widely scattered in small bands. . . ." He added, however, that they "all speak the same language and have other common affinities." Noting that these people had "practically no written records," Harper placed heavy reliance upon the recommendation of the Advisory Committee from Rocky Boy's band as to whether or not they knew the applicant or his family. "The fact of these people being Indian and being entitled to the benefits intended by Congress," Harper asserted,

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“has not been questioned.” Therefore, he judged that it “was not felt necessary to set up rigid scientific tests to show proof of Indian blood. . . .” Harper’s position was not that these applicants had one-half or more Indian blood, as required by the act, but that they were of Indian descent. Harper’s interpretation was that the ancestors of these people had been settled along the Red River prior to 1870 and had fled westward after the 1870 rebellion. He argued that these landless Indians were of the “same stock” as Rocky Boy’s band (BIA 3/8/1937). Harper’s assumption, then, was that these landless Indians traced back to the Red River Métis or Chippewa, but not that they were a remnant of the Turtle Mountain Band of Chippewa.

Joseph Dussome complained about the use of the Advisory Committee to the Commissioner of Indian Affairs in December 1936. He based his objection in part on the argument that this procedure was not consistent with the proposed constitution of the “Cree-Chippewa Indians of Montana.” The Commissioner responded that the proposed constitution had not been ratified either by the group or the Secretary of the Interior and lacked the force of law. He told Dussome, however, that when the enrollment work was resumed, “I hope to have the full cooperation of you and your people” (BIA ca. 1937). The previous year, Dussome’s organization apparently had held a meeting in Chinook to discuss the proposed enrollment procedures. According to the *Great Falls Tribune*, at that time the “Indians decided not to sign the applications until they are assured that a representative of their tribe or council is present to explain the questions to men and women who are unable to read or write” (*Great Falls Tribune* 3/29/1936). Thus, in reply to the Commissioner of Indian Affairs in February 1937, Dussome clarified the objection of his people as being that there were “no members of our own” on the Enrollment Committee (Dussome 2/9/1937).

The assistant to the Commissioner of Indian Affairs then wrote to Dussome to promise that when the enrollment of landless Indians resumed, the Indian Office would arrange “for your group to be represented on the Indian Advisory Committee” (BIA 3/3/1937). He also informed the new chairman of the Enrollment Committee to get in touch with Dussome and to “arrange with him to have his group of non-wards represented” on an advisory committee (BIA 3/12/1937). Several weeks later, the assistant to the Commissioner informed the committee chairman that since Dussome had been told that he “would be given an opportunity of designating a representative to serve on the advisory committee” for the enrollment of landless Indians, “immediate steps” should be taken to do so in order to avoid “future difficulties in dealing with his group” (BIA 4/6/1937). In an additional telegram, the assistant to the Commissioner stated that Dussome represented a “state wide non ward group,” and was entitled to name a representative on the advisory committee (BIA 4/13/1937). When contacted, Dussome quickly designated individuals to advise the Enrollment Committee in its work in the Lewistown and Crow Reservation areas (BIA 4/14/1937). Dussome said that he arranged for his group’s district representatives to aid the enrolling committee (Dussome 6/12/1937). Later, Dussome recalled that he had assisted that committee and had “helped a great many of the applicants, to fill out their applications” (Dussome 6/10/1963).

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Thus, the Enrollment Committee resumed taking applications in Montana in 1937 with the help of Dussome and his representatives. In May 1937, the new chairman, O.H. Lipps, reported that the services of Dussome, acting as a member of the advisory committee, had been "indispensable in identifying the Indians and in advising us where to locate them" in the Harlem district. The landless "Cree-Chippewa" Indians were currently "scattered," he said, and had been able to find employment on the cattle and sheep ranches of the area. Some of them were landless, he claimed, because they had recently sold their homesteads to the Government under its sub-marginal land purchase program. Lipps maintained that these landless Indians were "just as much Indian as those on the Turtle Mountain and Rocky Boy's Reservation. . . ." However, "casual observation" indicated, he said, that "very few" of the landless "Cree-Chippewa" Indians "possess as much as 1/2 Indian blood. . . ." He suggested that because they were called "half-breeds," all of them "contend that they are half bloods." It was going to be "very difficult," he concluded, to determine an accurate quantum of Indian blood for these applicants (BIA 5/5/1937).

A series of lists of applicants for registration as Indians "of one-half or more Indian blood" under the provisions of Section 19 of the Indian Reorganization Act of 1934 were transmitted to the Commissioner of Indian Affairs in May and June of 1937. For each applicant there was both an Indian Advisory Committee and an Indian Office Committee recommendation for or against enrollment of the individual (BIA 5/27/1937, 6/4/1937, 6/11/1937, 6/15/1937). These applicants were arranged in geographical groups which stretched across northern Montana from Wolf Point and Culbertson to Choteau and Augusta, and also included the towns of Great Falls, Helena, and Billings, and the state's Indian reservations. The Enrollment Committee had visited 24 Montana communities. Superintendent Wooldridge estimated that between 2,000 and 2,500 individuals were covered by more than 500 applications from Montana's landless Cree-Chippewa Indians (BIA 7/20/1937). In August 1937, D'Arcy McNickle of the Office of Indian Affairs stated that the enrollment of "the landless Cree Chippewa Indians in Montana" had been completed. McNickle reported that a total of 586 applications had been taken in Montana, and that 501 of those applicants would be recommended for recognition "as an Indian" under the provisions of the act (BIA 8/2/1937). In February 1938, Henry Roe Cloud of the Enrollment Committee said that the work of the committee in Montana was complete "except for the classifications of applications" (BIA 2/16/1938). At some point between 1937 and 1938, the number of approved applicants increased by 49.

In April 1938, the Commissioner of Indian Affairs said that the list consisted of 550 eligible landless Indians (BIA 4/29/1938). As late as September 1938, however, the Indian Office stated that the list of 550 applicants had not yet been formally approved (BIA 9/28/1938). Additional applications were received in the years from 1938 to 1940.<sup>58</sup>

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<sup>58</sup> There were about 45 additional applications with dates from 1938 to 1940. The same application form used for the other Roe Cloud Roll applications was used in these cases. Most of these applicants were found not to be eligible because they had less than one-half Indian blood. Some were found not to be eligible because they were married to a white person.

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In 1940, McNickle reported that more than 600 applications had been received, and that 50 or more applicants had been rejected. Applicants were rejected as "less than one-half Indian," as "Canadian born," and as having "inherited interests at some reservation. . . ." McNickle claimed that the 550 eligible applicants represented 325 families and 1,732 individuals (BIA 12/9/1940). These eligible applicants were accepted as meeting the Indian Reorganization Act's definition of an Indian by having "one-half or more Indian blood," and were certified as having that blood degree. This list of 550 approved applicants has become known as the "Roe Cloud Roll." The first reference to this as "the list of applicants compiled by Mr. Roe Cloud," was made by an assistant to the Commissioner of Indian Affairs in August 1939 (BIA 8/7/1939). Dr. Henry Roe Cloud was one of the three persons assigned to the Enrollment Committee, first in November 1936 with C.E. Faris as chairman, and again in March 1937 with O.H. Lipps as chairman (BIA 11/10/1936, 3/12/1937). Lipps retired during the summer of 1937, however, and Roe Cloud appears to have succeeded him as chairman (BIA 1/19/1938).<sup>59</sup> The "Roe Cloud Roll" was not the work of Roe Cloud alone, but was compiled by a committee in the field and approved by Indian Office officials in Washington.

The "Roll of Landless Indians of Montana," presumably as completed by Dr. Henry Roe Cloud's committee in 1938 or 1940, listed 550 families by the name of the head of the household (BIA 1938, 1945).<sup>60</sup> This roll included the names of children, the maiden names of women, the family's place of residence, and occasional remarks on individuals such as "single," "husband, white," or "child by former marriage." The actual application forms of the Office of Indian Affairs, titled "Application for Registration as an Indian," were much more complete than the roll itself, and provided additional information on family connections; places of birth, marriage, and death; tribal descent; and arrival in Montana (BIA 1937).<sup>61</sup> These application forms, however, contained conflicting statements, especially when siblings contradicted each other by variously stating that their

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<sup>59</sup> Henry Roe Cloud (1884-1950) was supervisor of education at the Haskell Institute. He had received a Doctor of Divinity degree in 1932 from Emporia Kansas College, and was an ordained Presbyterian minister. He had received a masters degree in anthropology from Yale University (Champagne 1994, 1033).

<sup>60</sup> In preparation for distributing the Pembina judgment award, BIA employees at the Turtle Mountain Agency conducted research to clarify the status of persons on the Roe Cloud Roll. One of the results of this research was an annotated version [ca. 1987] of the Roe Cloud Roll (BIA 1987). This version of the Roe Cloud Roll included columns for "present and last" roll numbers, date of birth, surname, given name, maiden and other names, sex, relation to head of house, "Indian blood: Chippewa and Total" [in fractions], and remarks. The remarks column included: date of death, enrollment status ("Enrolled with Turtle Mountain," "Not enrolled," or a roll number in a tribe such as Rocky Boy's, Turtle Mountain, or Flathead), family relationships with other names on the Roe Cloud Roll, and citations to the 1906 Turtle Mountain Family History books or the 1917 McLaughlin Report.

<sup>61</sup> The application forms were lengthy and called for the applicant's name, birthday, place of birth, gender, degree of Indian blood, marital status and personal information on the spouse, tribe or band of descent, residences since birth, attendance at an Indian school, minor children (including name, gender, degree of blood, birthdate, birth place), and similar information for the applicant's father and mother, as well as both the paternal and maternal grandparents.

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parents had been born in Canada, North Dakota, or Montana. By using the names and birthdates of individuals on the petitioner's membership list in conjunction with the genealogies submitted with the petition, it is possible to identify members of the petitioning group who were listed on the Roe Cloud Roll, as well as their parents, grandparents, siblings, and other collateral relatives.

The available evidence indicates that 66 percent (2,562 of 3,893) of the petitioner's current members are the direct descendants of someone who was on the Roe Cloud Roll. They descend from about 310 of the 550 applicants on the Roe Cloud Roll. The petitioner's membership requirements do not limit membership only to direct-line descendants of the Roe Cloud applicants, however, but allow for descendants of persons who would have qualified for the Roe Cloud enrollment to become members as well. Thus, individuals who were not Roe Cloud enrollees themselves, but who had a sibling enrolled on the Roe Cloud list, may have descendants in the petitioner's membership. There are 430 individuals on the petitioner's membership list, 11 percent of its members, who have a collateral relative on the Roe Cloud Roll. Another 11 people on the petitioner's membership list appear to be related to Roe Cloud enrollees, but the references on the petitioner's membership records do not clearly define such a connection. Thus, at least 77 percent (2,992 of 3,893) of the petitioner's members descend from, or are closely related to, an individual who was on the Roe Cloud Roll.<sup>62</sup>

The available evidence demonstrates that 214 of the 310 ancestors on the Roe Cloud Roll (69 percent) could trace their ancestry to one of the 25 families of ancestors of the petitioner's members who were listed on the 1850 census of Pembina County (White Weasel n.d.; BIA 1938; BAR 1998). At least 115 of the 310 ancestors on the Roe Cloud Roll (37 percent) could trace their ancestry to 18 men who were listed in McIntyre's 1880 report as recipients of land scrip under the provisions of the treaties of 1863 and 1864 (GLO 1880; BIA 1938; BAR 1998). It is not known at this time whether any of the Roe Cloud Roll applicants or their ancestors were on any of the annuity payment lists for the treaty with the Pembina Band. The available evidence indicates that 151 of the 310 ancestors on the Roe Cloud Roll (49 percent) could be traced to the 46 ancestors of the petitioner's members who appeared in the records of the Red River Settlement for the years about 1870 (Sprague and Frye 1983, table 4 and table 5; BIA 1938; BAR 1998). All of the petitioner's members who trace to the 1870 Red River Settlement also trace to an ancestor on the Roe Cloud Roll (BAR 1998).

The Federal officials who proposed and administered these land purchase and enrollment plans did not describe them as intended to benefit a specific band or tribe of Indians, but to benefit individuals who met the requirement of the Indian Reorganization Act that they have one-half or more Indian blood. In general, Federal officials referred to the populations to whom they sought to provide services as the "landless Indians" of

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<sup>62</sup> At this time, 900 of the petitioner's members, 23 percent of the petitioner's membership, have not been identified as descendants or collateral relatives of the Roe Cloud Roll applicants. Most of these individuals have 1987 or later membership numbers.

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Montana, without clearly referring to a specific tribe. In some of these planning documents, references to "landless Indians" included enrolled Indians without land, both on and off reservation, as well as unenrolled and off-reservation Indians. Although the Indian Office was careful to note that it would implement the Indian Reorganization Act by adhering to the act's "half-blood" provisions, some of its policymakers and employees came to describe the proposed beneficiaries of the enrollment and land purchases under the act as landless Indians with a common Cree-Chippewa background, referring to them as "Chippewa," "Cree-Chippewa," or "Chippewa-Cree" Indians (BIA 1/22/1935, 2/12/1935, 3/12/1935, 3/25/1935, 12/23/1935, 12/10/1936b, 3/8/1937, 5/5/1937, 8/2/1937, 2/9/1939).<sup>63</sup> During this period, the Indian Office also began to refer to Joseph Dussome as the representative of an Indian group in Montana (BIA 3/2/1935, 3/3/1937, 3/12/1937, 4/6/1937, 4/13/1937). Federal officials, however, did not see Dussome's group as consisting of all the landless Cree-Chippewa in the state or on the Roe Cloud Roll, and they identified his group no more specifically than as a group of "non-ward" or unenrolled Indians.

It does not appear that serious consideration was given by the Office of Indian Affairs to organizing the landless Indians of Montana as a tribal government. In 1938, Joseph Dussome inquired about the status of a constitution which his group apparently had submitted to the Indian Service for approval (Dussome et al. 3/12/1938). The Indian Office replied that "at present you don't have the status whereby a constitution under the IRA can be considered or approved" (BIA 4/25/1938). In 1940, when the newly-formed Montana Landless Indians also requested that the Secretary of the Interior call an election under the Indian Reorganization Act to approve its constitution, the Assistant Commissioner of Indian Affairs stated that the "organization as a tribe under constitution and bylaws would not be possible for your group until land had been purchased and declared a reservation" for the group (BIA 2/12/1940b).<sup>64</sup> Because the Indian Office decided to use its newly-purchased lands as an addition to the Rocky Boy's Reservation rather than as a new and separate reservation, the basis for organizing a new tribal government under the Indian Reorganization Act did not exist. Therefore, none of the landless Indians of Montana were recognized as a separate community of "half-blood" Indians.

### **Montana Settlements, 1930's - 1940's:**

The areas with the largest numbers of accepted applicants on the Roe Cloud Roll were the

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<sup>63</sup> Joseph Dussome, however, later referred to the Roe Cloud enrollment process as one which was essentially individual rather than tribal. In 1962, he testified that the roll was not of a particular tribe, but of anyone who was not enrolled on any Indian reservation (Dussome 9/20/1962, 315).

<sup>64</sup> The Assistant Commissioner also noted that the Department could provide certain educational and employment assistance to an individual Indian who had demonstrated that he or she had "Indian blood of one-half or more degree" (BIA 2/12/1940b). The available documentation, however, does not show that the Indian Office provided services on an individual basis to individuals listed on the Roe Cloud Roll.

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towns of Harlem with 67, Hays with 56, Lewistown with 54, and Wolf Point with 51. Most of the Roe Cloud applicants came from the Highline towns between Havre and Wolf Point (222) plus the area between the Milk and Missouri Rivers (124), including the Rocky Boy's Reservation, the town of Hays on the Fort Belknap Reservation, and the towns of Landusky and Zortman just outside the Fort Belknap boundary. Less than one in ten applicants came from either the Front Range (55) or the Lewistown area (54) south of the Missouri River. The area of north-central Montana, combining the Highline (346) and Lewistown (54), accounted for 73 percent (400 of 550) of accepted Roe Cloud applicants (see Table 13). Most of the Front Range applicants were from Babb and Browning on the Blackfeet Reservation. The towns of Choteau, Augusta, and Gilman combined produced only 19 applicants. West of the continental divide, the Flathead Reservation had 27 applicants. The birthdates of the petitioner's members who were born in the area of the Flathead Reservation suggest that a few of the petitioner's families moved there after 1920. Less than one in twelve applicants lived in one of the state's cities of Helena, Great Falls, Billings, or Missoula (BIA 1938, 1945).

By the early 1930's, the petitioner's researchers Franklin and Bunte concluded, the majority of the petitioner's ancestors had congregated in settlement sites on the margins of many of Montana's towns and cities. They referred to these clusters of Indian ancestors as ethnic "enclaves." The petitioner's researchers contended that these "enclaves" existed in most of these rural towns from the 1930's through the 1950's. Since the 1960's, they observed, the ethnic exclusivity of residential patterns has largely disappeared (Franklin and Bunte 1994, 61, 77). Non-Indian Montanans often referred to such a distinct residential area as a "moccasin flat," or sometimes as a "breedtown" or "french town" (e.g., Allen 1998). It is not clear, however, that only two, three, or four households in some of these neighborhoods in rural towns truly constituted an "enclave." According to the petitioner's researchers, the Front Range ethnic "enclaves" were at Babb, Browning, and Heart Butte-Birch Creek on the Blackfeet Reservation, and off-reservation at Choteau, Augusta-Gilman, and Helena. The ethnic "enclaves" they have identified in north-central Montana were at Havre, Chinook, and Glasgow along the Highline, and at Zortman. They say that Malta also had an "enclave," but only during the 1930's. In addition, they note that Great Falls had several ethnic "enclaves" (Franklin and Bunte 1994, 61, 64-65, 68-69) (see Figure 6).

The emphasis the petitioner's researchers have given to a dozen residential "enclaves" does not reflect the more diverse residential pattern of the ancestors of the petitioner's members, and the Métis of Montana as shown by the Roe Cloud Roll. Among the Métis settlements not identified as "enclaves" by the petitioner's researchers were the four towns with the largest numbers of Roe Cloud Roll applicants: Harlem, Hays, Lewistown, and Wolf Point. Harlem may have had a separate residential area, but there is little information available about it (Franklin and Bunte 1994, 68). A large number of Métis families were attracted to Hays, according to oral history, by St. Paul's Mission and jobs on nearby ranches. Many of the families in this area sent their children to the school at the mission, and interviewees described this as having been done in part because the mission school relieved the economic burden on these poor families (Teske 1998;

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TABLE 13

LOCATION OF ACCEPTED ROE CLOUD ROLL APPLICANTS, ca. 1938

<u>Highline and Lewistown</u>		400
Havre	31	
Chinook	16	
Zurich	5	
Harlem	67	
Dodson	15	
Malta	13	
Glasgow	20	
Wolf Point (on Ft. Peck Reservation)	51	
Brockton (on Ft. Peck Reservation)	3	
Poplar (on Ft. Peck Reservation)	1	
Rocky Boy's Reservation	33	
Ft. Belknap Reservation	2	
Hays (on Ft. Belknap Reservation)	56	
Zortman	20	
Landusky	12	
Timber Ridge	1	
Lewistown	54	
<u>Front Range</u>		55
Browning (on Blackfeet Reservation)	21	
Babb (on Blackfeet Reservation)	15	
Choteau	10	
Augusta	8	
Gilman	1	
<u>Urban</u>		43
Great Falls	10	
Helena	31	
Billings	1	
Missoula	1	
<u>Elsewhere in Montana</u>		50
Flathead Reservation (Polson, Arlee, St. Ignatius)	27	
Crow Reservation and Hardin	10	
East of Ft. Peck (Culbertson, Froid, Dagmar)	9	
Others (location unknown)	4	
<u>Address not given</u>	2	2
	—	—
<b>Total</b>	<b>550</b>	<b>550</b>

SOURCE: BIA 1938 (Petition Document: 3000-8-85) and BIA 1945 (Petition Document: 3000-5-47).

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S. Doney 1998). In this sense, Hays functioned as a regional center for the triangle about the small towns of Hays, Landusky, and Zortman. The petitioner's researchers concluded that there were no clearly segregated areas in Lewistown, and suggested that this was because the Métis had been present in Lewistown since its founding and, in contrast to other towns in Montana, were not newcomers squatting on its fringe (Franklin and Bunte 1994, 68/69, 73). There is no available evidence concerning whether the Métis families at Wolf Point were residentially clustered or not. The Roe Cloud Roll and application forms themselves do not provide the information which would reveal whether or not these applicants were living in an Indian neighborhood.

From their interview information, the petitioner's researchers have identified the families that lived in the "enclaves" they have identified, or the surnames associated with each "enclave," except Great Falls, at any time from the 1930's to the 1960's. Not all of the families they identified, of course, lived in these "enclaves" at the same time. The largest of these ethnic settlements appear to have been Chinook, with about 14 households on the north side of town and another 11 households in the "moccasin flat" section southeast of town; the entire town of Zortman, just south of the Fort Belknap Reservation, with about 22 households; the north side of Choteau, with about 14 households; the north side of Havre with about 12 families or surnames; and the town of Gilman, near Augusta, with 11 surnames (Franklin and Bunte 1994, 68-69, table 4, and maps; see also Franklin 1996). At least one interview not used by Franklin and Bunte named a number of additional families in the Chinook neighborhoods, indicating that they have not completely reconstructed residential patterns (Sinclair 1979). If the Roe Cloud Roll is used as a measure of the potential size of the twelve residential "enclaves" in the 1930's identified by the petitioner's researchers, then the largest "enclaves" could have consisted of 31 Métis families each at Havre and Helena. Nine other towns with "enclaves" contained between 9 and 21 Métis families each. Heart Butte was not listed as a residence for any of the Roe Cloud applicants (BLA 1938, 1945).

Two small Montana cities, Great Falls and Helena, also developed "enclaves" of Indian settlement. From census and interview data, the petitioner's researchers identified a few of the petitioner's families in Great Falls and Helena by 1920 (Franklin 1994, 25; Census 1920; Morrow 12/7/1993; LaPier 1979). The birthplaces and birthdates of individuals on the petitioner's current membership list are consistent with this conclusion, as the list includes five members born in the 1920's in Great Falls and four in Helena. There is little information available to indicate that Butte, Anaconda, Missoula, or Billings, cities with good-sized modern populations of the petitioner's members, had developed Indian "enclaves" as early as the 1920's or 1930's. However, four current members were born in Butte in the 1920's. These urban settlements appear to have grown larger during the depression of the 1930's. Helena had at least one "Indian ghetto" by the 1930's, while Great Falls had several. The most infamous of these was Hill 57 on the western outskirts of Great Falls.

In September 1941, Raymond Gray produced a census of Great Falls' Indian settlements. He found 68 Indian families, totaling 278 individuals, living on Hill 57, Mount Royal,

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Smelter Hill (also called Wire Mill), the west side, and the south side of Great Falls. Gray said that these 68 families lived in 53 households, although his tables suggested that there were fewer than 53 households (Gray 9/24/1941). The petitioner's researchers considered the first four of these five sites to have been Indian "enclaves." By identifying specific individuals on Gray's list, they interpreted Gray's census data as showing that 18 of the 37 heads of a family at Hill 57, west of Great Falls, were members of the petitioner's ethnic group. In addition, they said that the petitioner's ethnic group contained 9 of 11 families at Mount Royal, which was slightly removed from the Hill 57 camp, and 5 of 8 families at Smelter Hill, north of Great Falls. At the West Side settlement, they said that 7 of 8 heads of a family were either part of the ethnic group or married to someone who was. Thus, they concluded that 59 percent (38 of 64) of the families listed by Gray in these four settlements contained individuals who were members of, or married to a member of, the petitioner's ethnic group (Franklin and Bunte 1994, 64-65).

In the cases of some of these "enclaves," the petitioner's researchers have identified more families who resided there than were listed on the Roe Cloud Roll, as one would expect in a comparison of residence over several decades to residence at a specific time. In other cases, however, their reconstruction of the size of an "enclave" over time is much smaller than the number of Métis families on the Roe Cloud Roll in 1938 alone: 5 surnames for the Helena "enclave" compared to 31 families on the Roe Cloud Roll; 6 surnames for the Glasgow "enclave" compared to 20 families on the Roe Cloud Roll; 5 families for the Malta "enclave" compared to 13 families on the Roe Cloud Roll; and 19 surnames in three "enclaves" in Havre compared to 31 families on the Roe Cloud Roll (BIA 1938, 1945; Franklin and Bunte 1994, 68/69). This result could mean that many Métis families in these towns with a "moccasin flats" did not live in that neighborhood and were not residentially segregated. It also could reflect the fact that many individuals who used a town as their Post Office address did not actually reside in town, but this also would mean that these Métis were living outside of the "enclaves" in town.

Most interview descriptions of life in the so-called "moccasin flats" indicate that they were almost exclusively composed of Métis families. The petitioner's ancestors were only part of the Métis in these residential neighborhoods, however, because these areas also included Métis who were enrolled members of the Turtle Mountain and Rocky Boy's Bands. The "moccasin flats" of Highline towns contained relatively few Indians from other reservations, except at Harlem, which is adjacent to the Fort Belknap Reservation (e.g., Vogel 1998, Sinclair 1979). The petitioner's researchers concluded that a significant percentage of the residents of the Highline "moccasin flats" were Turtle Mountain Métis, but they did not quantify this observation (Franklin and Bunte 1994, 69-70). The interviews conducted by the BIA staff also indicated that the "moccasin flats" included residents whom the interviewees identified as Turtle Mountain members and described as representing a minority of those neighborhoods. A 1937 study of the distribution of the enrolled members of the Turtle Mountain Band found a number of Turtle Mountain enrollees in Highline towns (39 in Malta, 35 in Chinook, 12 in Havre, 12 in Glasgow, and 11 in Harlem) and in other Montana towns and cities (21 in Great Falls,

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16 in Hays, and 10 in Helena), but there were no Turtle Mountain enrollees on the Front Range (BIA 3/18/1937). In Malta, Chinook, and Great Falls, the number of Turtle Mountain members in 1937 was larger than the number of unenrolled Indians on the Roe Cloud Roll of 1938.

Despite having identified many of the families who lived in these settlements, the contention of the petitioner's researchers that the majority of the petitioner's ancestors in this period lived in an exclusive ethnic "enclave" was an impressionistic rather than quantitative conclusion (Franklin and Bunte 1994, 69, 75). The researchers' listing of the families or surnames in each "enclave" suggests that a minimum of 162 families lived in one of these settlements of three or more families at some time between the 1930's and 1960's (Franklin and Bunte 1994, 65, 68/69, table 4, and maps). Assuming that each family identified from the researcher's interview information as having lived in an "enclave" other than Great Falls consisted of two adult Indian ancestors, unless the researchers listed only a single adult, these 124 families contained about 209 adult Indian ancestors (Franklin and Bunte 1994, 68/69, table 4, and maps). Gray's census of Great Falls settlements in 1941 did not list spouses. Among the petitioner's ancestral families, though, there were at least five one-person families and two heads of families who only were married to a member of the petitioner's ethnic group (Franklin and Bunte 1994, 65; Gray 9/24/1941). Thus, the 38 families identified by the researchers in Great Falls would have contained at most 69 adult Indian ancestors. Combining Gray's census of 1941 and the interview data of the petitioner's researchers yields a total of 162 families and about 278 adult Indian ancestors of the petitioner's members who lived in an ethnic "enclave" at some time from 1930 to 1960.

However, those researchers said that they had identified 953 of the petitioner's Indian ancestors on the 1920 census of Montana (Franklin and Bunte 1994, 8). Those ancestors largely constituted the age cohort described by the petitioner's researchers as adults living in "enclaves" during the 1930's, 1940's, and 1950's. All of the individuals on the 1920 census would have been adults at least by 1941. While some of the individuals on the 1920 census would have died before the 1930's, additional members or ancestors of the petitioner born after 1920 would have become adults during the 1950's. Assuming that births in the 1920's and 1930's exceeded deaths in the 1920's, then the age cohort of adult Indian ancestors of the petitioner's members alive from the 1930's to the 1950's was larger than 953 adults. Also, the genealogical charts of the petitioner's members and other evidence indicates that more than 1,300 of their Indian ancestors were born between 1875 and 1920, and would have been adults aged between 20 and 65 in 1940. The 278 adult ancestors identified by the petitioner's researchers are not half of the adult ancestors alive at the time. Thus, the petitioner's researchers have not demonstrated that a majority of the members or Indian ancestors of the petitioning group during 1930's, 1940's, and 1950's lived in a geographical "enclave" in which they constituted the majority of the population. Therefore, they have not shown that a majority of the members or Indian ancestors of the petitioning group lived within a community of geographically separate but socially interacting "enclaves" almost exclusively composed of group members.

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In interviews, adults who lived in the Indian residential neighborhoods of the Highline towns in the 1930's to 1950's consistently described these neighborhoods as culturally distinct, separate residential areas (FD 1998; Sinclair 1979; Vogel 1998). They described the neighborhoods of their youth as communities, in which they knew everybody, whether they were immediate relatives or not. Such descriptions often appeared in the context of a discussion of how the interviewee had assisted a relative to organize a meeting or a box social in order to raise funds for Dussome's efforts. Individuals who lived in more than one settlement over time, or worked together with other Métis families as contract crews or ranchhands on the ranches, knew a broad range of people. Several former residents characterized Zortman in the 1940's and 1950's as a "halfbreed settlement" (Franklin 1996, 24; Teske 1998; Gilbert 1998).

Interviewees's descriptions of the Front Range towns of Choteau and Augusta were less detailed than those of the Highline towns and Great Falls. The Front Range "moccasin flats" settlements at Gilman - Augusta and Choteau, according to available accounts, were exclusively drawn from Front Range Métis families (A. Wiseman 1993a; LaRance 1993; F. Paul 1993; Reardon 1994; Franklin and Bunte 1994, 60, 70). One individual described Gilman as having been all "breed" (F. Paul 1993). Another described it as a "close little neighborhood . . . they were all Chippewa Cree" (A. Wiseman 1993a; Franklin and Bunte 1994, 90). The petitioner's researchers concluded that the residential "enclaves" on the Blackfoot Reservation were more or less limited to the petitioner's families and the Blackfeet who had married with them (Franklin and Bunte 1994 and 1996).

Many people from the petitioner's families lived in more than one location in Montana in their lifetime, especially across the Highline from Havre to Malta and in the Zortman - Landusky - Hays area. The typical pattern, judging from interviews, was that a family might have lived in a series of different towns, or cities, or reservations between the 1930's and 1950's (Franklin and Bunte 1994, 69). As a result, the petitioner's members have relatives distributed throughout this area of north-central Montana. This tends to make the present Métis families of the Highline towns, especially in the area between Havre and Malta, more of a single group than mere residents of separate towns or areas. There was little indication in the interview data that a given "moccasin flat" had a consistent composition over any substantial length of time, or that a given town on the Highline had a consistent set of families over time. Thus, even when a "moccasin flat" neighborhood existed, it may have had a constantly changing composition because of the movement of people between towns. By contrast, Lewistown and the Hays area apparently had a much more consistent set of residents over time. However, having resided in a "moccasin flat" at some point during one's lifetime was a common experience of interviewees who lived during the years from the 1930's to the 1950's.

The cultural picture of the "moccasin flats" painted by most Little Shell members interviewed was of the Métis or "Michiff" culture, a mixture of French and Chippewa or Cree elements. This culture originated in the Red River and Pembina settlements. Franklin and Bunte cited various studies to show that this culture was common to both

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the people at Turtle Mountain Reservation and the Little Shell members and their ancestors in Montana (Franklin and Bunte 1994, 99; 1996). The major elements of Métis culture that are listed by Franklin and Bunte that are described in older accounts of the rural settlements and by interviewees as continuing in the "moccasin flats" include the Michiff language, music and dance, foodways, and the New Year's celebrations. The music and dance were French songs and jigs, with a distinctive style (Franklin 1996, 29). The foodways prominently mentioned included "bullets" (meatballs), rubaboo (a kind of sauce or stew), a kind of bread called "bannock," foods made with chokecherries, pemmican, and other items, some with colorful names like "son of a bitch in a sack." Although almost all of the Métis were Catholic at least until the 1920's, the Métis interviewees in most instances provided no descriptions that indicated that they practiced a culturally specific form of Catholic worship. However, Campisi and Starna stated that several of their interviewees suggested that the church had attempted to prevent "Indian style" wakes (Campisi and Starna 1987a, 42). Few of the interviewees mentioned the church, and they did not describe it as playing a role as a community institution among the Métis.

This Métis culture was undiminished among adults born in the rural areas, but it diminished rapidly with the generation that grew up in the towns, the individuals who are the older adults among the petitioner's members today. An example of this is language use. An adult would typically describe hearing, as a child, the use of French, Michiff<sup>65</sup> (also termed "coyote French"), and sometimes Chippewa or Cree, typically when communicating to an Indian outside the group. Interviewees frequently stated that they could understand their parent, grandparent, or other older relative who spoke Michiff, Chippewa, and/or French, and who in some cases did not speak good English. However, most interviewees reported that they did not actually learn to speak French, at least not fluently. Franklin and Bunte concluded that the language was spoken in a majority of Little Shell households until the 1930's or 1940's (Franklin and Bunte 1994, 99; 1996, 32). Other continuing cultural practices described by interviewees were the New Year's celebrations, which would begin at midnight. Individuals started at the homes of their closest relatives and continued outward, to other relatives and friends, and often to other neighborhoods and other towns. In these celebrations, there was food, fiddling, and dancing throughout the night (FD 1998; Bishop 1986; Sinclair 1998; Short 1998).

According to interviews with the petitioner's members, the typical occupation of their members and their ancestors in the years during the first half of the 20th century was a ranch hand (FD 1998). Some individuals formed crews and hired out for haying, building fences and other ranch jobs (Parenteau 1998; Allen 1998; FD 1998). By the 1920's, some of the petitioner's families in the Highline region had found work on the Phillip's ranch, south of Zortman (Franklin 1994, 28). The women were usually homemakers, or worked as housekeepers and cooks during the summer working season on the ranches. A few individuals had better jobs, such as working for the railroad. Some families, where the

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<sup>65</sup> "Michiff" is a mixture of French and Indian (primarily Chippewa and Cree) that developed during the Red River period. It combines elements of vocabulary and grammar from each (Franklin 1996, 29).

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husband was non-Indian, were somewhat better off. These mixed families frequently, but not always, lived in the "moccasin flat" areas of towns. Residence was semi-itinerant, with summers often spent working out of town on the ranches, and winter in town (e.g., Teske 1998, G. Azure 1998). Changing residence between towns was also quite common. During the Depression of the 1930's, a significant number of Métis sought work on one of the reservations, or moved there to take advantage of relief programs, especially if they had relatives enrolled on the reservation (e.g., Sinclair 1998). This was especially common at Rocky Boy's Reservation.

Discrimination against Indians and Métis in Montana during the 1930's and 1940's was noted by a variety of observers. An Indian Office employee attributed the cancellation of plans to settle some of the landless Indians on a parcel of land near Great Falls in 1940 to white resistance to that plan. Noting their strong opposition, he stated that, "Local residents of the vicinity did not wish the Indians as their neighbors" (BIA 12/13/1940). Raymond Gray, a political leader of the Montana Landless Indians, argued in 1940 that, "If you live in a white community you are discriminated against because you are Indian." He added that, "If we go to school and try to get a job on the outside the fact remains that no group of white men ever enjoy having a half-breed bossing them. We can just go so far." Gray also argued that discrimination by non-Indians meant that, "we cannot assimilate ourselves with white people. We are always breeds" (BIA 3/18/1940, 4-5).

In interviews with the petitioner's members, they describe discrimination as common in the lives of those growing up in the "moccasin flats" of the rural towns and in the urban Indian neighborhoods of Great Falls and Helena (FD 1998). One of Franklin's interviewees stated, with reference to the Choteau "moccasin flat," that "there was really a lot of prejudiced dealings going on, so people kind of tend[ed] to stick to themselves," and that whites "called them half breeds" and "dirty drunken Indians. . . ." (quoted in Franklin and Bunte 1994, 70-71). Some children of mixed marriages who were born in the 1930's or 1940's described snubs by their white relatives. One common result of the experience of discrimination, expressed by present-day interviewees, was a very strong desire to excel in education and economically. Another result, as described by one individual, was that she and her family always were very strict about their personal appearance and the condition of their house. This was a remnant of their parents' teachings, and the experiences of their childhoods, when they did not want to be known as "dirty Indians" (Fleury et al. 1998).

Some of the petitioner's families attempted to keep themselves somewhat apart from the Indian neighborhoods and their Indian relatives. A portion of the membership, including some leaders, is from families that in the 1930's had separated themselves from the Métis society and even to some degree from their immediate relatives in order not to be recognized as "halfbreeds" (R. Salois 1998; FD 1998). Some of these families, usually where one parent was non-Indian, were able to live outside of the "moccasin flat" areas (Koke 1998; Fleury 1998; FD 1998). Presently, individuals who grew up in the "moccasin flats" sometimes say that some families denied that they were Indians (Sinclair 1979; J. Azure 1998). Also, it is sometimes said, with reference to particular individuals

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who did not live in a “moccasin flat” as a child, that “so and so didn't know they were Indian” until a few years ago. However, interviews with the individuals referred to indicate that this statement was not necessarily literally true. In some cases, while the individuals referred to were from families that had kept them somewhat apart when they were growing up, their Métis background had not been hidden from them and they had social connections with their Métis relatives (FD 1998; R. Salois 1998; Koke 1998; Fleury 1998; McGillis 1993). Nonetheless, the perception that particular families denied or downplayed their Indian ancestry is something which still draws somewhat negative comments from others, former “moccasin flats” residents, who knew these individuals earlier in their lives.

Detailed information was not developed concerning when the discrimination described for the 1930's declined. Two individuals, born in 1938 and 1940, reported strong discrimination in Highline towns during their childhoods, presumably referring to the late 1940's (Bishop 1986; Maki 1998). A former chairman, Donald Bishop, born in 1938, reported having to fight his way in and out of school, and that the Indians were required to sit at the back of the church in segregated seating (Bishop 1986).<sup>66</sup> He reported that white kids avoided the Indian kids because the latter were supposedly dirty and had poor hygiene. Bishop also reported that when he was young, the Mayor of Malta said that he would not rest till “all the breeds were out.” The gradual ending of the partial residential segregation was underway by the 1950's. Marriage with non-Indians was already increasing well before the 1930's.

An analysis of the birthplaces of individuals presently on the petitioner's membership list indicates that it was uncommon for their families to move out of Montana before 1940, but that the rate of movement out of state increased substantially in succeeding decades. This finding is consistent with the ethnographic information that most members or their ancestors did not move far from their original Montana locations until after the depression of the 1930's. No analysis was made to determine whether there were differences between the two regions in migration rates or migration destinations.

Only about 7 percent (66 of 939) of individuals on the current membership list who were born before 1940 had birthplaces outside of Montana (Petitioner's membership list). Of these, the large majority were born either in Canada or North Dakota, and live presently in Montana.<sup>67</sup> By contrast, 15 percent of members born between 1940 and 1949 (70 of 479) were born out of state, and less than one-fifth of these were born in North Dakota or

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<sup>66</sup> This was the only instance located where an interviewee reported differential treatment by the church (which presumably, at this date, was the local Catholic church).

<sup>67</sup> This appears to reflect the continuation of migration from Canada and North Dakota well into the 20th century. Essentially all of the present members born before 1933 who were not born in Montana were born in Canada or North Dakota. The data on some family lines (e.g., Calais LaFountain, Bremner) in the Family Tree Maker database show Canadian or North Dakota birthplaces for individuals born as late as the 1930's. Because these individuals were born later than older individuals in their family line had moved to Montana, it suggests continued movement back and forth between Montana and the point of origin.

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Canada. The portion of members born out of state increased to 21 percent (167 of 793) of members born in the decade from 1950 to 1959, and to 27 percent of members born between 1960 and 1969. This increase over time in the percent of members born out of state parallels in time the decline of the "moccasin flats" residential enclaves after 1940.

Almost one-third of those members born out of state between 1950 and 1959, and more than one-third of the members born out of state between 1960 and 1969, presently live in Montana, indicating that members born out of state fairly commonly move to Montana.<sup>68</sup>

### **Organizational Activities, 1939 - 1949:**

An organization referring to itself as the Little Shell Band of Chippewa Indians of Montana was formed for the first time in 1939. This organizational activity followed two developments related to Montana's Chippewa descendants. First, the desire of the landless Chippewas of Montana to obtain a separate reservation was thwarted in 1939. The Office of Indian Affairs decided that its newly-purchased lands would be added to the Rocky Boy's Reservation, rather than being set aside as a new and separate reservation, or reservations. The Indian Office also arranged for the Rocky Boy's band to adopt a limited number of landless Indians, rather than to organize most or all of the landless Indians as a new reservation tribe. Second, during the 1930's Congress seriously considered legislation to refer the claims against the Government of the Turtle Mountain Band of Chippewa to the Court of Claims, and included Chippewa Indians in Montana among those Indians who would be authorized to have their claims considered under this legislation. In 1935, the Department of the Interior began to refer in public documents to some of the Chippewas in Montana as descendants of Chief Little Shell's band.

The Office of Indian Affairs changed its position on the use of the new lands being purchased in Montana by early 1937, when it decided that the new lands should be added to the Rocky Boy's Reservation and not be set aside as a new reservation (BIA 3/6/1937). In November 1937, the Indian Office informed Montana's senators of its decision, as Henry Roe Cloud described it, "not to create a separate reservation out of newly acquired lands for the landless Cree-Chippewa. . . ." (BIA 2/16/1938). Indian Office officials displayed a concern for the carrying capacity of the Rocky Boy's reservation, the number of residents the lands of the reserve could support, and the efficient administration of both the tribe and its resources. Superintendent Wooldridge of the Rocky Boy's Agency favored the change, and provided a summary of the rationale for the new policy. Using the new lands to expand the existing reservation, the superintendent argued, would allow tribal resources to be combined and managed as a single unit. It also would avoid "setting up a separate organization" for the landless, generating disputes between two distinct organizations, hiring personnel for a new agency, and creating white opposition to a new reservation (BIA 3/25/1937). Commissioner of Indian Affairs John Collier agreed

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<sup>68</sup> Presumably some of these individuals returned to the state as children, when their families returned to the state.

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that it would be more efficient to use the existing tribal organization than to establish a new and separate organization of the non-ward Indians (BIA 11/9/1937).

When the Indian Office decided to expand the Rocky Boy's Reservation, it realized that it then would have to ask the Rocky Boy's band to adopt some of the landless Indians as new members of its tribe (BIA 3/6/1937). Dussome objected to adoption of landless Indians into the band without "mutual consent," insisted that a separate reservation had been agreed upon, and requested that individual allotments of land be made from the newly purchased lands (Dussome 3/30/1937). The Assistant Commissioner of Indian Affairs agreed that adoption into the band would be by mutual consent, but pointed out to Dussome that allotment of the land being purchased was "out of the question" because it was prohibited by the Indian Reorganization Act (BIA 5/3/1937). After an internal Indian Office debate about how many new members the expanded reservation could support, Commissioner of Indian Affairs John Collier in April 1938 directed that a proposal be made to the Rocky Boy's band that it adopt 25 families of landless Cree-Chippewa from the list of 550 individuals "considered eligible for recognition as Indians of the half-blood." The Commissioner's instructions were that the tribe would determine which persons to adopt, and that the Indian Office would not recommend any particular individual or group (BIA 4/29/1938). After originally voting not to adopt any candidates, in a second election in March 1939 the Rocky Boy's band approved a slate of 25 "non-ward" families for adoption into the band (BIA 10/10/1938, 3/18/1939, 3/21/1939). Ten days later, Congress authorized the addition of about 114,000 acres to the Rocky Boy's Reservation (Statutes 1939).

In his report on the Rocky Boy's adoption election of 1938, Henry Roe Cloud characterized the landless Indians of Montana as descendants of the "French-Canadian Indians" who had fled to the United States from Canada after the Riel rebellion of 1885 (BIA 10/10/1938). In February 1938, Roe Cloud referred to Joseph Dussome as "the leader of the landless Cree-Chippewas of Montana. . . ." He also observed that despite "the fact that these Indians are scattered over wide areas, they are exceedingly well organized" (BIA 2/16/1938). According to Roe Cloud, Dussome desired a reservation, a constitution, and an organization separate from those of Rocky Boy's band, so that his non-wards could obtain "a practical autonomy" (BIA 7/23/1938). The Indian Office, however, had decided on a policy which differed from Dussome's position on each of these issues, and therefore would not recognize his group as a separate and distinct entity. Thus, as Roe Cloud noted, Dussome organized and led opposition to the Indian Office's policy of having landless Indians adopted into Rocky Boy's band. Roe Cloud referred to his intent to "explain" the Government's policy to Dussome, rather than to consult him about it. The Government was "not putting the question of adoption to Joseph Dussome and the non-wards," Roe Cloud observed, but to the tribe of the Rocky Boy's Reservation (BIA 7/23/1938).

When Congress in the early 1930's was considering a bill to allow the Turtle Mountain Band of Chippewa Indians of North Dakota to submit its claims against the United States to the Court of Claims, the Senate Committee on Indian Affairs reported that the Turtle

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Mountain Band of North Dakota consisted of two groups, the band recognized by the Government and another band, "under the leadership of Chief Little Shell," which claimed to be "part of the original Turtle Mountain Band of Chippewas." Thomas Little Shell, a son of the historical Chief Little Shell, emerged as a leader of this second group in North Dakota.<sup>69</sup> The committee amended the original bill in February 1933 by adding language to allow claims to be submitted by "the band of chief or Thomas Little Shell, and other isolated Pembina Bands of Chippewas of North Dakota and Montana" (Senate 2/21/1933). In April 1933, three attorneys -- two from North Dakota and one from Washington, D.C. -- signed a contract with "Chief" Thomas Little Shell and other individuals in North Dakota who were acting on behalf of "Chief Little Shell's Band" (BIA 8/31/1939). During congressional hearings in 1935, an attorney appeared as the representative of the "Thomas Little Shell Band of Chippewa Indians of North Dakota" (Senate 5/10/1935).

References to the claims of "the band of Chief or Thomas Little Shell, and other isolated bands of Chippewas of North Dakota and Montana" were repeated in other bills during the late 1930's which proposed to give the Court of Claims jurisdiction to hear these claims (Senate 2/7/1935, 5/13/1935, 2/10/1937, 2/24/1939; House 1/3/1939). While these statements indicated that the Congress was aware of the presence of Chippewa descendants and possible Chippewa bands in Montana, the Congress appeared to consider them to be separate from the band of Little Shell, because it referred to them as "other" bands. In commenting on one of these proposed bills in April 1935, however, Secretary of the Interior Harold L. Ickes said that a part of the Turtle Mountain tribe, under the leadership of Chief Little Shell, had refused to participate in negotiations for the agreement of 1892 and had left the main body of the tribe. These Indians, Ickes said, "finally settled at various places in the State of Montana on the public domain, where they now reside." He advised the chairman of the Senate committee that the Little Shell band had claims which should be adjudicated with those of the Turtle Mountain band (Interior 4/20/1935). The Acting Secretary repeated this analysis in 1937 in letters to congressional committees (Interior 4/20/1937, 5/27/1937).

Joseph Dussome's group did not begin to refer to itself as the "Little Shell band" of Chippewa Indians of Montana until after these proposed bills to submit claims to the Court of Claims had referred to the Little Shell band, and the Department of the Interior's comments on these bills had stated that some Chippewas from Little Shell's band had eventually settled in Montana. The first documented reference to "the Little Shell Band of Chippewa Indians of Montana" occurred as part of an effort from February to April 1939, apparently led by Dussome, to collect funds for claims attorney Halvor Halvorson of Minot, North Dakota (Little Shell Band of MT 1939). Halvorson was one of the attorneys who had signed a contract in 1933 with "Chief" Thomas Little Shell of North Dakota (BIA 8/31/1939). During the late spring of 1939, apparently, a series of regional

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<sup>69</sup> For a photograph of Thomas Little Shell, see Howard 1958, 43, and 1965, 23. Chief Little Shell was shown to have a son Thomas on the 1897 Indian census roll, when he was listed as a one-year-old child of the 66-year-old Little Shell (BIA 1885-1940, roll 95, frame 583).

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meetings were held to organize the Chippewa Indians of Montana. The individuals attending an area meeting of the "Pembina Band" in Lewistown claimed that they were entitled to participate in claims litigation because they were "descendants of those Indians who had as their Chief, Thomas Little Shell. . . ." (Pembina Band ca. 1939).

The Chippewa descendants meeting at Lewistown referred to themselves as "the Pembina Band of Chippewa Indians, formerly of North Dakota and now residing in the State of Montana in small groups at various points. . . ." They elected Elizabeth Swan as their representative "to meet with the representatives of similar groups within the State of Montana" for the purpose of selecting three members of "the Chippewa Tribe in Montana" to enter into a contract with an attorney. Presumably, such local meetings to select representatives to a state meeting were held in eight or nine districts of Montana about the same time. This action was taken, the Lewistown group stated, "on the basis of a bill now before Congress relative to the claims of the Turtle Mountain Band or Bands of Chippewa Indians. . . ." (Pembina Band ca. 1939). Thus, this effort to form an organization of Chippewa Indians in Montana in 1939 was explicitly tied to the expected passage of an act to refer the claims of the Turtle Mountain band or bands to the Court of Claims.

On June 10, 1939, eight district representatives of "the various groups of Chippewa Indians residing in Montana" met at the home of Joseph Paul in Great Falls. Four of these representatives were from the Highline and Lewistown area, two were from the Front Range, and two were from cities.<sup>70</sup> They elected a three-person committee "to represent the Chippewa Indians in Montana" in pursuing their claims against the United States Government based on land "formerly owned by the Turtle Mountain Band or Bands of Chippewa Indians[,] including the Band of Chief or Thomas Little Shell. . . ." In order to pursue these claims of the "Pembina Band," the representatives authorized this executive committee to employ an attorney. Their claims were valid, according to the statement signed by these eight representatives, because they were "descendants of those Indians who owned said land prior to the agreement of 1892. . . ." This statement of their position, which they sometimes referred to as the "agreement" made by the Chippewas of Montana, was addressed to the Secretary of the Interior and the Commissioner of Indian Affairs. The three members elected as the executive committee were Thomas Ouellette, Joseph H. Dussome, and Joseph Paul. All three of these individuals attended this meeting as district representatives: Ouellette from Wolf Point, Dussome from Box Elder, and Paul from Great Falls (J. Azure et al. 1939; Pembina Band 6/10/1939; Ouellette 6/13/1939, 7/18/1939).<sup>71</sup>

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<sup>70</sup> The eight areas represented were: Harlem (Joe Azure), Lewistown (Elizabeth Swan), Dupuyer (Millie Salois), Augusta (Thomas Sangray), Helena (William Boyer), Wolf Point (Thomas Ouellette), Great Falls (Joseph Paul), and Box Elder (Joseph Dussome).

<sup>71</sup> The basis of these claims, of course, represented a complete reversal from the claims which Joseph Dussome had advanced throughout the 1930's.

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The group's executive committee immediately began using stationery with a letterhead which referred to the new organization as the "Pembina Band of Chippewa Indians who were under the leadership of Chief Thomas Little Shell." This letterhead included the names of a three-member executive committee and six district representatives. These were the eight representatives to the meeting of June 10, plus an additional district representative from Hays (Ouellette 6/13/1939). The organization's original "agreement" or initial statement of its formation and purposes, and the minutes of its first meeting, implied that the three members of the executive committee had equal status and powers (J. Azure et al. 1939; Pembina Band 6/10/1939). A month after the formative meeting, however, Thomas Ouellette was writing letters as the "secretary" of the executive committee (Ouellette 7/18/1939). Within four months, at least, Joseph Dussome was being listed as "president" of the executive committee (Dussome et al. 10/6/1939). By using the name of Thomas Little Shell, who was mentioned in the pending Court of Claims bills, this Montana Chippewa group had adopted the name of a contemporary leader of the Little Shell band of North Dakota in the 1930's, not the historical Chief Little Shell of the 1880's and 1890's.

As the secretary of the organization, Ouellette informed Senator James Murray in July 1939 that the executive committee had selected E.C. Angland of Great Falls as its attorney to prepare claims under the pending legislation. Ouellette sought the senator's advice on how to have an attorney's contract approved by the Department of the Interior (Ouellette 7/18/1939). Even prior to the organizational meeting of June 10, however, attorney Angland had written to the Office of Indian Affairs about negotiating a contract, as the Indian Office described his proposal, with "several groups of Indians residing in Montana," but constituting "a part of the Turtle Mountain Band of Chippewa Indians of North Dakota, for the purpose of prosecuting their claims against the United States." In its reply, the Indian Office noted that the Department already had approved two attorney contracts, one for the Turtle Mountain Band and one for "Chief Little Shell's Band," and that these attorneys were able to represent Indians who belonged to those bands but resided in Montana. Angland's proposed contract, it concluded, would be in conflict with these existing contracts. The Indian Office thus informed Angland that it would not approve any contract he might make with Chippewa Indians in Montana (BIA 8/31/1939).

The executive committee, with Dussome as its president, wrote to the Commissioner of Indian Affairs in October 1939 to assert its position that the Commissioner's office had agreed, during a meeting in 1936, to use newly purchased lands to create a separate reservation for the "Landless Chippewa Indians" of Montana, and to protest that the purchased land had been used "for other purposes than it was intended for. . . ." In addition to the organization's objection to this specific policy decision, it also had a more general concern about its relation to the Indian Office. "We have set up an Organization . . . to negotiate with your Office and the Superintendent here," the executive committee said, "but it appears that your Office will not recognize our Committee in transacting any business affairs pertaining to the affairs of said Landless Indians" (Dussome et al. 10/6/1939). The executive committee of the new organization understood in 1939 that the "Pembina Band of Chippewa Indians who were under the leadership of Chief Thomas

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Little Shell" was not recognized as a tribal entity by the Office of Indian Affairs.

On December 17, 1939, at a meeting in Great Falls, a new organization was formed which would adopt the name of the "Montana Landless Indians." Raymond Gray was elected chairman of the new organization by acclamation at the Great Falls meeting. Rose Gray was elected secretary. Chairman Gray then explained "why we want to organize." The sparse minutes of the meeting indicate that attendees discussed how to organize under the Indian Reorganization Act and claim their "rights as Indians" under that act. The pending Senate bill to allow a suit against the Government for compensation for lands in North Dakota was explained to the audience. Chairman Gray discussed the "split with Dussome" (MLI 12/17/1939). Three days later, the new organization held another meeting at Helena to dispense information (MLI 12/20/1939). On December 20, Gray also sent out a form letter asking participants to sign two petitions (Gray 12/20/1939). On January 18, 1940, the Montana Landless Indians forwarded these petitions to the Secretary of the Interior, and claimed that they had been signed by approximately 600 Indians of one-half or more Indian blood. The letter said that the purpose of the petitions was to acquire "Indian rights" under the Indian Reorganization Act, and that the group would ask for a charter under that act (MLI 1/18/1940). One petition asked for adoption of a constitution and bylaws, and the other requested that land be purchased for the group under the Indian Reorganization Act (MLI 1/18/1940; BIA 2/12/1940a).

The Assistant Commissioner of Indian Affairs explained to both the Montana Landless Indians and Senator James E. Murray of Montana that the petitioning group would not be eligible to organize under the Indian Reorganization Act unless a reservation were to be established in its behalf. He also pointed out that the land purchase funds authorized by the Indian Reorganization Act were wholly exhausted (BIA 2/12/1940a, 2/12/1940b). After a conference at the Rocky Boy Agency which Raymond Gray attended, the agency superintendent warned Washington that the Montana Landless Indians intended to move onto "the thirty odd thousand acres of newly purchased lands adjoining the Rocky Boy's Reservation . . . within the next two months in an effort to force the Indian Service to provide them with lands for home sites" (BIA 3/7/1940). On March 12, the Montana Landless Indians wrote to the Indian Office to inform it that "unless we receive an appropriation from this Congress to purchase land, we will settle on the 37,000 acres adjoining Rocky Boy and claim our Indian rights and the land that was intended for the landless Indians of Montana" (MLI 3/12/1940). In a letter written to a supporter in April, Gray indicated that he was opposed to the creation of a new reservation for the newly purchased lands, and favored the adoption of all of the landless Indians into the tribe of the Rocky Boy's Reservation (Gray 4/24/1940).

Joseph Dussome and his followers continued during 1940 to seek a separate reservation for the newly purchased lands. Dussome and a delegation of landless Indians met with the superintendent of the Rocky Boy's Agency on April 6 and insisted that an agreement had been made in 1936 that the lands would become a separate reservation (BIA 4/6/1940). On April 27, the Rocky Boy's Business Committee held a special meeting

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with Dussome and Thomas Sangray, a representative of the Montana Landless Indians. Dussome argued that the Indian Office and Rocky Boy's Business Committee had agreed to a separate reservation. Rocky Boy member Fred Nault, who had accompanied Dussome to Washington in 1934, countered Dussome's arguments by claiming that their request for a land purchase had included Indians of the Rocky Boy's Reservation who needed land (BIA 5/2/1940). The Indian Office rejected Dussome's interpretation of the 1936 meeting and denied that an "agreement" to create a separate reservation had been made then. The Assistant Commissioner of Indian Affairs admitted to Senator Murray that the Indian Office had been "rather too sanguine about the number of families" the purchased lands would support, but insisted that his 1936 letter had "left to future determination the question of whether or not the new land would be proclaimed a separate Indian reservation or whether it would be added to the existing Rocky Boy Reservation" (BIA 5/13/1940). The Indian Office continued to pursue its policy of adding the lands to the reservation.

In June 1940, Dussome's fellow Pembina Band executive committee member Thomas Ouellette concluded that it was "useless to try and work ourselves in" at the Rocky Boy's Reservation, and therefore "we should find some other location in which to get land for the landless Indians." He proposed having the Government buy land along the Missouri River for landless Indians in his Wolf Point district (Ouellette 6/22/1940). Dussome replied that Ouellette's plan was "O.K. with me," but indicated that another new plan "suggested by the people" was to request that the Government purchase the "Phillips Holdings" of land southwest of Malta (Dussome 7/1/1940). In July 1940, writing to "friends and kinsmen" on the letterhead of the "Pembina Band of Chippewa Indians," Dussome contended that the only way to get a separate reservation was to get land at a distance from the Rocky Boy's Reservation. We "have located a desirable site for a Reservation," he reported, "containing 17 thousand acres of irrigated land and about 40 thousand acres of grazing land." He said that he had communicated with the land owners of the Phillips Holdings, and that Mrs. B.M. Phillips was "willing to help us all she can to get this land" (Dussome 7/10/1940). At a meeting in Chinook in October 1940, the "Pembina Band," also known as the "Landless Indians of Montana," appointed Dussome, Ouellette, and Mrs. Phillips as delegates to present their grievances and their plan to the proper officials in Washington, D.C. (Pembina Band 10/5/1940). This trip to Washington apparently occurred in early 1941.

As a state senator, Mrs. Phillips won passage by the state legislature in February 1941 of a memorial to the Congress requesting legislation to establish a reservation for the state's Indians of one-half or more Indian blood (Montana 1941). In response to the state's memorial, the Assistant Commissioner of Indian Affairs informed Senator Murray that the creation of a reservation for "unenrolled Indians" would require "specific, adequate appropriations" (BIA 4/11/1941). In March 1941, however, Dussome presented the Governor with a petition which proposed a different plan. Rather than an Indian reservation under the supervision of the Office of Indian Affairs, Dussome proposed that the Phillips ranch be acquired as a rehabilitation program under the Farm Security Administration (Dussome et al. 1941). Senator Burton K. Wheeler, who also received the

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petition, noted that since this plan would remove land from the county tax rolls, Dussome would need to obtain a resolution of support from the county commissioners (Wheeler 4/3/1941). The Phillips County commissioners passed a resolution in April 1941 which gave their support for a reservation or resettlement project for the "landless Indians," but qualified it by favoring a plan in which the county would be reimbursed for its lost tax revenue (Phillips County 1941). Dussome's 1941 petition bore 163 signatures from Wolf Point, Chinook, Hays, Landusky, Zortman, Malta, Havre, and a few other northern Montana towns (Dussome et al. 1941).<sup>72</sup> Dussome's support, at least for a land purchase program in Phillips County, came from northern Montana and Highline towns, and not from the Front Range.

The local newspaper, the *Phillips County News*, reported on the land purchase plan as described by Dussome, the "president of the band." The "land selected by the Indians and receiving favorable consideration in Washington," the newspaper reported, was the 65,000-acre Phillips ranch, 25 miles southwest of Malta. The paper said that it was "probable," according to Dussome, that "65 families of the Pembina or Little Shell band of Chippewa Indians, known locally as the non-ward or landless Indians," would be settled on this land. The band believed it was "entitled to resettlement," the paper reported, because an 1892 agreement had offered such a small price for Chippewa land. Under Dussome's plan, each family would receive 60 acres of irrigable land and two sections of grazing land. These Indians were asking for government land, the paper reported, without government supervision. Noting that there were believed to be 650 families of landless Indians in Montana, the paper observed that the Phillips County project would be the first of several such projects. It said that other groups of Indians resided near Havre, Chinook, and Wolf Point. The Little Shell band had recommended, it reported, that the Indians be settled in the counties where they had been living for years (*Phillips County News* 5/1/1941).

When an Office of Indian Affairs official, J.C. McCaskill, prepared a memorandum in April 1941 on the "Landless Unenrolled Indians" in Montana, he noted that the landless Indians were "represented by a least two groups of leaders. . . ." (BIA 4/23/1941). A year later, he repeated that there were two groups of unenrolled Indians "who recognize separate leadership" (BIA 2/23/1942). Relying upon a variety of prior surveys and estimates, McCaskill judged that the number of unenrolled landless Indians in Montana was at least 2,500 to 3,000 individuals, or 500 to 600 families. He indicated that the largest numbers of landless Indians were located on the Blackfeet and Fort Peck Reservations, with large numbers also at Great Falls, Malta, Chinook, and the Rocky Boy's Reservation. Although it would take "considerable investigation" to determine the "exact origin" of the unenrolled landless Indians of the state, he said, it "is generally believed that some of them are Crees and originally came from Canada. Many are Chippewas of American origin who have drifted westward from the Lake States." Noting that the National Resources Board had reported that the "Cree-Chippewas of Blaine and Phillips Counties . . . have in the past years asserted their right to a large reservation for

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<sup>72</sup> The Lewistown group petitioned in favor of the Phillips Ranch in August 1941 (BIA 10/4/1941).

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their exclusive use," McCaskill identified several sites available for purchase near the Fort Belknap Reservation, including the Phillips ranch, as well as the Floweree ranch on the Sun River 50 miles west of Great Falls (BIA 4/23/1941; see also BIA 2/23/1942).

A convention called by Dussome met in Malta on July 2-3, 1941. The convention was attended by 62 members and 2 observers. Delegates were called on to present their credentials from the "official districts"; 9 or 10 district representatives were present. An election was held to choose a new and expanded Executive Committee. Joseph H. Dussome was elected president, Thomas Ouellette vice-president, George St. Clair second vice-president, Mrs. Bill Doney secretary, and Mrs. Joseph H. Dussome treasurer. In addition to the election, Mrs. Phillips reported on the trip to Washington and gave the address she made before the Committee on Indian Affairs. Thomas Ouellette and Dussome explained three land purchase plans that had been considered: one of the group, one of the Resettlement Administration, and one of the Office of Indian Affairs. The convention passed a resolution, presented by Dussome, which requested Congress to provide the landless Indians of Montana with land in lieu of their rejected land allotments, asserting that the United States had a lawful obligation "to provide us with land." The convention also passed a resolution, as the "Pembina Band of Chippewa Indians known as the Landless Indians of Montana," in favor of settling on the lands of the Phillips ranch under a rehabilitation program of the Farm Security Administration. The plan they insisted upon provided each head of family with 60 acres of irrigated land, two sections of range land, and a loan of \$5,000 (Pembina Band 7/2/1941 and 7/3/1941; Anonymous 1941). After the convention, Dussome apparently wrote a constitution and bylaws for the group (Ouellette 8/19/1941).

Sometime in 1941, Joseph Z. Venne replaced Raymond Gray as president of the Montana Landless Indians (Venne 9/9/1941). In his new job in the state Department of Public Welfare, Gray investigated the conditions of the Indians living in Great Falls (e.g., Gibson 1941; Gray 9/24/41). In October 1941, Gray reported that he had taken several Indians on a tour of the Floweree ranch near Augusta, and that he was preparing petitions asking that this land be purchased as a reservation (Gray 10/1/1941). The petitioner's researchers argue that a petition in favor of the purchase of the Floweree ranch was signed by members of the petitioner's ethnic group who were living in the Front Range towns of Browning, Choteau, and Augusta, or had moved to Great Falls and Helena (Franklin and Bunte 1994, 131-132; MLI 1941). Later that month, Venne wrote to Governor Sam Ford, and apparently to Senator Burton K. Wheeler as well, to request support "in obtaining the tract of land known as the Floweree Ranch" as a reservation "for the Montana Landless Indians" (Venne 10/22/1941; Wheeler 10/30/1941). The Montana Landless Indians held a convention of local delegates on November 28-29, 1941, in Helena (Venne 11/14/1941). At this meeting, attendees elected a delegation of three people to travel to Washington. They also voted in favor of a proposal to have the 55,000-acre Floweree ranch purchased as a reservation for them. Gray stated that the plan was to move Indians from Helena and the Front Range to the new reservation (*Cascade Courier* 1941; *Great Falls Leader* 12/1/1941; *Choteau Acantha* 12/4/1941; *Big Timber Pioneer* 12/8/1941).

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When Thomas Ouellette saw a newspaper account of the Montana Landless Indian meeting in Helena, he wrote to Dussome to suggest that a protest be made to the Governor and state Department of Public Welfare (Ouellette 11/30/1941). Dussome's response to the newspaper report that the landless Indians had asked for the purchase of the Floweree ranch was that it was inconsistent with the expressed wishes of the "the old original band of Landless Indians of Montana. . . ." Since none of the original band's representatives were present at the convention, he said, it was a misrepresentation for the delegates there to claim to act on behalf of all the landless Indians of the state (Dussome 12/1/1941). Dussome also received a letter from Great Falls which told him that he had "a few loyal supporters left" there, and asked him to come there for a meeting (Kolika 1941). At the meeting in Great Falls on December 6, Dussome and Ouellette explained their land purchase and resettlement program, contrasting it to a proposal for an Indian reservation. Ouellette cast the issue as whether to "live over here on a reservation, or take your place as a white man." He said that he favored the latter. The minutes explained that the purpose of the meeting was to explain to the people that recently "a communist group who are not the original landless Indians of Montana" was "misleading and misrepresenting the real or original landless Indians." After some heated exchanges, Raymond Gray and several of his supporters, who were in the audience, walked out of the meeting (Pembina Band 12/6/1941).

Both the Landless Indians of Montana and the Montana Landless Indians stopped advocating their separate land purchase proposals during World War II. Nor is there evidence of wartime meetings of these organizations. Dussome, however, wrote a 1943 letter to "friends and members" in which he stated that the main objective of the organization remained to try to get land, or to derive benefits from "our Native Land," equivalent of that extended to other tribes. He continued to complain of the "subversive political activities" of the "substitute Band." Admitting that the "substitute Band" had lured away members, he added hopefully that "we hear no more of their activities. . . ." (Dussome 2/5/1943). A lack of organizational activities and meetings during the war years has been characteristic of groups which have petitioned for Federal acknowledgment. After the war, Dussome wrote the Commissioner of Indian Affairs in April 1947 to ask whether anything was being done to obtain a rehabilitation plan for the landless Indians of Montana (Dussome 4/4/1947). The Montana Landless Indians had tabled their grievances during the war, Thomas Sangray of Augusta told Senator Murray in April 1948, but now sought an appropriation on behalf of the state's landless Indians (Sangray 1948).

When Joseph Dussome wrote to the Commissioner of Indian Affairs in April 1947, he asked whether or not his group of landless Indians was entitled to select its own attorney under the Indian Claims Commission Act which had been passed the previous year (Dussome 4/4/1947). In 1948, Dussome asked the superintendent of the Turtle Mountain Agency whether attorneys already had been selected to represent the Little Shell band in submitting its claims against the United States, and, if so, whether their contract provided that they would represent unenrolled members in Montana. According to records of the Office of Indian Affairs, Dussome argued, "we are the original band of the late Chief

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Thomas Little Shell who refused to accede to the terms” of the agreement of 1892. In making this point, Dussome referred to a 1931 letter by the Office of Indian Affairs which had suggested that the “Abandoned Band of Chippewa” of Montana had been under the leadership of Chief Little Shell prior to 1892. In 1931 Dussome had denied any linkage of his band to Little Shell or the Turtle Mountain band and had repudiated that Indian Office letter, but in 1948 he claimed that linkage and utilized that letter (Dussome 3/3/1948; see also, LIM 6/3/1950; compare to, BIA 12/14/1931 and Dussome 12/21/1931).

Dussome revived his 1941 rehabilitation plans and informed Representative Wesley A. D'Ewart in 1947 that the Landless Indians of Montana favored an “American Plan” and opposed “any COMMUNISTIC Plans” (Dussome 7/28/1947, emphasis in the original). Although the Phillips ranch apparently was sold in 1944, Mrs. Phillips continued to advocate for the purchase of land (*Phillips County News* 1/13/1944; Phillips 1945). With the aid of Mrs. Phillips, now a Montana State Senator, the group obtained the interest and support of the Governor and the Montana Congressional delegation (*Great Falls Tribune* 1/20/1949; BIA 2/21/1949). The focus of Phillips' efforts was on “rehabilitation,” rather than tribal recognition. She sought combined state, local and Federal aid for the landless Indians. After conferring with the Indians, Phillips won passage by the Montana legislature in February 1949 of a joint memorial which called for Congress to resume the pre-war efforts of rehabilitation of the “landless Indians in Montana” (Montana 1949). Referring to the joint memorial, Dussome wrote Congressman D'Ewart in March 1949, on behalf of the organization “the Landless Indians of Montana,” and described “the disgraceful living conditions of the landless Indians” and stated that they were compelled to live in slums (Dussome 3/1/1949).

### **Political Influence and Actions, 1949 - 1963**

The first post-war minutes of Dussome's organization were those of a June 1949 meeting in Chinook. In the pre-war years the organization had used the title of the “Pembina Band of Chippewa Indians who were under the leadership of Chief Thomas Little Shell,” but the 1949 minutes now referred to the organization as the “Little Shell Band of Chippewa Indians, known as the Landless Indians of Montana” (LIM 6/1/1949). An election of officers, perhaps the first since 1941, was held at this meeting. Joseph Dussome was elected president, Albert Gardipee vice-president, Michall Morin secretary, and George St. Claire treasurer. Dussome and St. Claire had previously served as officers, but Gardipee and Morin were new to leadership positions. This meeting was attended by 23 members and Mrs. Phillips. The meeting reviewed key events of the previous two decades. Dussome stated that, “We organized in 1927,” and went by the name of “the Abandoned Band of Chippewa Indians.” The group read and discussed meeting notes from 1936 and 1940, recent newspaper clippings, correspondence with state and federal officials, a Rocky Boy's resolution, and the memorial introduced by Mrs. Phillips (LIM 6/1/1949).

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In 1949 and the early 1950's, the division and rivalry between Dussome's Landless Indians of Montana (LIM) and the Montana Landless Indians (MLI) reappeared. At the 1949 meeting in which Dussome was elected president of the LIM, he reviewed his group's opposition to the MLI since the 1930's when, he said, they had rejected that organization as "nothing but communistic." After reading a letter from the Department of the Interior, however, Dussome acknowledged that, "Mr. Raymond Gray is more known than we are" (LIM 6/1/1949). As with the organizations under Raymond Gray's leadership during the 1930's and early 1940's, the MLI after 1949 appears to have been centered in Helena and also, to an extent, in Great Falls. This conclusion is based primarily on information about where its officers were from and its meetings were held. The discussion at the LIM meeting in June 1949 referred to the MLI in part as "the Anaconda and the Gray group" (LIM 6/1/1949). The MLI also may have drawn support beyond this geographical base, for some oral history suggests that discontent with Dussome may have been becoming widespread.

In 1949, Regional Director Paul Fickinger of the Bureau of Indian Affairs summarized what his agency understood to be the history and status of Montana's landless Indians. He was replying to a specific request from the Attorney General of Montana who had written to the Commissioner of Indian Affairs at the "request of the leaders" of a "group of Indians . . . known as the 'Landless Indians of Montana'" or as the "Little Shell Band" (Montana Attorney General 1949). Fickinger concluded that "the Federal Government has not accepted any responsibility" for the landless Indians of Montana, and that the Indian Service could not assume responsibility for them until Congress directed it to do so and made "appropriate appropriations to provide for them." Because the landless Indians were not officially organized, Fickinger said, he could not name their "legal representative." He identified two groups of landless Indians. It was his understanding, Fickinger said, that the group which called itself the "Little Shell band" looked "to a man by the name of James [sic] Dussome of Malta, Montana, as their leader." The group which called itself the "Montana Landless Indians," he said, "seem to recognize as their leader a man by the name of Raymond Gray . . . of Helena." Fickinger's judgment was that Dussome's group was "the predominant group, although by no means all-inclusive of the landless Indians of Montana" (BIA 6/21/1949).

Fickinger told the attorney general that the landless Indians of Montana were "largely of Chippewa-Cree origin." Although a "great deal of detailed investigation and research would be necessary to determine their exact origin," he concluded, it was "generally known and accepted that many of these Indians came from Canada and others had left the Turtle Mountain band of Chippewas after the Reil [sic] rebellion in 1885." Fickinger made no mention of the 1892 agreement. His interpretation was that individuals "who participated with Reil [sic]" in 1885 were "not included in the distribution of the lands" of the reservation. These "so-called 'renegade' Indians," he said, including the bands "of Little Shell and Rocky Boy," then "wandered over North Dakota and adjoining states." "Throughout the nineteenth century," Fickinger concluded, "Montana acquired small groups of wandering Indians, lost tribes, and individual Indians who were not enrolled in tribal groups recognized by the United States." He could only repeat the 1941 estimate

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that there were from 2,500 to 3,000 landless Indians in Montana in the mid-20th century (BIA 6/21/1949).

In the years after 1949, the Landless Indians of Montana organization was engaged in efforts to obtain Federal assistance for the economic rehabilitation of its members and to win a claim against the Government under the Indian Claims Commission Act for compensation for lost territory. In 1950, the Landless Indians of Montana passed a resolution calling for a law to give each landless Indian a productive and profitable unit of land (LIM ca. 1950). At the same time, the organization approved a resolution asserting a \$25 million claim against the Government for aboriginal lands taken by the United States (LIM ca. 1950). The petitioner's organization appears to have used the terms "Landless Indians of Montana" and "Little Shell Band" somewhat interchangeably in these years. In matters pertaining to claims, however, the name Little Shell Band generally was used.

The organization's interest in economic assistance and rehabilitation was apparent at the start of 1950. After having been informed by George Plummer, area representative from Harlem, that fifteen of the "Landless Indian" families in Harlem were in need of assistance to pull them through the winter, Dussome wrote to the Billings area director on their behalf in January 1950, but was informed that the agency had no responsibility or authority to help and was advised to refer the problem to the county welfare worker (BIA 1/23/1950). At some time during early 1950, Dussome visited Washington, D.C., to meet with an attorney concerning a proposed claim under the Indian Claims Commission Act (Murray 1950). In local meetings during May and June 1950, the Landless Indians of Montana approved the choice of Willis M. McKeon as their claims attorney (LIM 5/26/1950, 6/3/1950). McKeon attended the special meeting of district representatives in May at which his selection was approved, and his report on the earlier meeting in Washington noted that it had concerned a rehabilitation bill as well as claims (LIM 5/26/1950).

A newspaper from Havre already had reported, in March 1950, that an "organization of landless Indians of Montana" would file a claim for \$25 million plus interest with the Indian Claims Commission. According to the organization's spokesmen, the newspaper said, an "unauthorized agreement made in 1892" had deprived them of the area bounded by the Rocky Mountains and the North Dakota line on the west and east, and the Missouri River and the Canadian line on the south and north. They asserted, according to this newspaper, that Chief Little Shell had refused to cede this area of 10 million acres in Montana (Anonymous 1950). A resolution adopted by the Landless Indians of Montana, presumably about this time, asserted that they had a claim against the Government because Chief Little Shell had refused to cede 10 million acres of land, because they had filed for allotments of public domain land and had their allotments canceled, and because they had acquired title to the lands of northern Montana. They valued their claim at \$2.50 per acre for 10 million acres (LIM ca. 1950). It is not clear from the resolution whether it was asserting a single claim for 10 million acres in Montana lost by the 1892 agreement, or a claim for both 10 million acres in North Dakota ceded by the 1892 agreement and extensive lands in northern Montana held by aboriginal Indian title prior to 1892.

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In June 1950, Representative Mansfield of Montana introduced a "rehabilitation" bill that he said "would put the Indians on a social and economic basis comparable to that enjoyed by other citizens of the area in which they live" (*Great Falls Tribune* 6/15/1950). The bill was not a recognition bill, but called for compiling a roll of Indians of one-half blood or more who would benefit through the formation of cooperative associations and be able to draw on Indian Service funding. The Acting Commissioner of Indian Affairs opposed the legislation, partly on the grounds that the Indians were in large part probably of Canadian origin (BIA 6/15/1950). A December 16, 1950, meeting at Great Falls of LIM district representatives focused on the efforts to get a rehabilitation bill passed in Congress. The meeting also included a discussion of the status of the 40-acre Sun River tract near Great Falls, which had been purchased by the Government in 1935 for "landless Indians," but which Congress had authorized for sale by the Act of August 18, 1950 (LIM 12/16/1950; Statutes 1950). An article in the Great Falls newspaper, apparently referring to the same meeting despite referring to the group as the "Montana Landless Indians club," reported that this meeting at the Smeltermen's union hall had voted to draw up petitions to support the rehabilitation legislation (*Great Falls Tribune* 12/18/1950). The paper reported that, "Delegations from Browning, Chinook, Zortman and Great Falls attended the session."

At the urging of Albert Gardipee, the LIM meeting in December 1950 also moved to try to bring a case to court to challenge the rejection of allotments earlier in the century (LIM 12/16/1950). The group voted to send for records from Washington, D.C., and to choose an allotment case to litigate (*Great Falls Tribune* 12/18/1950). District representatives who attended were instructed to get in touch with the district representatives not present at the meeting and have them send members to the state convention to be present during further consideration of this issue. It was decided to set up a fund in each district, with a portion sent to the "general office." This funding mechanism would not go into effect until the statewide convention could vote on it (LIM 12/16/1950). This funding scheme was evidently implemented, at least temporarily (Franklin and Bunte 1994, 136, quoting Belgarde 1979).

Much of the conflict between the LIM and the MLI at the beginning of the 1950's centered around the perceived need to formally organize in order to "have a legal organization" which would represent members of both groups in the planned suit before the Indian Claims Commission. The two groups made an apparent attempt at unification for the purpose of obtaining a charter as a non-profit organization under state law. At a later date, Edward Belgarde, the most prominent leader of the MLI at this time, recalled that they had thought that "in order to be recognized" to bring the claim they needed a charter (Little Shell Band 3/25/1955a). A meeting of the Landless Indians of Montana in February 1951 appeared to bring the two sides together. At this meeting, Belgarde acknowledged the underlying conflicts by stating that, "If the group would go on the record as being the official organization, they would not have to be concerned about the organization pulling apart and forming other groups of the same nature" (LIM 2/3/1951).

The officers elected at the February 1951 meeting of the Landless Indians of Montana were to hold office only until an organization with a charter was approved. That meeting

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apparently included both Dussome and the rural people associated with him, such as George Bremner and Tom Sangray, and the Helena and Great Falls people associated with the MLI. At this meeting, Dussome was elected president, while the rest of the officers were divided between the two sides (LIM 2/3/1951). Albert Gardipee of Great Falls was elected as vice-president, and Lucy Sharp was elected as secretary and treasurer. Gardipee and Sharp had been or were officers in the LIM and supporters of Dussome. Elected as vice-presidents from the other side were Jack Sangray of Helena and Jerry Thumm of Great Falls.

This meeting also voted to look for funds to file a test case on the denial of Turtle Mountain allotments earlier in the century, to continue to work to get a bill in Congress for rehabilitation of the landless Indians, and to see if the landless Indians still could be settled on the Sun River tract near Great Falls. Strong emphasis was placed on finding means for economic rehabilitation. Mrs. Phillips and the Governor of Montana both addressed the convention and gave strong support to the needs of the landless Indians and to Montana Indians in general. Two days before the meeting, the state legislature had passed a resolution, which had been introduced by Mrs. Phillips, which was similar to the resolution approved in 1949 (Montana 1951).

The contemplated followup meeting was held in April 1951 (*Great Falls Tribune* 4/23/1951). It elected officers who were somewhat different from the "temporary" ones elected at the February meeting. Dussome was elected president and Jerry Thumm and Jack Sangray, both of Great Falls, were elected first and second vice-president. However, instead of electing Dussome's allies Sharp and Gardipee, Helen (Mrs. Jerry) Thumm was elected secretary and Mrs. Orville Good was elected treasurer. Both were from Great Falls and were allied with the MLI. The contemplated charter was adopted, under the title of "Montana Landless Indians." Although the meeting was apparently held under the "Montana Landless Indians" name, the *Great Falls Tribune* report on the meeting stated that the organization had "approximately 6000 members" and was divided into 17 districts (*Great Falls Tribune* 4/23/1951). This suggests that the meeting was at least ostensibly a meeting of the LIM.

In May 1951, a non-profit organization was established under Montana law, its charter signed by Joseph Dussome and Helen Thumm, with Jack Sangray, Jerry Thumm, and Mrs. Orville Good listed as directors (MLI 5/21/1951). The charter stated that the purpose of establishing the organization was that "the group might be represented as claimant before the Indian affairs bureau in Washington." Other stated purposes of the corporation were to "organize the Indians and relations of Indians of the Chippewa-Cree tribe, formerly of the Pembina Band of the Red River Tribe, the Chief Little Shell Band, the Wilkie Band, the Gabriel Azure Band, the Turtle Mountain Band and all other Indians residing in the State of Montana who have no prior claims or payments from the government of the United States." The charter went on to state that it would "provide an organization for all INDIANS not living on an Indian reservation or who are not wards of the United States" in Montana and who "have not had any grant of land or otherwise as Indians made to them by the United States. . . ." (MLI 5/21/1951, emphasis in the

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original). The charter's description of its membership appeared to identify the group as derived from the Pembina Band and Red River people, with diverse if related origins. The statement, however, added a clause to include all other landless, non-ward Montana Indians within the organization.

The group's petition to the Indian Claims Commission, as the Little Shell Band, dated June 6, 1951, was signed by Dussome and Helen Thumm (LIM 3/20/1954). Prior to this submission, differences of opinion between the two sides had broken out over the choice of an attorney to represent them before the Commission. In March 1951, Helen Thumm had written a letter in the name of the MLI seeking an attorney via her contacts in the Mine, Mill and Smelterman's union, which had many Indian members in Helena, as well as members in Great Falls, Butte, and Anaconda. In April, Thumm arranged for a Washington attorney, David Rein, to handle the case. Anticipating conflict, she advised Rein that he would get a letter from Dussome stating that he would file a claim for the Cree nation (Thumm 1951).<sup>73</sup> Rein, concerned about getting involved in an internal conflict, sought further information. Dussome reacted angrily to Thumm's action. He had looked into obtaining an attorney for pursuit of claims as early as 1947, and in 1950 the LIM already had approved Willis McKeon as its claims attorney (Dussome 4/4/1947; BIA 5/28/1947; LIM 5/26/1950, 6/3/1950). However, Rein became the attorney of record for the submission of the petition (LIM 9/25/1955).

Dussome later asserted that, subsequent to the petition in June 1951, Mrs. Thumm had left the LIM. He argued that she and the MLI therefore had no right to take actions in connection with the Little Shell case, Docket 191, before the Indian Claims Commission (LIM 3/20/1954). Dussome also rejected both the way the charter had been set up and the election results at the meeting in April 1951. He drew up an undated document entitled "Minutes Taken from a Fraud Election. . . ." in which he complained that, without notice, the name under the charter had been switched from Landless Indians of Montana to Montana Landless Indians (LSTCIM n.d.). It would appear that Dussome initially had been willing to, or felt that he needed to, work with the Helena-Great Falls based group, only to withdraw or split off from it within a few months in a contest over who would represent the landless Indians before the Indian Claims Commission.

Dussome may have been trying to overcome opposition to him which may have been based upon substantial differences of opinion within the "landless" Indians. One individual interviewed, a Doney from the Highline, stated very clearly that at this time the families on the Highline had been badly split between Dussome and the MLI, with feelings running high (M. Doney 1998). It appears the MLI may have tapped into a vein of discontent with Dussome which extended elsewhere in the state. Ed Belgarde, the main leader of the MLI in the early 1950's, expressed frustration during a 1979 interview, however, at his inability to maintain an initially high level of support for the

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<sup>73</sup> Dussome in 1954 denied that he was making such a claim (LIM 3/20/1954). Thumm sought by her comments to make Dussome's position illegitimate, since the Crees were considered Canadian and thus not eligible to file a claim before the Indian Claims Commission.

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organization's activities, which suggests that it represented a somewhat short-lived manifestation of discontent with Dussome's leadership (Belgarde 1979; see also Providencia 1979). There is not solid evidence concerning how many people followed the Montana Landless Indians in the 1950's. It did not establish a statewide structure equivalent to Dussome's organization. The named leaders were, with one exception (Thomas Sangray), all from Helena and Great Falls. The opposition to Dussome did not entirely follow geographical lines, although a tendency for his opponents to come from the Montana cities and the Front Range was evident.

Expressions of dissatisfaction with Joe Dussome or opposition to him are not uncommon in modern interviews with individuals who were active participants in the LIM. Strong opinions are evident which call into question his motives and honesty, as well as his effectiveness. At least part of the complaints appear to stem from the fact that Dussome was never able to accomplish the objective of getting land for the group (see Short 1998).<sup>74</sup> It could not be determined whether the individuals providing these oral histories had supported the MLI or simply represented a diversity of opinion within the LIM. Former chairman George Plummer, for example, stated that Dussome had "brainwashed everybody. Everybody thought he was it" (Plummer 1991). Plummer felt that Dussome had mistakenly pushed for money rather than land, with the result that the landless Indians gained no permanent rights as Indians. Richard Doney, a highly respected older Little Shell Band member, considered that Dussome had made mistakes such as not accepting land for the group at Ft. Belknap in the 1930's (R. Doney 1993).<sup>75</sup> MLI leader Ed Belgarde indicated in a later interview that he had strong doubts about Dussome's abilities (Belgarde 1979).

Albert Gardipee and George St. Clair of the LIM appeared at times to be working against Dussome. Gardipee's daughter later stated that her father and Dussome had been very close, but that about 1958 they broke up in a bitter fight in which Gardipee accused Dussome of keeping money for himself and preventing the claims settlement (Fernandez 1979). Gardipee, who lived in Great Falls, was also close to the Thumms, but eventually split with them as well. St. Clair, who was very active in the LIM as district representative or officer from the late 1940's until becoming president in 1963 after Dussome's death, gave some evidence of sometimes supporting the other side, or at least not fully supporting Dussome (*Great Falls Tribune* 3/27/1955). In March 1955, he appears to have been part of a committee, together with Thumm and Belgarde, to "take action" if the Indian Claims Commission rejected the lawyer again (LIM, Mar. 1955).

At the same time that they expressed discontent with Dussome, however, interviewees acknowledged his leadership. George Plummer attested to Dussome's influence, stating

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<sup>74</sup> Sister Providencia, who was allied with the Thumms, suggested that Dussome had other motives than benefitting the group for pushing the purchase of the Phillips ranch (Providencia 1979).

<sup>75</sup> While Doney was incorrect, since the Fort Belknap land was actually voted down in a meeting of landless Indians (see above), his disagreement with Dussome and Dussome's efforts was clear.

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that "he [Dussome] had everybody believing and he did organize them" (Plummer 1991). Belgarde noted that a lot of people followed Dussome (Belgarde 1979).

In a 1952 letter to Jerry Thumm, Dussome expressed his reaction to the April 1951 election, which had been dominated by members from Helena and Great Falls (Dussome 2/21/1952). In it, Dussome asserted that the 1951 election was undemocratic because the Great Falls district had a disproportionate weight in the vote. He complained, by inference, against Ed Belgarde, who he claimed had never been interested in "our organization" or the problems of the landless Indians. Stating that it was the wish of "the majority of our District Representatives," he set a statewide convention to be held in Hays to conduct a new election. Hays was the likely center of his supporters and a difficult journey from Great Falls in February. The letter was dated February 21, just a few days from the planned meeting dates of February 25 and 26, 1952. No minutes are available from this convention, which evidently elected candidates more to Dussome's liking.

Dussome eventually prevailed with the Bureau of Indian Affairs (BIA) in having his group accepted as the representative of the landless Indians and its choice of attorney approved. In 1953, Dussome provided a notarized affidavit and other information to the Billings Area Office in response to its inquiries concerning the contesting claims to have the right to choose the attorney (BIA 4/16/1953, in Dussome ca. 1953). Dussome's affidavit referenced a February 1953 resolution of the Landless Indians of Montana / Little Shell Band (LIM/LSB) to terminate Rein's contract. The resolution had been sent to the BIA (LIM 9/25/1955). The area office appeared at that point to have accepted Dussome as the legitimate spokesman for the LIM/LSB.<sup>76</sup>

The conflict between the two organizations continued to be a focus of the LIM, judging by the minutes and correspondence of the organization. The MLI's activities are less well known. In 1953, the MLI evidently invited Dussome and his officers to its annual convention at which officials were to be elected (Dussome 4/13/1953, in Dussome ca. 1953). Dussome angrily rejected this offer, alleging that the MLI had the previous year falsely listed certain of the LIM members as having attended their meeting. He also alleged that the previous year the MLI had claimed to have elected Tom Sangray as president in place of himself. In response to this claim, Dussome asserted that the LIM was a separate organization and had not been replaced by the MLI. In 1953, Tom Sangray of Augusta was president of the MLI, Ed Belgarde of Helena was vice-president, and Helen Thumm of Great Falls was secretary (Dussome ca. 1953).

Dussome also asserted that the MLI was a very small group in 1953. In a letter to the director of the Billings Area Office in 1953, Dussome asserted that Belgarde was the only MLI member in Helena. Although Dussome stated that he and his district representatives had rejected the invitation to attend the 1953 MLI convention, he also said that he had

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<sup>76</sup> A contract with Lawrence C. Mills, for prosecution of Docket 191, was not approved until November 1956 (Garrett 1966). The Acting Commissioner, Barton Greenwood, noted that the contract was in lieu of one with David Rein, which the Bureau had earlier rejected (BIA 11/15/1956).

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had his district representative from Great Falls attend. He reported that only nine members had been present at that MLI convention (Dussome 6/29/1953).

The minutes of the 1954 statewide convention of the LIM indicate it was largely taken up with discussion of the conflict with the MLI and Dussome's efforts to get the BIA to accept the LIM as the representative for the claims case (LIM 3/20/1954). Members also discussed a process of issuing new membership cards. Dussome was re-elected president. The convention voted to endorse the efforts of Mrs. Phillips on their behalf. She in turn urged the meeting attendees to sign up for the "Teepee Club," an organization she apparently sponsored and which she stated had been started "some years ago." Nothing else is known about this organization.

In 1955, Sister Providencia arranged for a meeting in Great Falls for the purpose of unifying the two groups. She produced a mailing to "Dear Chippewa friends," dated March 15, which invited people to a meeting in Great Falls. The letter included a ballot to vote on whether or not to change claims attorneys (Providencia 3/15/1955). The letter included a reference to the need to limit the organization to those "with Turtle Mountain family connections," possibly reflecting the idea that some of the landless Indians were Crees rather than Chippewa and as such would not be eligible to share in the claim.

The Great Falls meeting was preceded by one in Havre, February 26 and 27, 1955, chaired by Dussome. Dussome's group had been urged by a Havre attorney working with them, Chan Ettien, to get together with the opposition and agree to a set of attorneys in order to facilitate prosecution of the claim (Little Shell Band ca. 1955). A ballot was prepared, to be sent to the district representatives, who were to collect them and mail them to Sister Providencia. The ballot called for either keeping or replacing the LIM's current Washington attorneys. No information was found to indicate whether the ballots were distributed and, if so, what the results were.

Providencia made a second "Dear Chippewa Friends" mailing on March 22, 1955 (Providencia 3/22/1955). Its purpose was to provide a copy of a reply by Dussome to her first mailing. She stated that the reason for the mailing was that "it is important to me that you should know the views of Mr. Dussome about" the upcoming meeting. In his letter, Dussome expressed his gratitude for her work for the Little Shell Band. Dussome then characterized the planned meeting as a convention of the MLI and rejected the invitation. He followed this by his standard attack on the MLI and the Thumms, asserting that the MLI and LIM were two different organizations. He finished with an invitation to the MLI members to join the LIM as the way to settle the controversy between the two groups.

The Great Falls meeting, held March 25 and 26th, 1955, was attended on the first day by 35 people, including Dussome and his sometime allies Albert Gardipee and George St. Clair (Little Shell Band 3/25/1955b). An additional 23 arrived for the second day of the meeting, including Elizabeth Swan, one of Dussome's main lieutenants. People from as far away as Wolf Point, Lewistown, and Browning attended, although the largest number

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were from Great Falls.

The meeting was a failure, judging by a set of minutes prepared by Dussome (MLI 3/25/1955). These minutes characterized the meeting as a joint meeting of the MLI and the "Landless Indians of Montana, the Little Shell Band," to "prove to members of Little Shell Band" who the rightful representatives of the Little Shell band were and also to settle the dispute over the choice of attorney. Dussome walked out of the first session but returned the following morning and spoke. The minutes prepared by Dussome indicate that he recited his standard position that the MLI had never worked for the Little Shell people, that the 1951 charter belonged to his group, and that the MLI was a "communistic organization." The meeting appears to have ended without settling the conflict, rehashing but not resolving the arguments over which group the non-profit charter belonged to and whose choice of attorney should prevail.

Elizabeth Swan had written to Sister Providencia a few days before the meeting in response to Providencia's first mailing (Swan 1955). Swan's letter thanked Sister Providencia for her assistance to "our allied members at Great Falls," a reference to Sister Providencia's work on "Hill 57," but asked her forgiveness for the LIM group's refusal to attend the upcoming meeting.<sup>78</sup> Swan then recited the history of the MLI under Gray in the 1930's, charging that Gray had been virulently against the Catholic church (to which most of the Métis then belonged) and that the MLI had only tried to disrupt Dussome's efforts.

After 1955, the MLI appears to have become less active, or at least less well documented. However, the group held a two-day statewide convention in April 1959 in Great Falls (Great Falls *Tribune* 4/26/1959). The officers then remained the same as earlier in the decade, Tom Sangray of Augusta as president, Ed Belgarde as vice-president, and Helen Thumm as secretary. The meeting had an active agenda, with resolutions on proposed rehabilitation and recognition legislation by Congress, and support of an appointment to the state intertribal Indian board. It was addressed by a state representative and an ex-governor. Belgarde in this same period was active as the representative of the Landless Indians on the Montana Inter-Tribal Policy Board, which was sponsored by the State government. He was evidentially influential in this role in getting the Governor's support for a rehabilitation program, through the Governor's new advisory council on Indian Affairs (Great Falls *Tribune* 10/17/1951).<sup>79</sup>

A March 3, 1955, joint resolution of the Montana House and Senate to the state's congressional delegation called for Congress to "resume and initiate an adequate program of recognition, education and rehabilitation" for the "descendants of Chief Little Shell's Band of Chippewa Indians" (Montana 1955). It stated that this group had become known

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<sup>78</sup> This indicates that the LIM evidently had originally planned to boycott the meeting.

<sup>79</sup> There is no indication that Dussome objected to Belgarde's activities with the Board, which extended over a period of years.

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as the "Montana Landless Indians, Inc." and that many lived on the outskirts of Montana cities in "many cases under deplorable conditions."

Another rehabilitation bill was introduced in Congress in 1955 by Representative Metcalf. It would not have provided recognition (House 7/18/1955). Funding was to be provided from the appropriations for "education and welfare services in the Department of the Interior and related agencies." The House report on the bill noted that its purpose was emergency aid to the Indians of "Hill 57" in Great Falls because of the exhaustion of local resources (House 7/29/1955). The Interior Department opposed the bill, arguing it would set a bad precedent to provide welfare to non-reservation Indians, was counter to termination policies, and would take away from funding for reservation Indians (Interior 7/29/1955). Later in the same year, the Cascade County Community Council wrote to Congressman Metcalf describing the needs of the Indians in Great Falls, which included recent migrants from the Fort Peck, Rocky Boy's, and Turtle Mountain reservations. It also noted the poor conditions in the Indian neighborhoods in Havre and Helena (Cascade County Community Council 1955).

The "Landless Indians of Montana, known as the Little Shell Band of Chippewa" held a special meeting in Havre in February 1956. At that meeting, an attorney contract was signed with attorney Lawrence Mills (*Great Falls Tribune* 2/23/1956). Members in attendance signed either the contract or some form of supporting resolution (Little Shell Band ca. 1956). The newspaper account of the meeting reported that Mrs. Phillips discussed a rehabilitation program for the Indians and that it "caused considerable interest" (*Great Falls Tribune* 2/23/1956).

The 1957 annual convention of the LIM was held May 11-12 at Havre. The elections were held over until the second day so that more people could arrive. Joe Dussome was reelected president, with Elizabeth Swan reelected as secretary. In a three-way race, the sitting vice-president, George St. Clair, was defeated by Albert Gardipee, of Great Falls, who was not infrequently at odds with Dussome. St. Clair and Swan were two of Dussome's most active supporters in the 1950's and early 1960's. The meeting minutes noted that each district was to elect its own representative at a meeting within the district. Gardipee's suggestion to reorganize the districts, particularly the Browning District, was rejected. Mrs. Phillip's position was again ratified. The progress of the claim in Docket 191 and the need for a rehabilitation program were discussed. A committee was appointed to look into the status of the land purchase contemplated in the 1930's by the Indian Service near Fort Belknap for the landless Indians.

An article about Dussome and his group's efforts for recognition was published in 1958 in the state historical journal of Montana. Written by Verne Dusenberry, a Montana college professor of English and anthropology, "Waiting for a Day that Never Comes" told a story of Dussome, his memories, and the materials he had assembled on the history of the 4,000 displaced individuals living in Montana who were the "descendants of the Red River Hunters" who had lived in both Canada and the United States. "Perhaps the word Metis is the best for them," Dusenberry wrote, for they were "neither Chippewa nor

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Cree nor French, but a mixture of all three" (Dusenberry 1958, 26-27).<sup>79</sup> These people now lived, he said, in Great Falls, Choteau, Augusta, Dupuyer, Havre, Chinook, Malta, and Glasgow. After leading organizations for the last thirty years, "Joe Dussome still believes," Dusenberry concluded, "that the federal government will eventually provide a rehabilitation program for his people; that the Indian claim to the hunting rights of the Turtle Mountain area will some day be recognized . . . ; and [that] some of the inequities of the past will be rectified" (Dusenberry 1958, 38-39). Dusenberry's article was reprinted in 1965 as "The Métis of Montana" in an anthology of articles about the Indians of the American West, and was reprinted in 1985 as "Waiting for a day that never comes: the dispossessed métis of Montana" in an anthology of articles about the Métis of North America (Kennedy 1965; Peterson and Brown 1985).

In 1960, Dussome and the LIM conducted a process of enrollment which was an updating of the Roe Cloud Roll, apparently in anticipation of a claims payment. Dussome, who evidently had retained a copy of the Roe Cloud Roll and possibly the applications, sent letters to district representatives enclosing the names of people from each district that had applied for the Roe Cloud Roll (Anonymous 1960). The district representatives were to distribute to the members cards Dussome had sent, then gather them and send them to Dussome (Sinclair 1960). The new enrollment was to include those born after the "original roll," apparently referring to the Roe Cloud Roll (Anonymous 1960).

Dussome's instructions stated, in apparent reference to the Roe Cloud applications, that "We have already proved we are Indians, but now we must prove that we are not [*sic*] descendants of the original Pembina band whose ancestors were from the Red River valley in North Dakota" (Anonymous 1960). Dussome asserted that "many if not all of the present generation of descendants of the Pembina band" could prove that they were so descended, by tracing from the 1863 treaty.<sup>80</sup> He advised that those who had blood relations enrolled in the Turtle Mountain Band of North Dakota should use this as evidence. He made no reference to Chief Little Shell.

The 1961 statewide convention was held September 2-3 at Lewistown (LIM 9/2/1961). Among the items discussed was a resolution the group had sent to Senator Metcalf in 1960 attempting to have the Roe Cloud Roll recognized as the official roll of the Little Shell Band for purposes of presentation to the Indian Claims Commission. The request had been made to the Indian Service in response to advice from the group's claims attorney to prepare a tribal roll. At the convention, a somewhat angry discussion followed a reading of the Commissioner of Indian Affairs' response to this request. The Commissioner stated correctly that the request was premature and that the roll to be used would not be determined until after the Indian Claims Commission had made its award.

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<sup>79</sup> Dusenberry made statements about the group's history, but, since he had not done any archival research, many of his specific comments about the history of the Turtle Mountain reservation, the agreement of 1892, and the ratification of that agreement were inaccurate.

<sup>80</sup> The "not" in the previous sentence appears, in context, to be in error.

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The response was seen by those at the meeting as a denial of a tribe's right to conduct its own enrollment. It was noted that the minutes needed to reflect the information received from the Commissioner, so that the members in the districts who could not attend would have a better understanding of Commissioner's position. The Indian Claims Commission made a preliminary award in Dockets 18-A, 113, and 191, for the 1863 treaty award on October 5, 1961. The amount of the award was amended by the Commission in 1964 (Ind.Cl.Comm 1964; LSTCIM 6/17/1982).

The convention nominated Dussome, Mrs. Phillips, Albert Gardipee, and Gabe Gardipee as delegates to testify at an Indian Claims Commission hearing scheduled for February 1962. Communication with a Mr. LaFountain of the Turtle Mountain Band concerning that group's claim before the Indian Claims Commission was discussed, as was the disposition of Docket 191 in relation to the other Pembina claims dockets. Earlier in the year, a delegation from Turtle Mountain had come over to Montana to meet with the Little Shell Band concerning coordination of claims (LIM 9/2/1961).

Another issue raised at some length at the 1961 convention was discrimination. Dussome declared that "we would not have so many complaints of discrimination . . . which our ancestors were subject to and which still goes on, if the State and Federal laws were put into practice." George St. Clair then noted that he had been fined for killing a deer, which he explained he had done because he was trying to avoid getting further into debt. He reported that at the hearing after his arrest he had cited to no avail an 1855 treaty and was convicted of violating state law. St. Clair also described difficulties obtaining surplus commodities through the Blaine County Welfare Board for members in his district. Members present were asked to fill out a description of discrimination for inclusion in the minutes and forwarding to the Secretary of the Interior. A resolution on the subject of discrimination was passed. However, rather than addressing individual instances of discrimination by non-Indians in work, or school, or the like, it repeated the LIM claims over the preceding two decades concerning the lack of a treaty, the denial of allotments, and the resulting lack of services comparable to other Indians (LIM 9/2/1961).

At a January 20, 1962, meeting in Chinook, 43 members signed a resolution concerning the "Ten-Cent Treaty," the group's name for the 1892 McCumber Agreement which was ratified in 1905 (LIM 1/20/1962). Appended to the minutes was a handwritten note by Dussome entitled "Notice," directed "to all members of the Little Shell Band of Chippewa Indians and District Representatives." The stated purpose was to discuss the upcoming February hearing in Washington, D.C., before the Indian Claims Commission, and to get ready for their testimony. The notice went on to say, "following the meeting there will be a box social. All ladies please bring your baskets." Most of the meeting, judging by the minutes, was a discussion of the claim and how the members could trace their ancestry. George St. Clair reported that a lot of "my people in the Chinook area do not have any faith in the fact that we will get our treaty money." Reorganization of the districts was discussed, the feeling being expressed that "people are not as organized as they were." A motion was passed to send Dussome to the districts to discuss it. Expenses for Dussome's trips, and for a typewriter, were to be paid by the districts.

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Available minutes and other records show meetings of the LIM as occurring consistently from 1949 through 1962 (Campisi and Starna 1987b). For most years there was a record of an annual "convention" and a record of the attendance of district representatives. Attendance lists of members generally were not available for this period of time.

### **Political Influence and Actions, 1963 - 1993**

Joe Dussome died in 1963 of tuberculosis. George St. Clair of Chinook, the first vice-president, became president. At a November 1963 meeting, which may have been the first after Joe Dussome's death, St. Clair was elected president for a one-year term. His election came after his having noted that some objections had been voiced to his succeeding to the position (LIM 10/30/1963). St. Clair remained president until April 1976.

The November 1963 meeting in part concerned the payment of funeral expenses for Dussome, to which the Chinook district evidently contributed substantially. The minutes of the meeting mostly concerned information given by claims attorney Mills, who was present, about the status of the claim before the Indian Claims Commission. Mills cautioned the group to "not let anyone try to disunite" them, a reference to the Montana Landless Indians. A total of 68 people attended the meeting, all from the Highline towns or Lewistown. The minutes noted that, "Everybody brought to attention the fact that we should give more notice for the meeting." A collection of \$114 for Mills' fare was made. There were forty contributors plus Mrs. Phillips and "the Chinook Treasury."

Records of LIM meetings are limited for the years 1964 to 1969. No surviving minutes were found for 1964 and 1965, but several meetings a year were recorded for 1966-1967, one meeting in 1968, and several in 1969. Records of elections were generally sketchy. Two interview sources suggested that in the 1960's, and the 1970's up to 1976, elections were sometimes not held, but that instead the existing officers were kept on (Van Gunten 1998; Sinclair 1979).

St. Clair noted at a January 1966 meeting that there was talk that he should be replaced, but the meeting voted to keep him (LIM 1/9/1966). His status was also challenged unsuccessfully in 1969 at a district meeting (LIM 1/16/1969). In neither case did the minutes record who opposed him. The 1968 "election" was simply a motion to retain the present officers (LIM 10/5/1968).

In 1964, Congress appropriated funds for the 1863 treaty award made by the Indian Claims Commission in 1961. The Bureau of Indian Affairs then began working on developing a plan for distribution of the award (Garrett 1966). This work continued until 1971, when the legislation establishing that plan was enacted. At LIM meetings in the mid-1960's the award based on the 1863 treaty was discussed, with interest expressed about how the money would be distributed and about the necessity of developing family trees in order for a distribution to be made. Chairman St. Clair exchanged

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correspondence with the claims attorneys in Chicago during this time (Garrett 1966). At a November 1969 district meeting, it was proposed from the floor that the claims money be used for purchasing land (LIM 1/11/1969).

St. Clair at a November 15, 1966, meeting declared that before each general meeting each district should meet and decide on the questions they wanted to discuss with the chairman and business committee. St. Clair also wanted each district to appoint a fund-raising committee to raise funds in their district for the claims work (LIM 10/15/1966).

The issue of the lack of Federal services was raised by members in at least one meeting in 1969 (LIM 1/11/1969). Chairman St. Clair made a request that year to the Indian Health Service for services for the group's members, but was rejected (Morris and Van Gunten 1984, 156; St. Clair 1969). In 1969, apparently at the behest of the group, the chairman of the Blaine County Board of Commissioners wrote to the Commissioner of Indian Affairs on behalf of the Landless Indians of Montana (Stephens 1969).

In the late 1960's, apparently as a result of the preparations for the payment of the 1863 treaty award, the Turtle Mountain Band and the BIA began an "update" of the Turtle Mountain roll (BIA 4/1/1965).<sup>81</sup> Thousands of individuals were added to the Turtle Mountain rolls. It was noted in the LIM minutes of January 1, 1966, that a letter was sent to Hays "asking if anyone wanted to enroll at Turtle Mountain Reservation" (LIM 1/1/1966). The letter stated, according to the minutes, that it did not mean the enrollee would receive any benefits. The minutes noted that some of the members did write and ask to be enrolled there.<sup>82</sup>

The Montana Landless Indians organization was active between 1963 and 1969, "bucking us every chance they get" according to Landless Indians of Montana president St. Clair (LIM 1/9/1966). The Montana Landless Indians treated the Indian Claims Commission claim as theirs (Morris and Van Gunten 1984, 145). At the 1963 meeting after Dussome's death, the Little Shell claims attorney Mills had emphasized the importance of not becoming "disunited" or associating with a group with unsavory political connections. This was a reprise of earlier Landless Indians of Montana charges against the Montana Landless Indians (LIM 11/30/1963). Chairman St. Clair in 1966 stated that he felt that some of the Landless Indians of Montana district representatives were passing claims attorney correspondence that he had forwarded to them to the Montana Landless Indians (LIM, July 1966).

MLI meetings in the this period were essentially limited to people from Helena, with a few from Great Falls (MLI 4/22/1966). There was no evidence in the limited available documents or interviews that it had a substantial following outside of Helena and Great

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<sup>81</sup> This updating was done under the authority of the act of May 24, 1940 (Statutes 1940).

<sup>82</sup> Information was not developed for this report concerning how many applied and how many were accepted.

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Falls in the 1960's (Fernandez 1979).

The Montana Landless Indians apparently sought to have the two organizations join together. In January 1969, the Landless Indians of Montana voted to send a representative to a Montana Landless Indians meeting in Helena and proposed a statewide meeting together with them in April 1970 (LIM 1/16/1969). There was no evidence found to show that this meeting ever occurred. In 1971, Ed Belgarde and Robert Gopher were invited to a Landless Indians of Montana meeting but failed to respond (Little Shell Band 3/13/1971). The Montana Landless Indians were mentioned again in 1972, when Gopher, now identified as one of the group's leaders, attended a Little Shell Band meeting (LIM 1/15/1972).<sup>83</sup> The minutes included an opinion that the attendance of Gopher and Belgarde was seen as a positive step. This was the last mention found in the available documentary record of the Montana Landless Indians.

Only a few Landless Indians of Montana / Little Shell Band minutes are available from 1970 to 1973, and none from 1974. There was no indication whether this reflected a lack of meetings or a lack of documentation. Minutes for two meetings exist for 1975, and from 1976 through 1979 there are records of at least four quarterly and other meetings a year (Campisi and Starna 1987b).

At a March 1970 meeting it was proposed that the landless Indians unite and form a single group, and that they spend the claims money as a group for education grants and services (LIM 3/7/1970). The group was also concerned with updating the enrollment to include people who had been missed.

In 1971, Congress passed an act establishing how the 1863 treaty award was to be paid out. The act provided for funds to be paid to the recognized Turtle Mountain Band, Rocky Boy's Band, and Minnesota Chippewa tribes, and for individual payments to other descendants of the Pembina Band (Statutes 1971). Later in 1971, Chairman St. Clair requested that the BIA provide the Little Shell Band with \$7,000 of the claims money awarded for the 1863 treaty to be used for "programming purposes," that is, for developing programs for the group such as education and strengthening government. The request was rejected because the band was not a recipient, as a group, under the 1971 act (Morris and Van Gunten 1984, 156; BIA 5/27/1969, ca. 1971). Little Shell members could only be paid as individual descendants.

Available evidence indicates that the Little Shell Band leadership in the early 1970's continued to attempt to obtain or improve BIA and IHS services for its members. The Bureau of Indian Affairs in 1970 began to provide some limited services to individual Little Shell Band members on the basis of blood degree (BIA 5/4/1970, 6/21/1971) (see

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<sup>83</sup> The Gophers were identified in a 1954 study of "Hill 57" (see above) as descendants of a Chippewa band from the Great Lakes, unrelated to the Little Shell families (Providencia, July 1955). Their inclusion at this point as part of the Montana Landless Indians suggests that the MLI may have lost broad support, and drawn in some non-Métis urban families instead.

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below). Part of the exchange between the Little Shell Band and the BIA in this period concerned what the value of the Roe Cloud Roll was in establishing the necessary blood degree to be eligible for services (BIA 9/13/1967). Little Shell members also received some services from the Indian Health Service beginning in the 1970's (see below).

In 1970, Chairman George St. Clair wrote to Montana Senator Metcalf, stating that the group sought to incorporate under sections of the Indian Reorganization Act which provide for incorporating Indian tribes (St. Clair and Marble 1970). St. Clair asked the Senator's help in presenting the request to the Commissioner of Indian Affairs. Acting Associate Commissioner William Benham responded that because the group was not recognized and did not have a reservation, it could not incorporate under the IRA (BIA 4/23/1970). The letter noted that the descendants of Chief Little Shell's band were found in the Landless Indians of Montana as well as the Turtle Mountain Band and various Montana tribes.

Two bills to benefit the Little Shell Band were introduced in the U.S. Senate in 1971. The first bill introduced, S. 287, would have designated the group as the Little Shell Band, but explicitly stated the act would not provide recognized status (Senate 1/26/1971). S. 522, introduced later, would have recognized the Little Shell Band and allowed it to organize under the IRA (Senate 2/2/1971). There was no information available concerning how these bills, introduced by Senators Mansfield and Metcalf of Montana, came to be developed. The Department of the Interior opposed S. 287, in part on the grounds that these Indians were largely "alien" Indians deriving from Canada and that "there is among the group no common bond of ancestry entitling them to recognition as an Indian tribe or band" (BIA 6/21/1971).

The Little Shell Band organization was active in 1971 and 1972 with the on-going process of individual applications for the 1863 Pembina treaty award, under 1971 legislation implementing distribution of the award (*Great Falls Tribune* 2/1/1972). The Little Shell Band requested that the deadline for applying be extended (*Great Falls Tribune* 1/30/1972).

John "Bud" Sinclair, George St. Clair's son, and first vice-president, expressed concern in 1973 with the state of the group's organization. He asked at a meeting that they "organize our people in the different towns, and also to take an enrollment of all and elect representatives" (LIM 2/17/1973). At the same meeting the articles of incorporation were reviewed, although no changes were made.

Up until the 1970's the name Landless Indians of Montana tended to appear either alone or, often, together with "the Little Shell Band." After the reorganization and revitalization of the organization which began in 1976, the "Little Shell" name came to be used almost exclusively.

The 1976 and 1977 elections brought in a number of new figures who would play leading roles in changes in the Little Shell Band's activities in the following years. George St.

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Clair was replaced as chairman by John Contway in 1977. Contway was in turn replaced by George Plummer in 1978 (LSTCIM 1984, appendix F). A list of representatives and alternates in 1976 included Donald Bishop, Howard Paul and James Parker Shield, each of whom later became chairman (Campisi and Starna 1987c). Additional new faces among the area representatives in 1977 included Steve Doney and Robert Van Gunten, who continued to play important roles. In 1978, Shield was elected first vice-chairman and Donald Bishop was elected second vice-chairman (LSTCIM 1984, appendix F).

The lists of area representatives for 1976 and 1977 were approximately twice as large as any previous lists (Campisi and Starna 1987c). They included for the first time alternates and, in some instances, more than one representative from a given location. The changes marked a shift to a less formalized system of districts. The area representatives and alternates in 1976 included, apparently for the first time, representatives for Butte (Howard Paul and a second person), Anaconda, Billings, and Lame Deer, as well as from western Montana locations such as St. Ignatius, Lolo, and Libby. Also elected for the first time in a number of years were representatives from Great Falls, including Shield. In 1977 there were area representatives from two additional areas, Helena and Missoula.

The petitioner adopted a "Constitution and By-Laws of the Little Shell Tribe of Chippewa Indians of Montana" on September 10, 1977 (LSTCIM 9/10/1977). According to later recollections, the group had decided at a meeting in Lewistown earlier in 1977 that the area representatives would take a proposed constitution "back to their districts and collect votes for adoption from the people" (LSTCIM 3/7/1987a). This constitution adopted in 1977 is currently being used by the petitioner, although the group temporarily adopted at least one other constitution after 1977. Article I of the 1977 constitution defined the governing body of the group as the Executive Board, which consisted of a president, vice-president, second vice-president, secretary-treasurer, and area council members. Article V defined the group's membership criteria. Those eligible for membership would be Indians of Pembina ancestry and one-quarter degree Indian blood, provided that they had never received an allotment of land. All children born to members who possessed one-quarter degree of Indian blood were entitled to membership (LSTCIM 9/10/1977).

Interest and activity turned in 1977 towards seeking Federal recognition. James Zion, from Helena, became the Little Shell Band attorney in that year. Zion submitted comments to the Bureau of Indian Affairs in 1977 on the draft acknowledgment regulations published that year (Zion 1977). An initial letter petitioning for recognition was received by the BIA on April 28, 1978, accompanied by a resolution from the Montana Inter-Tribal Policy Board in support of the petition (Plummer 1978; MITPB 1978). It was announced in November 1978 that Zion, together with a Native American Rights Fund (NARF) attorney, would be preparing the petition for acknowledgment (*New Nation* 1978a).

Committees concerned with a variety of subjects were established by the LIM for the first time in 1977. Committees were established to deal with recognition and tribal history, as well as education and health (Campisi and Starna 1987c). A newsletter, the "New

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Nation” was initiated in 1978. The tribal history committee, led by Robert Van Gunten, applied to several sources for grants for oral history, and obtained funding from the National Indian Lutheran Board and Montana State University (Van Gunten 1998; *New Nation* 1978b). An anthropologist at Montana State University, C. Patrick Morris, agreed to help prepare a petition.

Little Shell Band meetings in the late 1970's continued to be concerned with eligibility for services and the process of enrollment for membership, as they had been earlier in the decade (LIM 3/12/1977). A new process of tribal enrollment was begun in 1976 or 1977. It was reported in November 1978 that 2,000 members had become enrolled (*New Nation* 1978c). According to interviews, the enrollment was begun by James Parker Shield as a localized effort in Great Falls (Shield 1998), but later expanded to include the entire group. The Little Shell Band's newsletter in 1978 indicated that donations were often included with applications for enrollment (*New Nation* 1978c).

The new leaders initiated an annual gathering in 1978 called Pembina Days, later renamed Joe Dussome Day (*Great Falls Tribune* 7/1/1978; Van Gunten 1998). The event was intended to replace the two-day long annual statewide convention. Although annual meetings had continued, at least in most years, for a decade or more these had not been the old-style two-day social gatherings. One of the initiators of Pembina Days described it as a way to increase contact among members and as a response to the desire of younger members to learn more about their heritage (Van Gunten 1998). It was reported that more than 100 people attended the first gathering, held at Zortman, which included a “feed,” fiddling, and an open council meeting (*Great Falls Tribune* 7/1/1978).<sup>84</sup>

Conflict arose over the December 1978 elections. Chairman George Plummer had issued a notice canceling the December meeting because of poor traveling conditions, and postponing it until March 10, 1979. Notwithstanding his notice, an election meeting was held December 9, 1978, at Great Falls. The chairman and some of the councilmen were absent, although a quorum of officers including first vice-president John Sinclair was present. Those at the meeting discussed whether the scheduled elections could take place in the absence of the chairman and without some of the area representatives having been “able to have meetings in their areas” in advance of the election (LSTCIM 12/9/1978). It was concluded that elections could go forward. John Sinclair was elected chairman, with Jerry Azure being elected first vice-president, Dempsey Azure second vice-president and Shirley Gardipee secretary-treasurer.

In response to the December meeting, Plummer issued a bulletin to the membership dated January 5, 1979, stating that he had received protests “concerning the illegal meeting” of December 9 (Plummer 1979). Plummer stated that he had consulted with attorneys and asserted that the December meeting was only an area meeting. Therefore, he concluded, the elections, and any other tribal business conducted at the meeting, were “not binding.”

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<sup>84</sup> The available evidence indicates this event, which has been held regularly since about 1990, was not held between approximately 1980 and 1989 (see below).

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Plummer called it a meeting of a few "self-serving members" and decried the dissension "just when the tribe was moving forward." He asked area representatives to hold meetings in their areas for the purpose of selecting candidates "whom their area supports," and to discuss grievances to bring before the executive committee. It appears that charges and countercharges had been exchanged, and issues raised about reorganization and amending the bylaws. The specifics of these charges and issues were not specified in the available documentation.

It is not entirely clear who all of the contending parties were in this conflict. One source suggested that the dispute was partly geographical, likening it to later conflicts in which local area constituencies appear to have been involved (Swanson 1998). Campisi and Starna state that the December meeting was overturned by the "executive committee" in March, but no documentation was found of such a meeting (Campisi and Starna 1987a, 32).

In 1980, a local office opened in Great Falls for the stated purpose of supporting "tribal business for the Great Falls area" (*New Nation* 1980). The office resulted from the efforts of James Parker Shield, who described himself as the "area president" for Great Falls. Shield in a later interview stated that there was a large, active group of individuals in the Great Falls area at the time (Shield 1998). The Great Falls office was to have a full time staff and was to support the Little Shell enrollment and Federal recognition efforts. It was decided at a March 1980 meeting of the Little Shell Band that the enrollment files were to be located at Great Falls (LSTCIM 3/8/1980). It was also decided that the tribal council would review each application, apparently an assertion that the enrollment efforts would be controlled by the overall organization and not by the very active group at Great Falls.

Records of most of the regular quarterly meetings for the years between 1981 and 1986 were available for this report (Campisi and Starna 1987b). There were also scattered records of area meetings and special meetings for these same years. The activities of the Little Shell band for these years can be traced in these documents.

After an election in January 1981, none of the four officers were from either the Front Range or the Highline (LSTCIM 1/31/1981). The chairman, Jerry Azure, was from St. Ignatius, in western Montana. Three were from urban areas. James Parker Shield, elected secretary-treasurer, was from Great Falls, Ralph Doney, elected second vice-chairman, was from Missoula, and John Sinclair, elected first vice-chairman, was from Helena.

By March, Shield had been removed from office by vote of the council. Shield's actions after he was elected antagonized both officers and members. At a special meeting, chairman Azure stated that he had received a number of complaints "about the secretary not doing his job and neglect of his office duties." He stated further that, "He [Shield] has not performed his duties since being elected into the office" (LSTCIM 3/21/1981). Present-day interviews describe Shield at this time as acting without consulting tribal members and officers, and asserting powers that the council and members considered that

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his office did not give him (FD 1998). The interviews characterize his behavior as similar to actions in 1997 which also led to his removal from office (see below). One interviewee suggested that geographical conflicts were also involved, with the strong organization developed by Shield in Great Falls at this time bringing a negative reaction from elsewhere (Swanson 1998). The office in Great Falls was closed some months after the removal of Shield (Shield 1998).

Discussions which had been going on for several years concerning modifying the Little Shell constitution led to ratification of a new constitution and bylaws on May 16, 1981 (LSTCIM 9/10/1977, encl.; R. Doney 10/18/1981). This change was made at least partly at the urging of attorney Zion who, however, had resigned in February 1981. Zion had been urging the Little Shell to reorganize since at least a March 1980 meeting. The language in Section I of the 1981 constitution limited membership to persons of at least one-quarter "Pembina Chippewa Blood," which was also called "Chippewa-Cree Blood derived from Pembina ancestry."

Ralph Doney became chairman after the death of Jerry Azure in September 1981 (R. Doney 9/29/1981; LSTCIM minutes 9/12/1981). Doney in October 1981 noted that the Little Shell were seeking funding to establish a central office in Missoula. The chairman commented that "all present funding is by membership donations, consequently it is taking a great deal of time to accomplish our goals" (R. Doney 10/18/1981).

Don Bishop, the Little Shell Band's delegate to the Montana Inter-Tribal Policy Board, was elected Board chairman in 1981. Bishop previously had held the office of secretary-treasurer of the Board (MITPB 1981, 6).

A major activity by the council in 1982 was the pending legislation for the distribution of the Indian Claims Commission award for the territory ceded by the Turtle Mountain Band by the provisions of the 1892 agreement, which the council referred to as the "Ten-Cent Treaty." The membership discussed the issue at several meetings during the year and voted on May 8, 1982, to oppose the draft bill's requirement that applicants would have to have at least one-quarter degree Pembina Chippewa Indian blood to be eligible for the payment (LSTCIM 5/8/1982). They also voted 35 to 2 to request that the bill treat the Little Shell portion of the fund in the same manner as the funds for the recognized tribes, by setting aside 20 percent for tribal use for programs for the membership. The Little Shell Band statement to the Senate Indian Affairs Committee at the June 17, 1982, hearing declared that, "We are not asking for a reservation, as our people have not had one all of these years and we can see what reservation life can do to its Indian members." It stated further that the Little Shell Band sought "with our portion of the settlement to provide for our children" the education and medical benefits to which other tribes had been entitled (LSTCIM 6/17/1982). The act as passed on December 31, 1982, included the requested provision to set aside 20 percent of the share of the Little Shell members for tribal use, but retained the blood degree requirement to which the Little Shell Band had

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objected (Statutes 1982).<sup>85</sup>

The Little Shell Band submitted a partially documented petition for acknowledgment on December 15, 1982 (LSTCIM 1982). In response to the BIA's technical assistance review letter of January 27, 1983 (BLA 1/27/1983), the Little Shell Band completed a revised documented petition which was submitted September 22, 1984 (LSTCIM 1984, petition).

Much of the business of council and quarterly membership meetings in 1983 concerned the tribal enrollment and the enrollment for the claims judgment award. A motion was passed in March to limit the blood degree requirement for membership in the Little Shell Band to not less than one-eighth (LSTCIM 3/12/1983). It was noted at the March meeting that the tribal enrollment had been closed as of July 1, 1982, "to show the BIA . . . we are a tribe." However, a vote at the meeting on September 10, 1983, reopened the enrollment until December 31, 1983 (LSTCIM 9/10/1983).

The enrollment office was moved from Helena to Havre in late 1983, in part because of membership complaints about how enrollment was being handled (LSTCIM 10/8/1983). At the same time, Edna Teske, mother of councilwoman Deborah Swanson, became the enrollment chairman. At the November 8, 1983, meeting, there were indications of continued "assertiveness" on the part of Great Falls members, with complaints about enrollment problems and demands that the enrollment committee include members from Butte, Great Falls, and Helena.

The enrollment complaints from the urban areas were led by Donald Bishop, a member from Billings. At the November meeting, Bishop had opposed the moving of the enrollment office to Havre. Bishop was made enrollment coordinator at that meeting, apparently as a peace gesture. He urged that efforts be made to maximize the participation of members from Great Falls at an upcoming meeting in Helena (LSTCIM 10/8/1983).

Bishop had attacked chairman Ralph Doney in September 1983, with a memorandum to Little Shell members (Bishop 1983a). He complained that Doney had failed to fully record meeting minutes and to file them with the Billings Area Office of the BIA, as required by the constitution. Bishop took particular issue with the validity of the 1981 constitution, holding that its adoption by a vote of only 39 members was undemocratic.

Bishop's memorandum indicates that he had recently been under attack for supporting the appointment of James Parker Shield as State Coordinator of Indian Affairs (Bishop 1983a). Bishop evidently had written a letter to the Great Falls newspaper in support of Shield's appointment. This action drew a letter in reply from Chairman Ralph Doney, who apparently accused Bishop of illegally acting in the Little Shell Band's name. Bishop rebutted this, declaring that his statements to the press had indicated that his support was

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<sup>85</sup> This 20 percent continues to be held, pending an acknowledgment determination. The act provides for a per capita distribution of these funds if the Little Shell are denied acknowledgment.

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as an individual. At the same time, he chided Doney to put aside "personality differences" with Shield, noting the advantage to the Little Shell Band of having Shield be State Indian Coordinator. Bishop also made reference to a "personality problem" between tribal member Shield and the council. Bishop stated that he had received council permission to approach Shield in the latter's capacity as State Coordinator of Indian Affairs on behalf of the tribe, but then had received little support when he did so.

Bishop issued a second attack in December, criticizing statements by councilman George Plummer that the recognition petition was in great shape (Bishop 1983b). Bishop stated that, contrary to reports that "the petition has had nothing but glowing remarks from the Review Committee," a review of the petition by Dr. Frank Porter of the American Indian Research and Resource Institute found that the petition document "failed to answer six of seven criteria."<sup>86</sup> Bishop again raised the issue of the 1981 constitution, noting that it lacked criteria for enrollment, among a variety of other complaints. He also called for a petition to re-call the officers, saying it was "up to the people of the tribe to decide if further action is to be taken" (Bishop 1983b).

There was no information available concerning what the membership's reaction was to Bishop's attacks, but Chairman Doney resigned soon afterwards. His position was initially filled by Vice-chairman Howard Paul. Bishop was elected chairman on June 23, 1984 (LSTCIM 6/23/1984; *Great Falls Tribune* 7/25/1984).

Earlier, on May 26, 1984, the council had concluded that the 1981 constitution was not valid and had passed a resolution to reaffirm the 1977 constitution as the group's governing document (LSTCIM 5/26/1984, 9/14/1985). The council had been advised on this issue by Kathy Fleury, a Little Shell member and an attorney. At that meeting, questions were raised about Little Shell Band election procedures, and a committee headed by Fleury was appointed to study the issue. It was also voted at this meeting to forbid dual enrollment with other tribes and to use the Roe Cloud Roll as the base roll.

Work on the petition continued and was one of the main topics of discussion at meetings in 1985. A detailed technical assistance letter reviewing the documented Little Shell petition was sent to the group by the BIA in April 1985 (BIA 4/8/1985). The BIA asked the petitioner to provide an explanation of its membership requirements. The petitioner then passed a resolution on September 14, 1985, to rescind the language in the resolution adopted in 1984 that had limited membership to persons of "at least one-quarter Pembina Chippewa blood," and to reaffirm that Article V of the 1977 constitution defined who was eligible for membership (LSTCIM 9/14/1985). New petition researchers -- Jack Campisi, William Starna, and Fred Nicklason -- were obtained through the Native American Rights Fund. Campisi and Starna conducted research in late 1985 and 1986, with additional interviewing between 1989 and 1991 (Campisi and Starna 1987a, i).

In an indication that the conflicts over geographical representation of the preceding two

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<sup>86</sup> Porter's review was not available for review for this report.

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years continued, Chairman Bishop at the September 1985 meeting in Great Falls apologized to the Great Falls members. He stated that the "council is now traveling throughout the state to let people know what is going on with Federal recognition" (LSTCIM 9/14/1985). In September 1985 the Little Shell Band enrollment stood at 3,300 (LSTCIM 9/14/1985).

Available records of meetings in 1986 and 1987 showed Federal recognition efforts as a major concern. Efforts also were made to get state recognition (LSTCIM 9/20/1986). In response to questions raised by the BIA in its technical assistance letter, a special meeting in March 1987 reaffirmed the use of the 1977 constitution (LSTCIM 3/7/1987a). There continued to be questions raised by members at meetings concerning enrollment in the Little Shell Band and the status of enrollment with the Bureau for the Indian Claims Commission judgment award. Work on the latter was being carried out by the Turtle Mountain Agency (LSTCIM 4/26/1986). The Little Shell Band continued to accept applications for enrollment but did not act on them, holding them until the rolls were reopened.

At a September 20, 1986, area meeting, questions continued to be raised about the need to rotate meetings among the districts to get information out to people. Councilman McGillis explained that the idea of holding the meetings in different locations "has been to get this information to the people." The council was also concerned with aspects of the election process, and apparently discussed the use of "proxy," or absentee, ballots. The council also instructed council members to develop nominations in their areas for the four open council seats.

Minutes of a special meeting held in Havre on March 7, 1987, provided evidence that the council discussed at length interpretations of the membership requirements in the 1977 constitution. Copies of the 1977 constitution and of the 1985 resolution which had "construed and interpreted" the provisions of each section of Article V of the constitution were distributed to the council members for review and discussion. The resulting Resolution 87-1 reaffirmed the 1977 constitution as the organization's governing document. The 1987 resolution also provided a detailed interpretation of the meaning of the language in the membership criteria in Article V of the 1977 constitution (LSTCIM 3/7/1987b).

Several times in 1989 and 1990 problems of eligibility for Indian Health Service (IHS) services were raised with the council by members. Complaints were voiced that members were facing restrictions at the clinics operated at the Fort Belknap Reservation (LSTCIM 5/13/1989) (see separate analysis of eligibility for IHS and BIA services, below).

A permanent office for the Little Shell Band was opened in Havre (Havre *Daily News* 5/11/1989). The scheduled elections of officers in 1990 and 1992 were not held. Instead, at the annual meeting held July 14, 1990, in Havre, the 26 members in attendance voted unanimously to retain the present council in office until the next scheduled election, in 1992 (LSTCIM 7/14/1990). Two years later, at a July 18, 1992, quarterly meeting, the

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membership voted again to retain the council members and officers for another term rather than hold an election. The vote was 14 to 0. Bypassing the election meant that the council elected in 1988 would serve through 1994, and the officers would serve through 1996. No reason was given at either meeting for the deviation in practice. These votes, to effectively bypass the election process, became a major political issue by 1994 (see below).

#### *Functioning of the Little Shell Organization*

The membership of the Landless Indians of Montana (Little Shell) was drawn from a number of widely separated settlements. The organization as set up by Joe Dussome in the 1930's had several mechanisms intended to deal with the size and dispersion of the membership. In the mid-1930's, Dussome's followers appear to have been dispersed within north-central Montana, but this geographical dispersion became greater after the virtual disappearance of the rival Montana Landless Indians in the mid-1950's. The available oral histories provide only a limited number of descriptions which could be dated as specifically referring to the organization's activities between 1936 and 1941. Documentation referring to these mechanisms is also limited for this time period. Interview and documentary sources which relate to the period between 1949 and 1963 are more numerous and more detailed. The description below pertains to this latter period except where otherwise noted.

The organization had "district" or "area" representatives from particular localities, in addition to the councilmen and officers who were elected at large.<sup>87</sup> Initially the organization appears to have defined, in the charter or constitution, a fixed set of geographical districts. However, there is not good evidence that Dussome's system actually functioned this way. The actual practice was that district representatives were designated only by town, without a demarcated territory. There was also some variation from year to year in which towns were listed as having a representative (Campisi and Starna 1987b). Interviewees described the district representatives as generally being elected at local meetings (FD 1998).

The district or area representatives carried information from the organization's leaders and state-wide meetings to the membership, hosted and organized local meetings, and developed local fund-raising to support Dussome's efforts. When Dussome wanted to get information to the membership, he sometimes would write to the area representative, sending information for that person to pass along to the members in their particular area (Vogel 1998; Short 1998). There are few documentary references to the role of district representatives in the organization's functioning before 1949. In one example from 1937, however, Dussome revealed some of his thinking about the role of the district representative by stating that "each district representative would know their own people better than anyone else" (Dussome 6/12/1937).

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<sup>87</sup> During at least part of Dussome's tenure, however, the group's officers also served as district representatives, along others who were elected only as district representatives.

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Box social dances, where the women of each family donated a boxed meal of some kind which was then raffled, were one of the most popular means of raising funds for the organization. These were commonly organized by the area representative, though sometimes by other local people. Some were held in conjunction with Dussome's visits to hold area meetings. In other instances, one or more socials would be held and the money collected would be sent to Dussome to support his trips to Washington or other activities (Bremner 1998). Highline and Front Range interviewees reported them as common in the 1930's (FD 1998; Bremner 1998; Sinclair 1979; R. Doney 1993). Interviewees indicated they were also held after 1949. Dussome's call for one in 1962 is documented (LIM 1/20/1962).

The organization held an annual statewide meeting, sometimes referred to as a "convention," which in Dussome's day was usually a two-day affair (Campisi and Starna 1987a, 14-15). At the annual meetings officers were elected and business was discussed. There was not a set location for these meetings, although they appear always to have been held somewhere on the Highline. Interviewees described traveling over long distances, sometimes by horse or wagon, and staying for at least two days, camping out (Campisi and Starna 1987a, 14-15). Available minutes indicate that the state-wide conventions were held for two days in most years from 1949 until at least 1961.

Poor road conditions and lack of funds among the mostly poor constituency made travel to meetings difficult until the 1960s. Because of this, Dussome and one or more of his lieutenants would travel to the different settlements and hold local meetings where Dussome would provide information (Bremner 1998; Short 1998; Campisi and Starna 1987a, 10, 14). Those who accompanied Dussome at one time or another included Elizabeth Swan, Dave Doney, Thomas Sangray, and George St. Clair. The district representative served as an organizer when Dussome would visit and hold a meeting, notifying local people and arranging for a meeting place (FD 1998).

Writing in 1984, Morris and Van Gunten described a practice of "area meetings" which were held quarterly by the council (see below). Area meetings were council meetings open to the general membership. Rather than meeting in a fixed location, the quarterly meetings were held in different towns on the Highline or Front Range, or in Helena or Great Falls. Morris and Van Gunten characterized the area meetings as "the primary statewide communication" and said that they "move[d] from one community to another to insure maximum tribal participation and communication between" the council and members (Morris and Van Gunten 1984, 182). Council member Mack McGillis stated at a 1986 meeting that "the idea of moving the meetings around has been to get this information to the people" (LSTCIM 4/26/1986; see also Bishop 1986).

Campisi and Starna, and Morris, equate these meetings with the earlier meetings held by Dussome and his lieutenants traveling to various localities. Campisi and Starna list records of at least one quarterly meeting for most years between 1949 and 1987 (Campisi and Starna 1987b).

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How well and how consistently the area representatives and quarterly meetings functioned between 1949 and 1993 as a means of contact between the officers and the membership is not fully demonstrated by the available evidence. There were several years between 1963 and 1993 (1964-5, 1970, and 1973-4) when records of meetings and activities by officers are limited or absent. There is no evidence that there had actually been significant breaks in the functioning of the organization, but it is likely that there were periods where formal activity was limited. The number of area representatives and where they were from varied substantially from year to year (Campisi and Starna 1987c). After 1976, the number of area representatives and the number of locations represented became significantly larger than it had been up to that point. At the same time, the area representative system became somewhat less formalized (see below).

The role of district representatives and communication through them was documented from time to time in minutes between 1949 and Dussome's death in 1963, as well as afterward (see above). Additional information is found in the available interviews and other documentation. The functions of district representatives were mentioned on several occasions. In 1949, it was reported that one of the area representatives communicated with Dussome concerning the dire economic condition of some families in his district. In 1950, when plans were being made for a lawsuit over denial of allotments, district representatives at the statewide meeting were instructed to contact those representatives not present at the meeting. Plans were also made to set up a fund in each district to pay for the suit (see above). When Dussome set up a special meeting in February 1952 to replace officers elected the previous year, ostensibly by the Montana Landless Indians, he justified his call for the meeting by saying it was the wishes of a majority of the area representatives. District representatives were expected to play a role in the the balloting which was proposed in 1955 to decide which set of claims attorneys should represent the Little Shell by collecting the ballots locally and transmitting them for counting (see above).

The wife of a district representative who served between approximately 1960 and 1965 described his activities as contacting local members to find out what they wanted Joe Dussome to do and conducting local fund raising. He also organized local meetings to communicate what information he had received from chairmen Joe Dussome or George St. Clair and information he had gained at meetings of the LIM (Short 1998). The minutes of the 1961 statewide convention noted the necessity to communicate with district representatives concerning particular issues discussed at the convention. Chairman George St. Clair in October 1966 complained that the representatives did not always respond when he sent them copies of correspondence from the claims lawyers (LIM 10/15/1966). St. Clair said that before each general meeting each district should meet and decide which questions they wanted to discuss with the chairman and business committee. He also wanted each district to appoint a committee to raise funds in their district for the claims work. A similar fund-raising role for the districts was planned in 1968 to defray the costs of an envisioned lawsuit against Mrs. Phillips to regain Joe Dussome's papers (LIM 10/5/1968). In 1977, the secretary-treasurer asked the area representatives to tell the people in their areas to keep the secretary informed of changes

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of membership (Crasco 1977).

During the 1979 controversy over the so-called "illegal" December 1978 election meeting, the importance of the area representatives and their role was illustrated. Chairman George Plummer's bulletin to members objecting to the meeting and calling for it be in March instead included a request that "each Area representative call a meeting in their Area for the purpose of selecting candidates whom their area supports for nomination" in advance of the upcoming annual meeting where elections would be held. Plummer also asked the representatives to discuss grievances in these local meetings, and be ready to bring them before the "Executive committee" (Plummer 1/9/1979, cited in Campisi and Starna 1987a, 31). In addition, at the December 1978 meeting itself, the fact that some area representatives had been unable to hold local meetings in advance was discussed as a potential obstacle to voting on new officers. In the meeting itself, area representatives "met with people from their areas to take a vote on officers" and were then brought back to the council for voting by secret ballot (LSTCIM 12/9/1978). In addition, two vacant area representative positions were filled at that meeting, before the elections went forward.

A petition narrative submitted in 1983 described the area representative system at the time, stating that, "The councilmen and Area representatives, listed on the following pages, are responsible to the members in their areas. Keeping them informed on the latest issues and happenings, meeting dates and any news concerning the Little Shell Tribe of Chippewa Indians of Montana" (LSTCIM 3/21/1983, section "Current Community"). It went on to state that, "The chairman sends out news bulletins to the Councilmen and Area representatives, to keep them informed."

Morris and Van Gunten in 1984 similarly stated that the representatives "call local community meetings to answer questions and initiate new business." They argued that the local meetings, besides having political purposes, "provide an opportunity for tribal members to share tribal and community news, and hold dances," and play music (Morris and Van Gunten 1984, 181). The individual who was the area representative from Choteau in 1984 gave a detailed description of his activities that supports the above description (Brewster 1998). He described holding area meetings, which were well attended, and passing on information received from the tribal council. His tenure was during a period which was especially active because of the enrollment for the Indian Claims Commission judgment award.

Campisi and Starna presented a description of "the contemporary political system" of the Little Shell Band, including a description of the area representatives and quarterly meeting system which is consistent with other accounts (Campisi and Starna 1987a, 35-37).<sup>88</sup> They stated that area representatives were required to attend tribal (council and quarterly) meetings and, although not having a vote in the tribal council, "they bring

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<sup>88</sup> This is apparently based on their 1985 and 1986 fieldwork. Some additional field work was conducted in 1989 and 1991 after the preparation of their 1987 report (Campisi and Starna 1989-1991).

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questions to the council" as representatives of their districts. Campisi and Starna noted that the tribal council members at that time also served as area representatives. Their description of the area representative's role was similar to that given in interviews with present-day area representatives who state that they are supposed to maintain informal contact with people in their area, and sometimes call "district" meeting to provide information and answer questions (Campisi and Starna 1987a, 36; Parenteau 1998; Koke 1998; Thomas 1998).

In addition to the official area representatives, Campisi and Starna noted that there were others who were unofficial representatives in that they had not been voted upon in a district meeting and approved by the council (Campisi and Starna 1987a, 36-37). These informal representatives apparently functioned in a manner similar to the formal ones. Campisi and Starna named nine such individuals.

Campisi and Starna argued that the Little Shell petitioner's pattern of leadership is derived ultimately from a traditional form of sociopolitical organization which was prevalent among Chippewa populations generally and was transformed somewhat to accommodate conditions among Prairie and Plains Chippewa groups. They stated more specifically that the petitioner's organizational structure in the years after 1927, which consisted of a president and district representatives, had evolved out of the chief and councilman system which, according to Bottineau, had existed in 1900 (Campisi and Starna 1987a, 2, 12). Campisi and Starna did not provide a detailed account of political leadership between 1900 and 1927 in order to demonstrate that the claimed pattern had existed in that period, and that there was actual continuity from that precedent in the years after 1927. The claimed continuity which they described in the mid-1980's, of having a president and district representatives, is at best a general means of leadership and political influence among a dispersed but connected population. The asserted cultural continuity is too general to show that this was a specific traditional cultural pattern which had been maintained, rather than a broadly similar approach to political influence under similar circumstances.

#### *Economic Need as a Political Issue*

Economic need was described by interviewees as the underlying motivation for one of the primary political issues of the 1930 and 1940's, obtaining land and services (see discussion above). In that era, many of the petitioner's ancestors were very poor. Obtaining land, and funds to develop it, were important goals of Dussome's organization. Federal and state aid for economic "rehabilitation" remained a goal of the LIM in the 1950's. Rehabilitation bills were proposed in Congress in 1949 and 1955. The issue was raised at the 1957 LIM convention. Ed Belgarde of the MLI, the representative of the landless Indians on the Montana Inter-Tribal Policy Board, played an influential role in getting the Governor's support for a rehabilitation program in 1959.

There was less evidence after the early 1960's that economic need influenced issues brought to the tribal council. However, the group pushed for health services from the IHS

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and education services from the BIA in 1969 and 1970, and was ultimately successful (see below). In 1970, a proposal to use claims money for land for the group was raised at a meeting. In 1971, the group was able to have two bills to aid the landless Indians introduced in the U.S. Senate.

There is evidence from 1982 that economic improvement for the membership was a significant political issue. In that year the Little Shell membership voted to ask Congress to set aside 20 percent of the Little Shell Band's portion of the Indian Claims Commission award for use by the group, rather than have it paid out on a per capita basis. The group sought the funds to use for economic and educational purposes.

#### *Analysis of Meeting Attendance*

Either sign-in sheets or statements of the total attendance were available for a substantial number of the quarterly and special meetings of the Little Shell organization between 1981 and 1990. There was one or the other measurement of attendance for 19 meetings between 1981 and 1983 and for 10 meetings from 1984 through 1990. Attendance at these 29 meetings averaged 38 persons per meeting, with a median figure of 39. Who attended varied substantially over time. Attendees included many individuals who were, or later became, area representatives or other officers. Attendees came from a reasonably wide range of hometowns, though the profile of attendance at a given meeting was clearly affected by distance to the site.

Franklin and Bunte offered a different measure of meeting attendance which they argued demonstrates "active involvement in tribal political processes" (Franklin and Bunte 1994, 133-136, 139-40). Reanalyzing the field notes of Campisi and Starna's interviews conducted in 1986, they concluded that 90 percent of the 52 individuals interviewed, who were born before 1950 and for whom there was useful interview information on meeting attendance, indicated they had attended meetings during at least part of the period between the 1940's and 1970's. About a third, 32 percent, indicated they had attended meetings more or less continuously during this period of time. Not all answers could be clearly classified.

According to Franklin and Bunte, 56 percent of Campisi and Starna's interviewees had attended tribal or district meetings in the 1980's (Franklin and Bunte 1994, 139). Another 12 percent indicated they had not done so. The interviews of the remaining 33 percent did not offer useful information.<sup>89</sup> Franklin and Bunte characterized the interviewee sample as "quite representative of the overall adult Little Shell population" (Franklin and Bunte 1994, 134). However, they did not compare the interviewees with a profile of the membership, offering only the observations that few political figures were included, the ages of the interviewees ranged from the twenties to the eighties, and the hometowns of the interviewees included most, but not all, of the rural towns and Montana cities where Little Shell members were concentrated.

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<sup>89</sup> Because of rounding, the percentages do not add up to 100 percent.

## Little Shell (MT): Proposed Finding - Technical Report

### Indian Claims Commission Awards, 1964 - 1994:

The claims of the Little Shell band against the Government were presented before the Indian Claims Commission in its own case of *Little Shell Band of Chippewa v. United States* (Docket 191), and by its incorporation into two other cases, *Red Lake, Pembina, and White Earth Bands of Chippewa v. United States* (Docket 18-A) and *Turtle Mountain Band of Chippewa v. United States* (Docket 113). In a 1954 opinion in the *Little Shell* case, the Indian Claims Commission held that the Little Shell plaintiff was entitled to maintain an action before the Commission. By reaching this conclusion, the Commission ruled against the argument made by the United States that the Little Shell band could not bring a claim because it was not "a presently existing tribe, band, or other identifiable group of Indians. . . ." (Ind.Cl.Comm. 1954, 417). In the *Turtle Mountain* case, the Turtle Mountain Band argued that the Little Shell band was only a "faction" of the tribe and was not entitled to separate representation. However, because the Turtle Mountain Band did not include all Little Shell members, the Court of Claims decided on appeal that the Little Shell plaintiff could not be barred from separate representation in the case. The Court concluded that the Little Shell plaintiff did not need to have formed a separate band or organized entity in order to bring a claim as an identifiable group. An unorganized group of the descendants of an ancestral entity was entitled, the Court held, to representation in a case before the Indian Claims Commission (Ct.Cl. 1974, 456-459).

The attorney for the Little Shell plaintiff, in an agreement with the attorneys of the other petitioning groups which partly claimed the same aboriginal territory, stipulated in 1957 that the petitioner in *Little Shell* had been a constituent part of the Pembina Band in 1863. On the basis of that stipulation, the Commission concluded that "such members of the [Little Shell] petitioner group represented in Docket 191, who are descendants of members of the Pembina Band of Chippewas as it existed in 1863," had an interest in the claim made in the case of the *Red Lake, Pembina, and White Earth Bands* for the lands ceded by the treaty of 1863 (Ind.Cl.Comm. 1958, 251-252, 306-309). The Commission held that the Little Shell plaintiff had standing to participate in the claim made in the case of the *Turtle Mountain Band* because the Turtle Mountain Band was not the full successor in interest to the original tribal entity if that entity had divided after the taking of its land by the Government. The Commission said that "many of their [Little Shell] members are descendants" of the ancestral entity as it existed at the time of the land cession (Ind.Cl.Comm. 1971, 351-352). On appeal, the Court of Claims concluded that the ancestral landowning entity of the area ceded under the McCumber Agreement was the "American Pembina Chippewa" group, which consisted of both Indians and Métis and included a Little Shell Band "subgroup." Therefore, the Court said, the Little Shell plaintiff should be permitted to petition for participation in any award in the *Turtle Mountain* case (Ct.Cl. 1974, 456 and n.33).

In the *Little Shell* case, the Little Shell plaintiff sought compensation for 16 million acres of land in northern Montana which it claimed as its exclusive aboriginal territory. This territorial claim included the area from the Missouri River on the south to the

## Little Shell (MT): Proposed Finding - Technical Report

international boundary on the north, and from the border with North Dakota on the east to the Sweetgrass Hills and Marias River on the west. The Little Shell plaintiff claimed to have occupied this portion of Montana well before the 1892 McCumber Agreement. The United States took this land from the Little Shell band, according to the plaintiff, by an 1855 treaty with the Blackfeet tribe and an 1873 executive order expanding the Blackfeet Reservation. The Indian Claims Commission rejected this contention and concluded that the evidence did not show Cree, Chippewa, or Cree-Chippewa exclusive use and occupation of any portion of the area claimed by the Little Shell plaintiff, or by the other plaintiff which claimed to represent Little Shell's band, the Chippewa-Cree tribe of the Rocky Boy's Reservation. The Commission was convinced by the expert witness for the United States, Dr. John Ewers of the Smithsonian Institution, that this territory was used and occupied by the Blackfeet, Gros Ventre, and Assiniboine tribes, or was a common hunting ground of many tribes. Thus, in 1974 the Commission dismissed the claim of the plaintiffs in the *Little Shell* case (Ind.Cl.Comm. 1974, 470-472, 480-482, 484-486, 508-509).

In the *Pembina* case, the Indian Claims Commission in 1964 set the award to the Pembina, Red Lake, and White Earth Bands for the lands ceded by the treaty of 1863 at \$2,035,000. The Commission divided the award two-thirds to the Red Lake Band and one-third to the Pembina Band. However, the value of the "offsets" to the award, because of payments made on behalf of the bands by the United States, was much greater for the Pembina Band than for the Red Lake Band. Therefore, the Red Lake Band was awarded \$1,798,000 and the Pembina Band \$237,000 (Ind.Cl.Comm. 1964, n.p.). Congress provided for the distribution of this award to the Pembina Band for the 1863 cession by legislation in 1971 (Statutes 1971). In the *Turtle Mountain* case, the Indian Claims Commission in 1978 set the award to the "American Pembina Chippewa" for the lands ceded by the tribal ratification of the McCumber Agreement in 1905 at \$52,527,338 (Ind.Cl.Comm. 1978, 274). The Court of Claims rejected the Government's appeal of the amount of the award in 1979 (Ct.Cl. 1979). After a determination of the value of the "offsets" to the award, in 1980 the Court of Claims issued a judgment for the Indian plaintiffs of \$47,376,623 (Ct.Cl. 1980). Congress provided instructions for the distribution of this award for the 1905 cession by legislation in 1982 (Statutes 1982).

### *The 1863 Pembina Award*

After the Indian Claims Commission's 1964 decision in the *Pembina* case, the Department of the Interior in 1968 prepared a report on the award for the 1863 treaty cession which concluded that three reservation tribes -- the Minnesota Chippewa Tribe of the White Earth Reservation in Minnesota, the Turtle Mountain Band of Chippewa Indians of the Turtle Mountain Reservation in North Dakota, and the Chippewa-Cree Tribe of Rocky Boy's Reservation in Montana -- "may be considered to be comprised in part of Pembinas or descendants of Pembinas" (Interior ca. 1968, 2). The report found that the modern Turtle Mountain Band consisted of Métis who had fled Canada after unsuccessful rebellions in 1870 and 1885, together with Métis who had "evidently long been associated with the Pembina Band," plus the "conservative (called 'full blood')

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Turtle Mountain or Pembina Chippewas. . . .” The report said that the “non-Metis or original Pembina” formed “a small . . . Indian minority on the reservation or in the Turtle Mountain area.” The report accepted a finding that Rocky Boy had been a successor to Pembina Chief Red Bear, and said that interviews with Rocky Boy’s residents and other research revealed that the majority of the Rocky Boy’s Chippewa-Cree Tribe had Pembina Chippewa ancestry (Interior ca. 1968, 3, 4).

In addition to these three reservation tribes, the report concluded that, “A nonreservation based element must also be considered in the disposition of the award. Pembina descendants, in unknown numbers, are found among the group generally called ‘Landless Indians of Montana’,” or the Montana Landless Indians, Inc., or the Little Shell Band of Chippewa Indians of Montana. Most of these people, the report said, were Métis. The report concluded that the presence of the Métis, on and off reservation and their confusion with the Pembina Band and Plains Chippewa groups, was a complication in “the development of a just and realistic legislative proposal for the disposition of the award.” Noting that “annuity payments made under the 1863 treaty involved, almost exclusively, Chippewa Indian names,” with “the well known French or other European names of the Metis being absent,” the report added, however, that, “Some Metis, apparently those who have long been associated with the Pembinas, are able to trace their ancestry to persons whose names were distinctly Chippewa and who were undeniably Pembina” on the old annuity rolls (Interior ca. 1968, 3, 4). The Department prepared a draft bill which provided that funds would be “apportioned to the Minnesota Chippewa Tribe, the Turtle Mountain Band, and the Chippewa-Cree Tribe on the basis of the numbers of descendants found to be enrolled with the tribes,” while also providing for a “payment of shares to those descendants who are not enrolled with any of the three cited tribes. . . .” (Interior ca. 1968, 6).

In the Act of July 29, 1971, Congress provided instructions for the distribution of funds to pay the Indian Claims Commission award. The act directed the Secretary of the Interior to prepare a roll of all persons “living on the date of this Act who are lineal descendants of members of the Pembina Band as it was constituted in 1863. . . .” (Statutes 1971). Excepted from this roll were members of the Red Lake Band and Minnesota Chippewa bands whose award was provided for by separate legislation. Descendants who were not U.S. citizens were not eligible for a share of the award. Section 4 of the act defined those individuals eligible for the award as being Pembina descendants who were members of the Minnesota Chippewa Tribe, the Turtle Mountain Band of North Dakota, and the Chippewa-Cree Tribe of Montana, as well as descendants who were not members of the three named tribes (Statutes 1971). The Bureau of Indian Affairs found that the category of “other” Chippewa descendants included members of the Little Shell Band, but was not limited to them (BIA 1/11/1999). Section 5 of the act provided that Pembina descendants within the Turtle Mountain Band could form a Pembina Descendants Committee in order to work with that tribe’s governing body to make recommendations to the Secretary concerning the distribution of funds (Statutes 1971). In short, the award was to be made strictly on lineal descent from the Pembina Band of Chippewa which made the treaty of 1863.

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The Secretary of the Interior was directed by the Act of 1971 to prepare a roll of those persons born on or prior to, and alive on, the date of the act who were the lineal descendants of members of the Pembina Band as it was constituted in 1863 (Statutes 1971). The Department of the Interior established regulations for the preparation of the judgment roll. These regulations were published in the *Federal Register* on October 19, 1971. The regulations placed the burden of proof of eligibility on the applicant, who was required to use birth, death, or marriage certificates, baptismal and other church records, probate records, or affidavits to support his or her claim for enrollment. BIA records could also be used to establish eligibility (25 CFR [1976 ed.] 43g.6(a)). The regulations stated that collateral relationships could not be used to prove descent (25 CFR [1976 ed.] 43g.1(e)). The completed roll was to contain "for each person a roll number, name, address, sex, date of birth, and in the remarks column the name and relationship of the ancestor through whom eligibility is claimed" (25 CFR [1976 ed.] 43g.9(b)).

The Commissioner of Indian Affairs sent instructions for preparing the roll to the director of the Aberdeen area office in September 1971 (BIA 9/17/1971). As acceptable sources to prove the descent of applicants, the instructions included the Pembina annuity payment rolls for 1864 to 1878, the 1885 census of half-breeds at the Turtle Mountain Reservation, the 1886 census of Turtle Mountain full-bloods, the 1889 list of Pembinas belonging at the White Earth Reservation, and the 1891 census of the White Earth Reservation (BIA 9/17/1971). Two of the annuity rolls specifically named a number of followers of Red Bear (460 names in 1865 and 265 names in 1871) and Little Shell (471 names in 1865 and 282 names in 1871). The 1878 annuity roll stated there were 543 names on the list for the Red Bear and Little Shell bands of Pembina Indians. The Commissioner's memo also listed as acceptable sources records of the Chippewa-Cree families "proposed for adoption into the Rocky Boy's Tribe, original rolls [of Rocky Boy's] established July 16, 1917, marriage cards, and other material regarding the adoption up to February 1923," and nine Rocky Boy's census rolls between 1915 to 1925 (BIA 9/17/1971).

As the Pembina judgment roll was being compiled, additional materials were included in the list of acceptable sources for proof of Pembina descent (BIA 12/6/1971, 12/9/1971, 12/14/1971, 1/27/1972, 2/9/1982). The Minnesota Agency suggested that the basic roll of the Minnesota Chippewa Tribe be considered as an approved source, for its Pembina members, since the tribal roll was the last of a series of annuity payrolls dating back to 1891 (BIA 12/7/1971). The Minneapolis Area Director concurred (BIA 12/9/1971). Subsequently, the Aberdeen Area Director wrote to the Commissioner of Indian Affairs to recommend that the Minnesota Chippewa Tribal Roll be approved for use as a "basic document to establish eligibility to share in the Pembina judgment award" (BIA 5/25/1972). In September 1972, the Deputy Commissioner approved the recommendation and stated that, "An individual who is listed on the Minnesota Chippewa Roll as being of Pembina Indian descent is automatically eligible for enrollment to share in the Pembina judgment funds providing he meets the other requirements of the Act." He added that, "This eligibility would also apply to the applicant's descendants provided they prove their relationship to the applicant" (BIA 9/25/1972).

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The Bureau of Indian Affairs also concluded that the descendants of the Pembina "mixed bloods" who were beneficiaries of the treaties of 1863 and 1864 should not be excluded from sharing in the Pembina judgment funds. "Although the Pembina half breeds and mixed bloods are not referred to specifically [in the treaties] as members of the Pembina Band, but rather as relatives by blood of members of the Band who . . . were citizens of the United States," the Bureau noted that the "mixed bloods" were beneficiaries of the treaties because they had been issued scrip pursuant to treaty provisions. It had been "common practice during that period," the Bureau said, for tribes to make some provision for their "mixed bloods who might not wish to accompany them when the tribe emigrated to a new area." As a result, the "mixed bloods" received treaty benefits despite "the Pembina Band's eventual disintegration. . . ." Concluding that the Pembina "mixed bloods received land in lieu of annuities," the Bureau presumed that "the language 'relinquish the right to share in the future claims for annuities' was meant to prevent them from receiving both land and money." The Bureau reasoned that the Pembina claim was based on the treaties of 1863 and 1864 and that, by the language of the treaties, the "scrip recipients relinquished only the right to share in the future claims for annuities," but not to "all rights to future claims against the government" (BIA 2/11/1974).

The Commissioner of Indian Affairs issued instructions in 1980 that "there was no reason to question the Pembina Band derivation" of anyone named on the Turtle Mountain roll made by McCumber in 1892, or identified "consistently as Chippewas or partly Chippewa" on the two rolls of Rocky Boy's Indians made in 1917, or identified "as Chippewa or partly Chippewa on an approved application for enrollment on the so-called 'Roe Cloud Roll of Landless Indians of Montana'" (BIA 8/15/1980). The Commissioner also agreed with the Turtle Mountain Agency that its 1906 "family history books" of families living on or off the Turtle Mountain Reservation, which included names not on the other specified rolls, were an acceptable source of Pembina descent, "so long as the researcher is sure that the person named thereon is of Chippewa descent." The Commissioner noted, however, that if one of the parents was a non-Indian, it was possible that the parent could also have non-Indian children. "In that case," he instructed, the "mere appearance of an ancestor's name in the 1906 family history books would not be sufficient to establish Pembina ancestry" (BIA 11/12/1980). The Commissioner said in 1981 that rejected applications for the 1904 Davis Roll of members of the Turtle Mountain Band could be used as a source of Pembina descent if the applicant's residence outside the boundaries of the territory ceded by the 1892 agreement "was the only reason the application was rejected" (BIA 3/5/1981).

The Aberdeen Area Director asked the Commissioner of Indian Affairs for a clarification of the eligibility of an individual "whose lineal ancestry does not trace to a person named on one of the acceptable Pembina source documents but whose collateral relationship to persons named on the Pembina source documents can be established" (BIA 3/5/1981). In reply, the Commissioner stated in 1981 that "an individual whose brothers and sisters were named on the documents" identified as acceptable sources of Pembina descent in the Bureau's earlier memoranda "shares the same lineal ancestor who, we presume, was a member of the Pembina Band as it was constituted in 1863." Thus, such an individual

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was, "in effect, a lineal descendant of a member of the Pembina Band" of 1863. The Commissioner added that by including "other rolls and records" as source documents acceptable to the Secretary, "we shall broaden the eligibility criteria and, hopefully, eliminate the need for interpretation" (BIA 3/5/1981). The inclusion of additional rolls, censuses, and family history books as acceptable sources of Pembina descent, and the inclusion of collateral relatives as Pembina descendants, necessitated a reevaluation by the Bureau of the eligibility of some previously rejected applications.

The award payment was made on October 18, 1984, after the Bureau of Indian Affairs had found over 21,000 individuals to be eligible to share in judgment funds as provided by the 1971 act. The names of the Little Shell band's members were not segregated on the roll from the names of other lineal descendants who were not members of the three named tribes (BIA 1/11/1999). The complete roll of persons eligible was not available for the preparation of this report. Therefore, this report provides no accurate accounting of the petitioner's members who received awards under the 1971 act. However, a record of the Individual Indian Money (IIM) accounts for minors and deceased persons who were eligible for the Pembina judgment award was available to the BIA researchers. Eligible applicants who also were affiliated with the Little Shell band were included in the "all other descendants" category of the IIM record. There were 29 deceased persons in this category on the IIM list who also were listed in the petitioner's membership records. In addition, 85 of the 1,973 minors on the IIM list also appeared in the petitioner's membership records (LSTCIM 1984; BAR 1998).<sup>90</sup>

### *The 1905 Turtle Mountain Award*

After the Indian Claims Commission's 1978 decision in the *Turtle Mountain* case, the Commissioner of Indian Affairs in 1980 prepared a "Results of Research" report on the award for the 1905 Turtle Mountain cession. The Commissioner sought to interpret the Court of Claims's designation of the landowning entity in the claim as the "American Pembina Chippewa." The Court had explicitly identified the "Pembina Band" as one of the three representatives of the landowning entity in the case. The Commissioner's report therefore was concerned, he said, "with groups deriving from the Pembina Band of the period 1892-1905 and prior thereto." For this reason, the Commissioner also referred to this award in the *Turtle Mountain* case as the "1905 Pembina" award. The Bureau of Indian Affairs had identified the beneficiaries of the 1905 award, the Commissioner concluded, to be "the Turtle Mountain Band of Chippewa Indians as presently constituted, the Chippewa Cree Tribe [of Rocky Boy's Reservation], the Minnesota Chippewa Tribe as representative of the White Earth Reservation Peminas, and

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<sup>90</sup> Since the petitioner's membership list would not ordinarily include names of deceased individuals, the BIA researchers used the petitioner's genealogical records, which were verified from a variety of historical records by the BIA and compiled in the Family Tree Maker Genealogical program as "BAR-LS.98" (BAR 1998). Also, the petitioner's membership records are listed by the current surname of the member; therefore, females who were minors in 1984 may be listed under a different surname in the current membership records. It was easier to compare the names on the IIM lists with the names in the genealogical program than with the names on the membership list.

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American Pembina descendants (U.S. citizens) of at least one-quarter Pembina Chippewa blood. . . ." The Commissioner recommended that the funds for this award be divided among these beneficiary entities "on the basis of the respective numbers" of their members or eligible descendants, as of the date of the future legislation for the disposition of the funds (BIA 8/19/1980, 1, 10, 13)

The Turtle Mountain Band had been explicitly identified by the Court of Claims as a representative of the landowning entity in the case. The Commissioner agreed that the modern Turtle Mountain Band was "a tribal successor to the Pembina Band of the period 1892-1905 and earlier." "There is no evidence," he added, "that present band members do not derive from ancestors who themselves derive from the Red River - Turtle Mountain homeland. . . ." The Court had not explicitly mentioned the Minnesota Chippewa Tribe as a representative of the plaintiff in the case, but the Commissioner concluded that it was a tribal successor to the Pembina Band which had, in 1892, maintained an "interest in the aboriginal North Dakota lands." He noted that the tribe's base membership roll of 1941 designated some of its members as "White Earth Pembinas." The Indian Claims Commission had dismissed the Chippewa-Cree Tribe of the Rocky Boy's Reservation as a plaintiff in the case. Finding that decision "inexplicable," the Commissioner added that, "we are not precluding individual Pembina descendants within the Chippewa Cree Tribe from participation" in the award. Because of the Court's decision and the presence on the tribe's 1917 roll "of significant numbers of non-Chippewas," the Commissioner would not recommend the modern Chippewa Cree Tribe "as a full tribal successor to the Pembina Band. . . ." Rocky Boy's members whose Indian ancestry was "derived solely from non-Chippewas," the Commissioner said, "would not be included for purposes of determining a Chippewa Cree share of the funds" (BIA 8/19/1980, 2, 9, 11-13).

Although the Indian Claims Commission had said that the Chippewa Cree plaintiff had conceded that it had no interest in the *Turtle Mountain* claim, and although claims attorney Lawrence C. Mills had stated that the Rocky Boy's reservation was not a party in the case, the Commissioner concluded that Chippewa Cree tribal officials at Rocky Boy's reservation were not aware of these developments (BIA 8/19/1980, 3; Ind.Cl.Comm. 1970, 318). Both the Indian Claims Commission and the Court of Claims, the Commissioner contended, had exhibited "confusion" about the identification of the Chippewa Cree Tribe of Rocky Boy's Reservation. Although the Commissioner conceded that "*not a single professional ethnohistorian* has adequately examined the origins" of the Rocky Boy's people, he concluded that "we cannot ignore their obvious . . . Pembina Band derivation." Although the Commissioner agreed that the "historical, ethnological and political record is practically silent regarding the derivation of Rocky Boy" and his followers, he stated that Rocky Boy was a successor to Pembina chief Red Bear (BIA 8/19/1980, 7-8; emphasis in the original).

In large part, the Commissioner appeared to rely upon interviews conducted by the Bureau of Indian Affairs in 1964 "with mainly aged residents of the Rocky Boy's Reservation." Granting that "Rocky Boy people do not employ the term Pembina," the

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Commissioner stated that the ethnohistorical data and interviews lead "to the inescapable conclusion that those Chippewas with Rocky Boy were Pembinas." "They could not," the Commissioner contended, have "been other than Pembina." Although Rocky Boy had maintained that he originated in Wisconsin, the Commissioner dismissed this evidence by saying that his members "could not have had any memory of Wisconsin," and by claiming that his band had a fear of being returned to Turtle Mountain. It also had become clear, the Commissioner added, that Rocky Boy's band was "essentially a Red Bear, not a Little Shell following." In addition to the interview information, the Commissioner cited some documentary evidence which linked some Rocky Boy's members to Chippewa ancestry or to the Turtle Mountain Band. The Commissioner found that some Rocky Boy relatives had been on the 1892 McCumber roll, and that the 1917 Rocky Boy rolls included people of Chippewa ancestry. The Commissioner concluded that the Bureau's research and analysis "have not produced a shred of evidence that the designation 'Chippewa' on the 1917 rolls is not synonymous with Pembina" descent (BIA 8/19/1980, 3, 7-9).

In addition to the three federally recognized tribes which the Commissioner identified as at least partial successors to the Pembina Band, he recommended that unenrolled Pembina descendants share in the award. Although the Court had explicitly identified the Little Shell Band plaintiff as a representative of the landowning entity in the claims case, the Commissioner referred more broadly to Pembina descendants. The Commissioner said that these Pembina descendants were located "primarily in Montana," but also in the Dakotas and other places, and his report referred to them as "Montana Pembinas." He could not say how many eligible Pembina descendants there were, but the Commissioner observed that, "We can only suspect that perhaps several thousand of these people will be able to establish Pembina ancestry." Unenrolled Pembina descendants, the Commissioner noted, might be identified by using a variety of historical rolls. He said that, "Some may be able to trace to the 1917 Rocky Boy rolls, the McCumber [1892] or Davis [1904] rolls or Pembina annuity rolls made from the 1860's thru [sic] the 1880's." The Bureau of Indian Affairs, the Commissioner also concluded, had found "no evidence that the Chippewa designations on the Roe Cloud Roll are not synonymous with Pembina" (BIA 8/19/1980, 9, 10, 13).

The Pembina descendants in Montana, the Commissioner said, "are virtually all Metis. . . ." Many of them, he said, were partly Sioux, while others were partly Assiniboine, Gros Ventres, Crow, or Blackfeet, and were members of recognized tribes. In contrast to these enrolled descendants, the Commissioner said, the unenrolled Pembina descendants in Montana were "acutely aware of [their] Pembina derivation." The Commissioner assumed that "the descendants of those who accompanied Little Shell to Montana would be found among these people, in unknown numbers." The Commissioner said that these descendants were known by a variety of names such as the "Landless Indians of Montana," "Cree," "Chippewa Cree," and the "Little Shell Band of Montana." The "Little Shell" name, he added, had "an organizational connotation. . . ." That organization, according to its president, "now encompasses formerly rival groups." The Commissioner said that the organization had "recently changed its name to the Little

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Shell Tribe of Chippewa Indians of Montana.” In order to maintain parity with the enrollment criteria of recognized beneficiary tribes, the Commissioner concluded that unenrolled Pembina descendants should “be required to establish a minimum of one-quarter Pembina Chippewa blood quantum in order to participate” in the award. Thus, the Commissioner recommended that “American Pembina descendants” who had “at least one-quarter Pembina Chippewa blood” and were U.S. citizens should be the beneficiaries of the 1905 Pembina award (BIA 8/19/1980, 9, 10, 13).

In one respect, the Bureau of Indian Affairs had changed its conclusions about descent from the Pembina Band since the Department’s first Results of Research report on the award for the 1863 treaty cession. The Bureau was “now persuaded that very large numbers of Metis,” the Commissioner said, “are indeed able to establish Pembina derivation.” The Commissioner concluded that it was now “apparent that all Plains Ojibwa, both ethnically ‘full blood’ and ‘mixed blood,’ derive ultimately from the Red River - Turtle Mountain area.” Although the Métis had developed a “distinct culture” and had been “marginal” to both tribal peoples and non-Indians, the Commissioner stated that those Métis who had been “associated with the Pembina Band in the Red River-Turtle Mountain area” had been “politically part of that band” and had “recognized the authority of the traditional chiefs. . . .” He also claimed that it was “evident” that when Little Shell had left the Turtle Mountain area “large numbers of Metis were among his followers.” The Commissioner acknowledged that “few French or other European surnames associated with the Metis appear on early Pembina annuity rolls.” He suggested that this was the case because land scrip had been issued under the treaties of 1863 and 1864 in lieu of treaty annuities. The Bureau concluded, however, that “it is now evident that a surprising number of Metis are able to trace to old Pembina annuity rolls” (BIA 8/19/1980, 4-5, 7, 11).

In the Act of December 31, 1982, Congress provided instructions for the distribution of the award to the “American Pembina Chippewa” for the 1905 cession. The act divided the award among five parties, one of which was the Little Shell Band of Chippewa Indians of Montana. Section 6 of the act provided that 80 percent of the award allocated for the Little Shell Band would be distributed in the form of per capita payments “to all enrolled members of the Little Shell Tribe of Chippewa Indians of Montana” who were living on the date of the act and could meet the enrollment criteria for unenrolled Pembina Chippewa descendants. These criteria, in Section 7(a) of the act, required that an individual have at least one-quarter “Pembina Chippewa blood” and be enrolled on, or be a lineal descendant of someone enrolled on, the Pembina judgment roll prepared under the Act of 1971, the McCumber roll of 1892, the Davis roll of the Turtle Mountain Band of 1904, the two Rocky Boy’s rolls of 1917, or the Roe Cloud Roll of landless Indians of Montana.<sup>91</sup> Five of these rolls previously had been used to establish ancestry on the sixth

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<sup>91</sup> Of the six rolls cited as sources for establishing Pembina descent, the act specifically cited the Pembina descendants under the Act of July 29, 1971, and two Turtle Mountain Indian rolls as sources for proof of Pembina descent, thus implying that everyone on those three rolls had Pembina ancestry. However, the act also specified that those enrolled “as Chippewa” on two Rocky Boy’s rolls and on the Roe Cloud Roll be

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roll, the roll of Pembina descendants under the Act of 1971. This section also required recipients of judgment funds to be citizens of the United States. The act, in Section 6, provided that 20 percent of the award allocated for the Little Shell Band would be held in trust for the use of the band, if it became a federally recognized tribe. If Federal recognition were not approved, then the entire award would be distributed on a per capita basis (Statutes 1982).

Finding the act's language on eligibility confusing, the BIA's Branch of Enrollment requested the Department's Office of the Solicitor to provide it with an interpretation of Sections 6 and 7 of the 1982 distribution act. In 1985, the Solicitor found that in order to participate in the distribution of funds under Section 6(1) of the act, a person must be both a member of the Little Shell Band of Chippewa Indians of Montana *and* meet the criteria listed in Section 7(a) of the act (Interior 9/6/1985). Therefore, the criteria for eligibility for the distribution of funds to the members of the Little Shell band under the 1982 act were that the individual: be an enrolled member of the band; have one-quarter Pembina Chippewa blood; be a United States citizen; *not be a member* of any of the other named Chippewa or Chippewa-Cree tribes who also were recipients of this award; and either be enrolled, or have a lineal ancestor who was enrolled, on one of the six rolls specified in Section 7(a) or the "other rolls or records acceptable to the Secretary" that would establish Pembina ancestry (Interior 9/6/1985; Statutes 1982, sec.7).

Edna Teske, who was the enrollment officer for the Little Shell petitioner, worked with the Bureau of Indian Affairs to prepare the 1994 judgment roll. In 1994, Teske prepared a report to demonstrate the Chippewa-Cree ancestry of 312 Little Shell "Elder Enrollees" who had been listed on the Roe Cloud Roll (Franklin 1995, table 1, appendix B). Following the logic in the Commissioner of Indian Affairs's instructions for the earlier judgment roll regarding collateral relatives, Teske's report included collateral relationships as well as lineal ancestry to confirm the descent of these 312 elders. Her report provides a summary of how various rolls and censuses were used to confirm the descent of these Little Shell members. Teske's report used the 1906 Turtle Mountain roll rather than the 1904 roll cited in the 1982 act, and a "ca. 1892 Bottineau List" rather than the 1892 McCumber roll cited in the 1982 act. Using these two sources, Teske found a combined count of 271 elder members who were linked to Turtle Mountain Chippewas. Thus, her report claimed that 87 percent of Little Shell elders who could demonstrate Chippewa-Cree ancestry could show descent from an alleged source of Turtle Mountain band membership. Her report showed that 114 elders, or 36 percent of those with Chippewa-Cree ancestry, were themselves on, or had an ancestor or collateral relative on, the 1906 Turtle Mountain roll.

Teske also found that 58 of the 312 Little Shell elders, or about 19 percent of them, were themselves on, or had an ancestor or collateral relative on, the 1917 McLaughlin report of Rocky Boy's Indians which was cited in the 1982 act (Franklin 1995, table 1). She

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considered as eligible, implying that there may be Indians of other descent on those rolls who would not be considered as eligible (Statutes 1982, sec.7(a)(5)(A)(iv)).

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reported that 40 of the 312 Little Shell elders were on the 1934 Rocky Boy's roll. Although the 1934 Rocky Boy's roll was not specifically named in the 1982 act, it falls in the category of "other rolls or records acceptable to the Secretary" allowed by Section 7(a)(5)(B) of that act. Using these two sources, Teske found that a total of 98 of the 312 elders who could demonstrate Chippewa-Cree ancestry, 31 percent of them, had a lineal or collateral link to the Rocky Boy's Chippewa who were identified in the 1982 act as descendants eligible for enrollment. Although Teske's report analyzed only about 8 percent of the Little Shell petitioner's current membership, it showed that the vast majority of those who could demonstrate Chippewa ancestry, 288 of 312 of them, were themselves on, or had at least one ancestor who was on, one of the acceptable rolls for proving Pembina descent under the provisions of the judgment fund distribution Act of 1982, or a source substituted for an acceptable roll.

The names of 1,722 members of the Little Shell Band in 1987 appeared on the 1994 judgment roll (BIA 3/24/1994; LSTCIM 1987, membership list). This was about 51 percent (1,722 of 3,366) of the Little Shell Band's membership in 1987. At least 1,482 of the petitioner's current members -- on a combined roll which includes the 1987 membership list and supplemental lists dated 1990, 1991, and 1992 -- were recipients of the 1994 judgment award (BIA 3/24/1994). This is about 38 percent (1,482 of 3,893) of the petitioner's current members.

## **Patterns of Marriage within Montana, 1880's - 1980's**

### *Introduction*

An examination was made by BIA researchers of patterns of marriage among the ancestors of the petitioner, focusing on marriages among immigrants to Montana that occurred after migration or immediately before migration to Montana. One purpose was to analyze the extent to which these marriages created kinship links among all or a portion of the petitioner's ancestors within Montana, or potentially reinforced existing links. These populations were not shown to be closely linked previous to arriving in Montana. Evaluating the social cohesion that was established or reinforced as a result of intermarriage is pertinent to evaluating whether the Métis in the Montana rural settlements before 1920, in the subsequent rural town settlements, and in the state up to the present were, or are, a social community or communities. A second purpose of the examination was to measure rates of intermarriage, and changes in rates over time, within the population ancestral to the petitioner.<sup>92</sup>

Selected family lines were evaluated in detail for the analyses of kin linkages and intermarriage rates described below. For the analysis of kinship links resulting from marriage, eleven family lines were examined. For the analysis of intermarriage rates,

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<sup>92</sup> Significant rates of marriage within a group are evidence for community under section 83.7(b) of the regulations (25 CFR Part 83).

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twelve family lines were selected. Some of these lines were reviewed only for the analysis of marriage rates or for the analysis of kinship links, but not for both. A core group of major family lines, however, was used for both of these analyses. A total of fourteen family lines were selected for these two studies. Marriage patterns and marriage rates were analyzed by examination of specific family lines from both of the two geographical regions of traditional settlement. A total of seven family lines from the Front Range and seven from the Highline were studied. More than two dozen additional lines were also examined, in less detail, in the course of evaluating the possible existence of community and political systems among the petitioner's members and ancestors from the 1930's to the present.

The patterns of marriage are described here separately from the main historical narrative of this report, with an eye towards eventual integration of this analysis into a more complete analysis of the social character and history of this population than has been possible for this report. It anticipates eventually putting the results of the analysis together with other data concerning social and economic contacts between these populations, and describing the evolution of the petitioner and the extent to which its members have developed social cohesion and political processes.

### *Character of the Population Analyzed*

The available evidence indicates that the "founding" populations in both the Front Range and Highline / Lewistown regions were drawn from several separate geographical origins. Their tribal origins, and past association with the Pembina and Turtle Mountain Bands or other tribal entities were not fully determined for this report, but appear to have varied substantially. Families migrated to Montana from the Pembina settlement, the Red River Settlement, Turtle Mountain, and other areas. The source tribe or tribes and region of origin of a substantial proportion of the Montana immigrants ancestral to the petitioner were not determined for this report. The sources of the families that settled the two regions were the same, but the two regions differed in the proportions of the settling populations which came from a given area.

For these reasons, being "Métis" did not demonstrate that the migrants to Montana were a single group upon their arrival in the state. Therefore, a marriage between two Métis individuals was not necessarily a marriage in which both partners were members of an existing social group prior to their marriage. The existence of marriages between two Métis lines did not in itself show that the marriages in Montana were within a single, preexisting social group. Métis-Métis marriages in this instance can not be evaluated as marriage within or outside of a group, except insofar as the resulting kinship ties may show or be partial evidence for such a group. The review of the marriage patterns under these circumstances becomes then part of the examination of the basic character of these populations as a group or groups, which may have combined or divided.

It is clear that the Montana ancestors of the present group, in addition to being of somewhat diverse origins, arrived over a substantial period, from the early 1860's to the

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1930's, rather than coming all at more or less the same time. Furthermore, in some lines, some Métis spouses were drawn from North Dakota or Canada after the line, or part of it, had moved to Montana. In some instances, some members of a line moved back to their family's original area permanently or for a period of time, judging by a sprinkling of births in North Dakota or Canada after it appears that the line or that portion had moved to Montana. It also appears likely that some family lines continued to an undetermined extent to maintain ties with their home regions after moving to Montana.

Almost all of the Métis adults that came into Montana were married to other Métis, and were the descendants of one or more generations of such marriages. However, because of the size and diverse historical origins of the migrating population, these marriages in themselves do not demonstrate ties between the migrating families which predated their arrival in Montana.

No detailed evaluation was made for this report of whether or not there were preexisting ties among the Métis adults who came into Montana based on earlier marriages linking their family lines, nor was such an evaluation provided by the petitioner. Many had common origins in that they had earlier resided in the same settlement or location at the same time (e.g., the Red River Settlement in 1870), sometimes living immediately adjacent to each other. In some instances, both spouses of a migrating family were from the same area. A detailed analysis was not made to determine the extent or significance of this. In the selected lines studied for marriage rates, it was not found in most instance that lines linked by marriage had migrated together to Montana, or even that more than the one person from a family who married a "Montana" line had moved to Montana. An initial review of the large Doney line found the Métis spouses of the first two generations of Doney's resident in Montana were drawn from a number of different lines and had no clear prior links with each other.

Franklin and Bunte argued that the marriages in Montana were a continuation of pre-Montana marriage patterns of the Pembina Métis as largely Métis-Métis or Métis-Indian (Franklin and Bunte 1994, 34-35). They considered, incorrectly, that the almost complete universality of pre-Montana marriages as Métis-Métis was good evidence of ties among the body of migrants which predated Montana. They did not present a systematic analysis to demonstrate preexisting ties or to show a continuity of the initial Montana settlements from the pre-Montana communities of origin of the migrants. The petitioner did not present information to demonstrate preexisting ties based on pre-Montana marriages, except for a few examples of interrelated extended families coming as groups, which pertained to only limited portions of the petitioner. The most prominent example was the Berger-Wilkie party which settled around Lewistown. Actually demonstrating preexisting ties among the migrating families based on marriages or on tribal membership or residence in the same settlement would be an important part of demonstrating community in Montana before 1900 by showing that the newly arrived populations had preexisting linkages.

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### *Comments on Method of Analysis of Marriage Patterns*

"Métis" was defined for purposes of this evaluation as being of French-Indian ancestry, with the Indian ancestry usually being Cree and/or Chippewa. The source of evidence for this determination was the information entered by BIA researchers into a Family Tree Maker (FTM) database (BAR 1998).<sup>93</sup> No identification or assumption of group membership was incorporated into the analysis. Marriages with individuals identifiably from the Turtle Mountain Band or Rocky Boy's Band were counted separately, consistent with identifications and distinctions made by petitioner members presently and, evidently, throughout the 20th century.

The time period examined in detail was from the 1860's on, even though the migration of family lines was spread over a period of some 60 or more years after 1860. The evaluation was focused on the marriages of individuals moving to Montana, including marriages which occurred before they moved, with a lesser examination of some of their immediate ancestors.

Family lines were classified by the region, Highline or Front Range, where they were found in Montana. The classification was based largely on the birthplaces of individuals within a family line and on references to their residences in historical records and oral histories. Essentially all of the family lines reviewed were clearly associated with one or the other region, but not both regions. Evidence on places of marriage and death were too limited to be useful as other than supplementary evidence. For almost all of the lines, the pattern of birthplaces showed Canada and/or North Dakota as the birthplaces of earlier generations, followed later by Montana locations. The earliest Montana birthplaces were generally rural Highline or rural Front Range locations, but not both, with rural town locations, Montana city, and out-of-state locations coming later. In other words, the data were, by and large, consistent with what is known of the history of the movement of these populations.

An evaluation of marriage patterns and rates of intermarriage over time ideally is based

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<sup>93</sup> The following sources were used to document the petitioner's genealogies. The initial data which the BIA used to compile the petitioner's genealogies into one user-friendly genealogical research program (BAR 1998) were the membership records, ancestry charts, and individual histories submitted with the petition (LSTCIM 1984, 1987). The Roe Cloud Roll and applications (BIA 1937, 1938), and the published records of the Red River Settlement (Sprague and Frye 1983) were used to clarify genealogical connections between family lines and from one generation to the next. Other sources which contributed significantly in verifying lineages and identifying tribal descent were the censuses or rolls of the Turtle Mountain Band of Chippewa (BIA 1884-1900, 12/20/1906 [Allen report], 1906a, 1906b; Interior 8/28/1885 [Gardner report]; Mahone et al. 1890; McCumber et al. 10/1/1892, 9/24/1892) and the Rocky Boy's Indians (BIA 4/20/1909 [Wheat]; Interior 7/16/1917 [McLaughlin]). Additional records relating to the Turtle Mountain Chippewa who resided on the reservation after 1892 also identified some of their ancestors and relatives who were deceased or no longer living on the reservation (BIA 2/4/1907, 4/29/1909, 11/10/1913, ca. 1920). The Federal censuses for Pembina County, Minnesota Territory in 1850 and Montana Territory in 1880 (White Weasel n.d.; Census 1880) were also used by the BIA to clarify family relationships and are quoted in the "notes" in the genealogy program (BAR 1998).

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on the complete past and present population of the petitioning group. However, even assuming that the petitioner's ancestors in the past formed a definable group or groups, a complete reconstruction of past populations and marriages was not possible within the timeframe for this review because of the large population over time of several generations of the ancestral families of the current 3,893 Little Shell members. As an alternative, the source of information used for this analysis was the FTM database which was not limited to direct lineal ancestors of present members of the petitioner, but consisted of a partial reconstruction of their family line which included marriages of individuals with no present descendants in the membership.

The present Little Shell membership of 3,893 descends from an unknown number of historical ancestors who originated the petitioner's various family lines. A complete list of all of the petitioner's Métis and Indian ancestors in the 19th century was not presented by the petitioner, nor compiled for this report. A complete listing of these ancestors would be substantially larger than the number of ancestors traced to Pembina, the Red River Settlement, or other pre-Montana locations (and listed in the tables for this report). About one-third of the petitioner's members had no ancestors who could be traced to one of these sources even provisionally; instead, they were indicated as having Métis ancestry by the inclusion of themselves or their ancestors on the Roe Cloud Roll, or by information in other sources such as local histories or oral histories. In addition, the evaluation of marriage links and Métis-Métis marriage rates demonstrated that many others, who had, for example, a Turtle Mountain ancestor, had other Métis ancestors as well.

#### *General Description of Marriage Patterns*

The marriage patterns of fourteen selected family lines have been examined in detail, and more than two dozen additional lines in less detail, by the BIA researchers. Based on all of the lines examined, the petitioner's Métis families almost exclusively married other Métis families for several decades after their arrival in Montana. A small percentage of the Métis families married Métis from Canada or North Dakota or Indians from Montana tribes. The marriages were largely localized within each region, to the extent that marriage between families from these two geographically well-separated areas was not common during any time period in Montana. Each family line generally had marriages with a substantial number of other Métis lines, rather than just a few. Multiple marriages between the same two lines were not uncommon, some of them a sibling pair marrying a sibling pair. In some instances after 1900, marriages occurred among different branches of the same line; for example, a Parenteau descendant married another Parenteau descendant, or, not infrequently, a Doney married someone from one of the other branches of the very large Doney line. No lines were found which differed substantially with regard to having high rates of Métis-Métis marriage initially in Montana and declining rates into the 20th century.

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### *Creation of Kinship Ties*

The high rates of Métis-Métis marriage between 1880 and 1940, and substantial rates afterwards, linked numerous family lines within each of the two regions. These marriages created extensive kinship based social ties within each region or parts of each region which were reflected subsequently in the social and political character of the petitioner. These ties largely existed within one of the regions only, because marriage between an individual from the Front Range and an individual from the Highline was very infrequent.

Franklin and Bunte noted that the kinship linkages resulting from marriages between Métis families "tend to be most extensive and intensive within the two major regional settlement areas . . . as these regional community subgroups have the longest history of interaction and intermarriage" (Franklin and Bunte 1994, 43). It is not clear from their description whether they concluded that each region consisted of a single network encompassing all of the Little Shell Métis families or that there were several networks within each region that were not necessarily connected with each other. Although they used the term "regional network," they did not present an analysis intended specifically to demonstrate that all or most of the Little Shell families in a region are connected by marriage.

Franklin and Bunte presented four charts showing marriage-based links between groups of families, focusing on the family lines of individuals they or Campisi and Starna interviewed (Franklin and Bunte 1994, figures 1-4). Franklin and Bunte noted correctly that on each chart only part of the listed family line is actually shown, and that only some of the marriage links for these lines are shown (Franklin and Bunte 1994, 44). Thus there are more links, to more families, than are shown on their charts (judged by the FTM data). Their Figure 1 shows the Doney line and some linked lines, including the Antoine Azure line and Joe Dussome. Figure 2 is focused on a different set of linked lines from the Highline, located in the Havre and Chinook area. Figure 3 shows two groups of linked lines from the Front Range. Family lines which originally settled at Dearborn Canyon and, subsequently, at Augusta, were linked with lines originally from Teton Canyon which subsequently moved to Choteau. The Gray family line is shown as linking these two sets of families. Figure 4, labeled as showing kinship ties among Browning, Dupuyer, and Choteau families, focuses on the Salois and Bushie lines. No links are shown to the Front Range lines that are in Figure 3.

To evaluate the extent of linkages, the BIA researchers made an examination of five family lines within the Front Range region and six family lines within the Highline / Lewistown region using the FTM database (BAR 1998). This review of marriages among the Little Shell members and ancestors indicated that in each region there were one or more blocs consisting of a large number of Métis family lines which were linked with each other by marriage. This analysis suggested, but did not fully show, that some lines were more closely linked to each other (had more intermarriages within a given time period) than were others. There is some indication, from examination of these and other

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lines, that there may be multiple blocs within a region, perhaps with a few links to others. Because of the large number of lines, it is possible for a given line to marry numerous other Métis lines without marrying any one of these more than once and without those lines necessarily having a high number of other links between them. This analysis was limited in scope and did not attempt to show whether all or most of the petitioner Métis family lines within each region were linked to each other in a single bloc. Such an analysis could not be made because of the large number of lines involved and because a complete list was not compiled of all of the Métis migrants to Montana ancestral to the petitioner (or otherwise) between the 1860's and the 1930's.

The examination of five Front Range lines indicated that each was directly linked to each other, or linked to a common line, by multiple marriages between 1870 and 1940. However, the examination also showed that each was linked to a substantial number of lines with which the others did not have evident links.<sup>94</sup> The five lines were the descendants of Abraham Salois, Basil Ambrose Larance, William Boushie, James Swan (b.1829), and James R. Gray (Raymond Gray line). The analysis charted each line's marriages to each of the others and to other Métis lines. The Larance and Boushie lines were linked to all of the other four lines. The Gray and Salois lines were linked to three, and the Swan line to two. There were 23 other Métis lines which had married two or more of the five lines. Another 40 lines were directly linked by marriage to only one of the five families. These five linked families had originally settled in more than one location within the Front Range.

The Métis marriage partners of the six selected Highline family lines between 1850 and 1940 were examined to determine evaluate the extent of the linkage of these lines to other Métis family lines from the region or outside the region. The selected lines were the Joseph Doney, Calais LaFountain, Jacob Berger, Louizon Gardipee, Antoine Azure (b. ca. 1804), and Alexander McGillis lines. These lines were selected because they had a large number of descendants in the petitioner, because there were petitioner leaders from these lines, or because they were frequently mentioned in interviews. No attempt was made to distribute the selected lines geographically or by apparent point of origin. One or another of the lines had settled originally at or near Lewistown or elsewhere in the Judith Basin, the Doney area, and along and north of the Milk River.

This examination found that the Doney and LaFountain lines had married into each of the other five lines, and that the Azure, Berger, and Gardipee lines had married into four of the other five. The McGillis line was directly connected only to the Doney and Azure lines. Each of the six lines had marriages to additional Métis lines in common with at least one other of the six. The number of these links ranged from nine in common for

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<sup>94</sup> Because of the structure of presentation in the FTM database the analysis did not identify every marriage link between these families.

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Gardipee to 24 for LaFountain and 25 for Doney.<sup>95</sup> Overall, there were 29 lines (other than the six themselves) married into at least two of the selected six lines, eight married to three such lines, six married to four, and one married into five. However, there were an additional 53 Métis lines which were linked by marriage to only one of the selected six lines. Thus on both the Highline and the Front Range, approximately half of the Métis families that had married with the selected family lines over the time span from 1860 to 1940 had no connection with the selected line other than that one marriage.

The analyses above suggest that the petitioner may be able to establish, by a more extensive analysis, whether each of the two regions was entirely linked by marriage ties, or whether there were only sub-regional, possibly localized, subgroupings.

Some typical descriptions of the marriages are given below to illustrate the complexity of relationships. Of the descendants of Louis Gardipee (Highline), in the very earliest Montana generation an individual born in 1866 in Montana married a Doney and then a Fleury. His first generation descendants married a Parisien, a LaTray, a Fleury, a Parenteau, and a Gardner. Half of the next generation, born between 1914 and 1937, married an Azure, a Doney, a Parenteau, a Berger, a LeMercier, and individuals from other lines.

The Doneys, the largest Little Shell line, were linked through marriages in one of the first three Montana generations with Gardipee (Highline), Plummer, Sinclair (Highline), Kelsey, Jarrett, Gardner, LaFountain, Moran, Allery, Lavenger, Turcotte, Fleury, and other lines. Some of these names appeared more than once, in the same or successive generations of marriages. In the later generations, there were marriages between branches of the Doneys themselves.

The Antoine Azure line, through marriages of individuals born after 1860, was linked with LaFromboise (before moving to Montana), Moran, LaPier, Ducharme, Azure, Trottier, Gladeau, LaMere, Jeanotte, and others.

The prominent Front Range Salois family line had marriages in the first three Montana generations with the Sinclair (Front Range) line, LaRance, Gray, Collins, Gardipee (Front Range), Flamand, Fellers, and other lines, as well as to their own Salois kinsmen.

Marriage between the Front Range and Highline regions was infrequent between 1880 and 1940, but was not entirely absent. This is especially notable given the intensity of marriage within each region and that fact that there were family lines in both regions which had originated in the Red River Settlement. As noted, there were some differences between the selected family lines in the number of inter-regional marriage ties. Many of the selected family lines had no inter-regional marriages, or only one or two; a few family

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<sup>95</sup> Part of the difference reflects the substantial differences in size of the six lines, with Doney and Lafountain being the largest and, consequently, substantially more marriages than, for example, the Berger line.

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lines had more inter-regional marriages, although such marriages were never more than a minority of all the marriages in a family line. The confinement of marriages within a region is consistent with the other evidence that, while there was social contact among Métis within the two areas or within parts of the two areas, after they moved to Montana, there was little contact between the two areas.

Franklin and Bunte did not describe a substantial number of inter-regional marriage ties, contrasting the infrequency of these with the intensity of marriage within each region (Franklin and Bunte 1994, 43). They gave only a few examples of marriages across regional boundaries, and specifically identified only links between Lewistown families and the Front Range settlements of Augusta and Choteau.

Among the inter-regional marriages were several in the Louis Gardipee line. Another important exception was the John Swan line (b.1832 in Red River Settlement) some of whose descendants settled at Lewistown, which had several marriages with Front Range LaPiers and several others. The descendants of a James Swan (b.1829 in Canada) who primarily lived in Front Range areas, judging by birthplaces, included marriages of individuals born before 1920 to Highline families of Antoine Azure, Parenteau, Gladue, LaFountain, Trochie, and possibly others. A few inter-regional marriages occurred after 1920 as a result of post-1900 population movements. In one or two instances after 1900, individuals from the Highline had moved to the Front Range or vice versa, and had married there. In a few other instances, there were marriages between individuals whose family lines were from the two areas but who were themselves born after 1920 in Great Falls or Helena where Métis were drawn from both regions.

There may have been social ties between the two regions based on earlier residence of migrants in the same Canadian or North Dakota settlement, or at St. Peter's Mission. However, this was not demonstrated by the petitioner.

### *Analysis of Rates of Past Marriages*

The rates of marriage discussed here are, with one exception, a measure of the prevalence of past Métis-Métis marriage among the overall body of the petitioner's ancestral populations, as far as they are known. The gross marriage rates developed by these analyses, and those of Franklin and Bunte, do not measure the distribution of these marriages, that is, whether they spread across the entire population being studied or primarily occurred within smaller clusters of families. These measures do not show whether there were substantial differences among subgroups or communities in the rate of marriage to members of those subgroups, or to Métis in general. The petitioner has a large number of Métis ancestors, multiple historic settlements, and great distances between those settlements. Given this historical situation, whether the marriages were well distributed across the entire population, thus linking it, or primarily occurred within smaller groups of families, is a more important question in this case than it would be for a smaller group, derived from a single settlement, with fewer ancestral families than the very large number of ancestral families here.

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To determine rates of marriage within a group requires a definition of the group which is independent of the phenomenon or variable, in this case marriage, that is to be measured. That kind of definition of a group has not been adequately established here. Absent this baseline information, a general marriage rate based on all the petitioner's ancestors would not necessarily demonstrate social cohesion as a single community. Consequently, it could not be concluded on the basis of present knowledge whether the Métis-Métis marriages in the first Montana generation of the petitioner's ancestors, those marrying between 1880 and 1900, were marriages within a pre-existing group or not. They may, alternatively have been only marriages within a population with similar origins, language, culture and religion.

### *Measured Rates in Selected Family Lines*

One measure of marriage rates was made by the BIA researchers by studying six family lines from each of the two major geographical regions of settlement. The family lines chosen were ones with large numbers of descendants in the present membership and ones which have been somewhat prominent in the 20th-century history of the group. It does not include all such lines. At least 25 percent of the current membership is descended from these lines.

The Highline family lines reviewed were those of Joseph Dodet Parenteau, Antoine Azure (b. ca. 1804), Louizon Gardipee, Jacob Berger, Alexander McGillis, and Joseph Doney. The Doney line and this Azure line are among those with the largest number of descendants within the membership of the Little Shell group.<sup>96</sup> The Doney line's ancestors derive from the 1850 Pembina settlement, and came via the Turtle Mountain area. This Azure line and the Berger line were also in the Pembina settlement in 1850. These Parenteau and Gardipee lines were present in the Red River Settlement in 1870.

The family lines of individuals who settled, or whose descendants settled, on the Front Range were those of Abraham Salois, Basil Ambrose LaRance, Louis Gardipee (b. 1782),<sup>97</sup> Jacob Jocko, James Swan (b. 1829) and James R. Gray. Swan, Larance, and Gardipee originated in the Red River Settlement. Members of the Salois line reportedly served in Riel's rebellion and may have been from the Red River Settlement. The specific place of origin of the Gray and Jocko lines was not determined.

The source of information on the marriages of the petitioner's ancestors was the FTM database (BAR 1998), which included a partial reconstruction of marriages of individuals in the petitioner's ancestral families who have no descendants in the petitioner's present membership. There was no information concerning marriage for a substantial number of

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<sup>96</sup> The ancestors of the Little Shell include many individuals with shared last names who may or may not have had any connection with each other.

<sup>97</sup> There was no evident connection between the two Gardipee lines, one on the Highline and one on the Front Range, at least as far back as approximately 1800, from the data available at this time.

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siblings in some lines. These individuals were of necessity excluded from the calculations. The degree to which this may have skewed the results, and in what direction, is unknown. Marriages where the spouse's ethnicity was not identified were counted as marriages to non-Indians. More than half of the marriages to "non-Indians" in these statistics are marriages where the ethnicity of the spouse was not shown in the database.

This evaluation measured marriage at the estimated date of inception of the marriage. Because the FTM database did not consistently include the date of marriage of a couple, the date of marriage was estimated as 20 years after the birth year of the individual from the family line being examined. This measure does not account for the fact that marriages continue for a span of years, and hence is a conservative measure of the chronological period when those marriages were in existence. Given that in this case Métis-Métis marriage was initially almost universal in Montana, and became gradually less frequent, this measure tends to understate the percent of existing Métis-Métis marriages (new and continuing) among this population at a later time.

"Generation" here refers to the chronological age ranges stated, rather than genealogical generations. Because most families were large, the age range among succeeding generations of descendants of a group of siblings quickly diverged sharply. Age range was used, instead of genealogical generations, to reflect the presumed shared social context of those who came of age at approximately the same time.

The earliest Montana "generation" of the petitioner's ancestors, individuals born in the late 1860's and the 1870's, and living in the rural Montana Métis settlements, almost always married other individuals from Métis families, doing so in 92 percent of marriages studied (48 marriages). The balance of marriages consisted of 6 percent with non-Indians and 3 percent with other Indians. Segregating the Front Range lines from the Highline lines, the rates were 100 percent of the Front Range marriages and 85 percent of the Highline marriages. These marriages were estimated to have occurred between 1880 and 1900 while the rural Montana Métis settlements were at their height.

In the next generation, individuals born between 1880 and 1899, 84 percent of all the marriages measured were between Métis. By regions, this consisted of 72 percent on the Front Range and 91 percent on the Highline. Marriages with non-Indians constituted 15 percent, and 1 percent of marriages were with other Indians. This generation would have married between approximately 1900 and 1920, at a time when the rural settlements remained intact.

The individuals born between 1900 and 1919, the last generation born in the rural areas, had largely moved to the towns before adulthood. Of these marriages (193 marriages), estimated as occurring between 1920 and 1939, 48 percent were with other Métis, 46 percent were with non-Indians, and 6 percent were with other Indians.<sup>98</sup> The Front

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<sup>98</sup> With a few exceptions the other Indians were Gros Ventre or Assiniboine.

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Range rate of marriage to Métis was 52 percent and the Highline rate was 46 percent.

For the final cohort studied, individuals born between 1920 and 1939 and marrying between approximately 1940 and 1959 (337 marriages), 23 percent of marriages were with other Métis, 72 percent were with non-Indians, and 5 percent were with other Indians. The rate of marriage to Métis partners appears to have dropped off rapidly among those born in the last ten years of this period.

Although most lines examined showed several marriages to Métis or reservation Indians for individuals born between 1940 and 1960, these were isolated instances, making up less than 3 percent of the total marriages. Consequently, specific rates have not been calculated for this report. There have been few marriages in the past twenty years between two members of the Little Shell Band.

### *Past Marriage Rates Based on the Current Little Shell Roll*

Marriage rates were also evaluated by examining the parentage of members on the Little Shell roll as of 1992. The birthdates of individuals on the roll were used as the measure of when a marriage was extant. This approach partly measures the continuation of a marriage past inception, until the birthdate of the youngest child, which the analysis of selected lines above did not do. This measure does not include past marriages which did not result in descendants in the present membership, nor marriages of individuals whose children are all deceased, but does include all of the present membership. Whether this procedure skewed the results was not determined for this report.

Forty-five percent of members born in 1939 had two Métis parents. By comparison, the measurement of marriages in selected lines showed 48 percent of new marriages between 1920 and 1939 were Métis-Métis. Seventeen percent of those on the Little Shell roll who were born in 1959 had two Métis parents. This compares with 20 percent of new marriages between 1940 and 1959 measured in selected lines. The rates obtained based on parentage of those on the roll are consistent with the measure by selected lines.

### *Measurements by the Petitioner*

The petitioner (Franklin and Bunte 1994; Franklin 1996) placed great weight on the measurement of marriage rates to demonstrate community because of the provisions of the acknowledgment regulations which provide that if more than 50 percent of the marriages of a group are within the group, this is sufficient in itself to demonstrate community.<sup>99</sup> The petitioner's researchers concluded that the Little Shell had at least 50 percent in-group marriages from the 1880's through at least 1950. None of their analyses attempted to demonstrate whether these marriages were spread out throughout the Little Shell's ancestral population, or limited to subgroups. They did note that marriages between the two regions were infrequent.

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<sup>99</sup> Section 83.7(b)(2)(ii) of the regulations (25 CFR Part 83).

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The petitioner, in a report by Franklin and Bunte, reviewed the parentage of all of those on the 1987 Little Shell roll (Franklin and Bunte 1994, 35-36).<sup>100</sup> The rates of Métis-Métis marriage derived through this analysis were generally consistent with those derived by BAR. Franklin's analysis found that Métis-Métis marriages comprised 92 percent of marriages between 1880 and 1910, 63 percent between 1911 and 1940, 22 percent between 1941 and 1970, and 12 percent between 1971 and 1987. The BAR's estimate has the advantage of including the 1990, 1991, and 1992 supplemental rolls as well as including many known marriages in earlier generations with no currently living descendants or where the descendants are not enrolled. Nonetheless, the BAR measure substantially accorded with Franklin's results.

Franklin and Bunte presented a second analysis of the 1987 roll which factored in an estimate of an average length of marriage as 30 years (Franklin and Bunte 1994, table 2). This allowed for the fact that marriages would usually have continued later than the birthdate of the youngest child, the last date counted by the first method he used. This approach yielded a rate of Métis-Métis marriage of 63 percent of marriages in 1940 (the earliest year reported in the their table), 51 percent in 1950, 34 percent in 1960, and 14 percent in 1987. This result is reasonably consistent with the conclusion above that by 1950 new marriages within the group would have fallen below a rate of 50 percent Métis-Métis marriages.

Franklin and Bunte also presented a brief analysis of marriages extant in 1937 by examining the Roe Cloud Roll (Franklin and Bunte 1994, 38-39). They calculated that 82 percent of the marriages of those on the roll were Métis-Métis "in-marriages," counting marriages to Rocky Boy's Chippewa-Cree and Turtle Mountain Band members as the same as marriages with other Métis. Another 7 percent were married to members of other Indian tribes. The Roe Cloud Roll, however, only included a portion of the ancestors of the present membership or of the Métis in Montana that time. The roll does show that there was a large body of Métis individuals intermarried at a rate more or less consistent with the other measures.

Franklin in 1996 revised the petitioner's marriage rates to calculate the percent of married *members* at a given time who were married to another Métis, rather than the percent of such *marriages*. Franklin followed draft acknowledgment guidelines which stated that in-marriages count "twice" because they affect two members of the group.<sup>101</sup> This approach has not been adopted, however, in any previous acknowledgment determinations. The acknowledgment regulations plainly refer to the percent of *marriages*, not the percent of *members* of the group affected. Thus, the percent of *members* participating in in-group marriages is not relevant evidence for the 50 percent

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<sup>100</sup> It was not determined if this limitation had any effect on their results.

<sup>101</sup> Thus, if 50 percent of the *marriages* of the petitioner's members were to another Métis, then 67 percent of the petitioner's married *members* had married another Métis.

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requirement of the regulations.<sup>102</sup>

The number of individuals in a group affected by in-group marriages, however, is relevant in evaluating ordinary evidence for the existence of a social community, under the regulations.<sup>103</sup> In calculating the percent of individuals in a group who marry within it, an in-marriage involves two members of the group, while an out-marriage involves only one. Based on this approach and using the petitioner's 1987 roll, Franklin calculated that the portion of members who were born to marriages between two Métis was 96 percent for members born between 1880 and 1910, 77 percent for 1911 to 1940, 36 percent for 1941 to 1970, and 22 percent for 1971 to 1987 (Franklin 1996, 2).<sup>104</sup> Incorporating the approach of counting the number of members of the group involved in Métis-Métis marriages, rather than the number of such marriages, and adopting an assumption that the length of marriages was 30 years, Franklin estimated that the portion of members with a Métis-Métis marriage was 69 percent in 1949 (the earliest year presented), 50 percent in 1960, and 25 percent in 1987.

The petitioner estimated that the last year when more than 50 percent of Little Shell members marrying were marrying other Métis was 1949, when the rate was 53 percent (Franklin 1996, 4). Franklin, looking at extant marriages and incorporating his estimate of a marriage length of 30 years, estimated that 50 percent of married Little Shell were married to another Métis in 1960, with the percentage declining after that time. The more conservative BAR measure of the parentage of members on the 1992 roll indicates that the late 1930's was the earliest that the portion of the petitioner's new marriages that were between two Métis would have fallen below 50 percent. The percent of Little Shell members marrying another Métis, as opposed to the percent of marriages, would have remained above 50 percent until somewhat later. The BAR's analysis of the parentage of members on the 1992 roll was consistent with its evaluation of selected family lines, which showed that 48 percent of new marriages between 1920 and 1939 were Métis-Métis.

### *Marriages to Members of Montana Reservation Tribes*

Only a small percentage of past marriages were with individuals from the federally recognized reservation tribes in Montana, the Rocky Boy's, Blackfeet, Gros Ventre, or

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<sup>102</sup> Section 83.7(b)(2)(ii) of the regulations (25 CFR Part 83).

<sup>103</sup> Section 83.7(b)(1)(i) of the regulations (25 CFR Part 83).

<sup>104</sup> Based on this approach, the statistics for selected lines analyzed above would be: 96 percent of members of these families marrying between 1880 and 1899 married another Métis. Between 1900 and 1919, approximately 91 percent of those marrying married another Métis. The proportion falls to 65 percent of those marrying between 1920 and 1939. Of those marrying between 1940 and 1959, the percentage of individuals marrying Métis is 38 percent. Using this analysis, assuming a constant rate of decline, new marriages which were Métis-Métis would have fallen below 50 percent of members marrying by approximately 1950.

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Assiniboine tribes. However, the data used may be skewed so that these results somewhat underestimate the actual number of historical marriages to reservation Indians. The potential skewing results from the Little Shell Band's prohibition of dual enrollment with a recognized tribe. As a consequence, some of the descendants of marriages to members of one of the reservation tribes are not on the Little Shell roll, because they are enrolled with the tribe of their non-Little Shell parent (see Franklin and Bunte 1994, 52-54). These unenrolled descendants, and their ancestors, may not show on the genealogical outline of the family line in the FTM, even though they are part of the family lines with members in the petitioner (see below, relationship to reservation Indians).

### *Marriage Patterns in the Context of Discrimination and Social Distinction*

Franklin and Bunte concluded that past marriages with non-Indians were much more commonly a Métis woman marrying a white man than vice-versa (Franklin and Bunte 1994, 51). This was true of almost all of the few marriages to non-Indians between 1880 and 1910. The ratio of Métis women versus Métis men marrying non-Indians declined gradually, at the same time as the percent of Métis marrying non-Indians increased. The ratio did not become an even one until 1970, by which time there were almost no Métis-Métis marriages. A systematic pattern of the women of a social group, but not the men, marrying into a high status group is termed "hypergamy." It frequently occurs where one of the two intermarrying groups has a lower status than the other. This historical pattern of Métis marriage to non-Indians lends support for the conclusion that the Métis were regarded by non-Indians in the past as having a lower status and that this view continued, albeit to a diminishing extent, throughout the 1950's and 1960's.

While there were significant barriers to intermarriage resulting from views of the surrounding non-Indian population, oral histories and interviews indicated that there was no barrier from the point of view of the Métis families to marriage to white non-Indians within the lifetime of living individuals (FD 1998). This applied to marriages either with non-Indians or with reservation Indians. This attitude was almost universally reported by adults who grew up in the "moccasin flat" era, notwithstanding the discrimination experienced in that era. These accounts report attitudes after 1920 and are consistent with increasing frequency of marriage to non-Indians after that time. Two individuals in their sixties stated, however, that their parents would have preferred that they had married another Métis rather than marrying non-Indians as they did (Allen 1998; G. Azure 1998).

Franklin and Bunte argued in part that the increase in out-marriage resulted from the Métis lines having become so intermarried that individuals had become so closely related that there were no longer eligible marriage partners within the group. The analysis of selected family lines above indicates that the number of Métis family lines "available" for marriage was very large and that it is unlikely that potential Métis marriage partners were not available.

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### *Conclusions*

Intermarriage among the Métis generated numerous links between Métis families within the two geographical regions. The complete distribution of these links within each region, however, could not be determined in adequate detail from the petitioner's or BAR's analysis. This analysis was sufficient to demonstrate, along with other kinds of evidence, that the two regions were substantially separate. It also demonstrated the existence of substantial blocs of linked families within each region, but not to the extent that an entire region may have been linked together. This analysis did not demonstrate whether there were multiple communities within the regions, or the extent to which there were families ancestral to the petitioner which had few or no marriage ties to other such families.

The patterns of marriage and high rates of Métis-to-Métis marriage before the 1940's indicate that those marriages were occurring within a population of individuals with extensive social contact with each other. These patterns and rates of marriage also appear to reflect circumstances where there were likely strong social boundaries against marriage and interaction outside of the population because of cultural and social differences between the French-Indian Catholic Métis and the largely Protestant Anglo-American settlers around them. The intensity of marriage indicates that other social ties besides marriage existed, since it is unlikely that such extensive marriage would have occurred without a social context for marriage partners to become acquainted. Although the social context for the period of extensive Métis-Métis marriage in Montana has not been completely developed for this report, the localization of marriage partners within regions strongly indicates a high degree of local social contact among Métis, a fact consistent with the limited available descriptions of Métis social life up until the 1930's as described earlier in this report.

## **Social Relationships and Social Interaction, 1950 - 1993**

### *Introduction*

None of the petition narratives present a detailed description of the existence of social community among the petitioner's members and ancestors between 1950 and 1993. Franklin and Bunte's 1994 report assumed that section 83.8, which applies to previously-acknowledged groups, applies to the Little Shell case, which would mean that the petitioner would not have to demonstrate the existence of historical community (Franklin and Bunte 1994, 31). Franklin and Bunte therefore focused much of their argument about community on demonstrating the existence of a community at present, although they described some historical evidence to support their discussion of a modern-day community. Beyond that, they depended on arguments for high rates of marriage within the group, as well as members' continuing cultural differences and social distinctions from non-Indians. As a consequence, there is not a focused presentation in Franklin and Bunte's report describing community between 1950 and 1993.

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The narrative report by Morris and Van Gunten in 1984 and the report by Campisi and Starna in 1987 were prepared before the provisions relating to previously-acknowledged petitioners became part of the acknowledgment regulations in 1994. Campisi and Starna's brief 1987 report, based on research conducted in 1985 and 1986, gave only a limited description of a community at the time their research was conducted. Its description of community before 1987 was limited, and generalized over too long a span of time to be a useful description of community at any given time in the past. The initial documented petitions of 1982 and 1984, including the report by Morris and Van Gunten, included only brief descriptions of community at that time.

There were not substantial contemporary descriptions of social community among the Little Shell membership between 1950 and 1993, except for studies of "Hill 57" and other Indian residence areas in Great Falls. However, information about changes in residence and marriage patterns, and the maintenance of Michiff culture before and after this time period, provided useful data. Some useful interview data were also available.

#### *Kinship Ties Resulting from Marriage among Métis Families*

The almost universal Métis-Métis marriages earlier in the century, as described above, created an extensive network of kinship-based social ties within portions of the regions of original settlement in Montana. Thus in 1950, substantial kinship ties existed within these various portions of the adult population, since these adults were to a large degree the children of two Métis parents. Such kinship ties would have continued between 1950 and 1993, but would have gradually diminished as the percentage of marriages between Métis families diminished. During the period between 1950 and 1993, the rate of marriage of Little Shell Métis to other Métis declined sharply. Of those marrying between 1940 and 1959, the percentage of individuals marrying Métis is estimated as 33 percent. The rate of Métis in-marriage continued to decline after 1959, so that by 1970 few new marriages were Métis-Métis. Even though the rate of new marriages that were Métis-Métis declined after 1950, many marriages made before 1950 would have continued after 1950. Because of continuing marriages, the percentage of married adults within the Little Shell Métis families who were involved in Métis-Métis marriages is estimated not to have dropped below 50 percent until approximately 1950.

Because of the declining rate of Métis-to-Métis marriages, the percent of adults who were the children of two Métis parents would have gradually diminished. Based on the gross rates of marriage cited above, and assuming that the children of a marriage were born within the first 10 years of a marriage, most of the adults born between 1920 and 1949 and becoming adults between 1940 and 1969 would have had two Métis parents. The number of adults who were the children of two Métis parents probably did not fall below 50 percent until some after 1970. Even with the increasingly large proportion of ethnic out-marriage, most individuals in the latter years of this period would have had at least two Métis grandparents, as well as likely links through aunts and uncles or cousins who married Métis. As discussed in the earlier analysis, however, the extent to which these kinship ties linked various portions of the petitioner's members and ancestors within the

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separate geographical regions is not evident from the available data and analysis.

### *Settlements and Distribution of Membership*

Ancestors in the oldest Montana generation, who grew up before the "moccasin flat" era, died over time between 1950 and 1993. In addition, an increasing percentage of Little Shell adults were individuals born after the end of the "moccasin flat" era. Thus there was a decline both in the proportion of members who had experienced the Métis social life and the proportion of members who had been former residents of the distinct Indian neighborhoods. However, even today approximately one quarter of the current members (939 of 3,893) were born before 1940 and are therefore old enough to have participated in the society of the "moccasin flat" era.<sup>105</sup>

From the 1950's on, the membership increasingly moved from the rural areas of settlement to Great Falls and Helena, as well as to other urban Montana areas. In addition, migration out of state, which began in the 1940's, became increasingly common from the 1950's onward. About 14 percent of the members born before 1959 were born out of state. Most of these individuals continue to reside out of state.

The social division between the two regions continued, although some contact between individuals from the two regions probably occurred in urban settings. Whether each region was a single unit in this era, or instead was composed of several independent units within it, could not be determined from the evidence submitted.

### *Urban Settlements*

Great Falls and Helena had substantial numbers of Little Shell residents by 1950. Statistics on Little Shell members' birthplaces reflect the history of Great Falls and Helena as the primary centers of urban relocation for Little Shell families before the 1950's. Many of the present adult members resident in these two cities have lived there all of their lives. Of 534 individuals on the current membership list born in Great Falls, approximately 272 were born before 1960. The equivalent figure for Helena is 128 of 228. By comparison, only 36 of 126 individuals born in Butte were born before 1960 and only seven of 126 members born in Anaconda were born before 1960, indicating that settlement in those cities tended to come later. Some of the members living in these cities were permanent residents, but others migrated back and forth between the rural towns and the cities. Urban residents maintained kin ties with family in the rural towns (Jacoby 1998; Thomas 1998).

The "moccasin flat" Indian neighborhoods which had developed in Great Falls and

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<sup>105</sup> No estimate of the proportion of adults drawn from the pre-1920 and the 1920-40 periods has been made.

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Helena in the late 1920's and 1930's continued to exist until at least the 1960's.<sup>106</sup> A study of "Hill 57" by Sister Providencia<sup>107</sup> of the College of Great Falls in 1964 stated that the population of Hill 57 / Mt. Royal<sup>108</sup> had averaged 400 persons during the 1940's and 1950's. It stated that there had been seven communities of Indians within the city in those decades. Providencia concluded that the city's Indian population first grew as a result of the Depression, and then World War II. Poor economic conditions on the reservations in the early 1950's encouraged later migrations (Providencia 1964).

A detailed population survey in 1954-1955 of the Hill 57 / Mt. Royal settlement and the Wire Mill settlement by Sister Providencia found a population of 412 individuals who had been resident for more than one year (i.e., omitting transients) (Providencia, July 1955). The study's population summary identified 18 households at Hill 57, 23 at Mount Royal, and 10 at Wire Mill as composed of Indians with "Turtle Mountain rights." Those households so identified apparently included both families actually from Turtle Mountain Reservation and petitioner families. The report identified another ten households with Rocky Boy's Band, nine as Chippewa, and one as a Cree.<sup>109</sup> Franklin and Bunte analyzed the complete lists of residents included with the report and concluded that out of 184 adults, 106 were from Little Shell families (58 percent), 56 were other Chippewa-Cree from Rocky Boy and Turtle Mountain (30 percent), 11 were other Indian, and 11 were non-Indian (Franklin and Bunte 1996, 21). This analysis identified about 40 percent of the residents of these Indian neighborhoods at that time as reservation Indians. Group affiliation was identified by Franklin and Bunte on the basis of the 1987 Little Shell roll and the 1969 Rocky Boy's roll (Franklin and Bunte 1996, 21).

Although many residents of these settlements were squatters, many others were shown on the 1954-1955 list as owning their own houses (albeit apparently small houses, poorly constructed, with no more than two to four rooms) and the land they stood on. Others were renting. Home ownership was especially common on Mt. Royal (Guzman 1998; Van Gunten 1998). This indicates that although the inhabitants of this area were generally poor, the neighborhood segregation was partly racial, and not entirely a matter

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<sup>106</sup> Although Great Falls and Helena are characterized here as "urban" centers, they are still relatively small cities, and were substantially smaller in the past. The 1990 population of Great Falls was 55,000, and that of Helena, 25,000.

<sup>107</sup> Sister Providencia first became involved with "Hill 57" in the early 1950's at the instigation of Jerry Thumm of the MLI. Her students did several studies, in addition to working on projects to aid the residents (Providencia 1979).

<sup>108</sup> The adjacent settlements of "Hill 57" and Mount Royal are sometimes referred to separately and sometimes grouped together simply as "Hill 57."

<sup>109</sup> The Chippewa included a small and distinct group, centered around the Gopher family, some of whom are still resident on "Hill 57" today. This group claimed descent from a Chippewa chief from the Great Lakes area. They were identified in the studies of "Hill 57" (see above) as descendants of a Chippewa band from the Great Lakes, unrelated to the Little Shell families, Turtle Mountain, or the bands on the Rocky Boy's Reservation.

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of economics. However, only 3 of 40 men were permanently employed and about 60 percent of the residents were receiving welfare services, although none from the BIA (College of Great Falls ca. 1955).

A family that lived in Hill 57 / Mt. Royal neighborhoods for many years indicated in an interview that there was a strong sense of community among the residents in the 1950's and 1960's. They said that residents clearly distinguished the Little Shell Métis living in the neighborhoods from residents who were Rocky Boy Chippewa-Cree or Indians from other reservations (Guzman 1998). Sister Providencia, referring to the 1950's, stated that "on the Hill, the Little Shell people were recognized as distinct by the other Indians" (Providencia 1979, 9).

In 1964, the settlements were smaller, but there were still between 100 and 150 persons living on "Hill 57" and an equal number in Mt. Royal (Providencia 1964). The Indian populations in these two settlements were characterized in a 1964 study by Sister Providencia as having more social control than non-Indian families of the city (Providencia 1964). The study also stated that there was "community interaction among the many clans." The settlements were described as a haven for Indians who came to Great Falls looking for work.

It is unclear to what extent Indians living in Great Falls and Helena lived outside these settlements before the 1950's. The 1954-1955 study noted that there were Indians living elsewhere in Great Falls. A mapping of Indian schoolchildren in 1957 showed concentrations of Indians outside of Hill 57 / Mt. Royal and Wire Mill. They were located on the south side of Great Falls east of the river, and on the west side below Hill 57. A few of the schoolchildren were scattered around the town as well (Anonymous 1957). Interviews indicated that in the 1950's Métis families began to move from "Hill 57" and the other neighborhoods into non-segregated but low-income areas of the city (Thomas 1998). It appears that residential segregation in Great Falls gradually broke down and, as a result, the Indian neighborhoods declined in size. There remained 14 houses on "Hill 57" in 1979 and two in 1998 (LaPier 1979; Van Gunten 1998).

The size and nature of the Indian neighborhood, or neighborhoods, in Helena is not well documented. Some indication of the Indian population there in the 1930's is given by the Roe Cloud Roll, which included 32 families from Helena. Franklin and Bunte stated that they were unable to offer much information concerning Helena, past or present (Franklin and Bunte 1994, 72). Campisi and Starna quoted one Helena resident, interviewed in 1986, as observing that "the Little Shell community in Helena 'sticks together' and that they all know each other" (Campisi and Starna 1987a, 60). One interviewee, in her late 50's, provided a description of a settlement of Indians that was poor, segregated, and with a strong sense of community (Mayer 1998; see also Swan 1998). She described the settlement as a mixture of Little Shell and other Indians. There was no information available about what proportion of this settlement consisted of petitioner families. The Little Shell families were, however, reportedly distinct from the other inhabitants.

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### *Cultural Differences*

There were no detailed, contemporary measures of the maintenance of distinct culture by the petitioner's members and ancestors between 1950 and 1992. Based on the evidence from before 1950 and after 1992, there were continued cultural differences from non-Indians and reservation Indians in this period, but the amount of difference declined substantially in this interval. This information, which provides only a general description, indicates similar changes and trends within both regions, and among their respective populations whose connection with each other has not been fully established.

By most interview accounts, the last generation to fully maintain the historical Michiff culture was that of individuals born in the rural settlements, who to a large degree settled in the rural towns or cities between 1920 and 1940. This Métis culture diminished rapidly with the generation born after 1930 that grew up in the towns and cities, the individuals who are the older adults among the petitioner's members today. Accounts by individuals growing up in the 1930's consistently indicate that few of them learned the Michiff language, or French. Interviews indicate that the full-scale traditional New Year's celebrations, one of the most distinctive social and cultural institutions, came to an end around 1950, as the older generation was reaching the end of its lifespan. Thus, the overall amount of cultural differences between the Métis and non-Indians was already decreasing in the 1930's. Some differences probably remained, among older individuals, and a decreasing proportion of younger ones, until at least the 1980's.

### *Discrimination*

By several measures, the discrimination described for the 1930's was already in decline by 1950, and substantial negative social distinction of Little Shell members from non-Indians based on discrimination had ended well before 1992. The measures are marriage and residential patterns, with a few interview and other direct reports. Marriage with non-Métis was already increasing in the 1930's, and Métis-Métis marriage had substantially declined by the mid-1950's. By 1970, there were almost no Métis-Métis marriages among the petitioner's members. Residential segregation had ended by the early 1960's at the latest. After 1949, discrimination was mentioned as an issue only once in the minutes of the Landless Indians of Montana / Little Shell Band, in 1962.

Former chairman Donald Bishop stated that when he returned to Malta to work in 1965, one individual threatened him with being run out of town and another refused to hire him (Bishop 1986). Two examples from Great Falls, which do not deal specifically with the petitioner's members, also suggest that some discrimination may have continued into the 1960's. A 1964 narrative by a non-Indian concerning Indian attitudes toward non-Indians in the city stated that there was frequent fighting between Indian and non-Indian students and a strong feeling of distrust of the white citizens by the Indians, despite considerable day-to-day mixing (Gubatayao 1964). Discussants at a 1974 workshop at the College of Great Falls complained that there was still discrimination in employment (Great Falls *Tribune* 2/25/1974). Since earlier discrimination applied to both Little Shell and

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TABLE 14

LOCATION OF PETITIONER'S CURRENT MEMBERS, 1992

<u>Montana</u>		2715 (70%)
Highline and Lewistown	738	
Havre	224	
Chinook	76	
Zurich	5	
Harlem	50	
Dodson	39	
Malta	59	
Glasgow	41	
Wolf Point (on Ft. Peck Reservation)	38	
Poplar (on Ft. Peck Reservation)	17	
Box Elder (on Rocky Boy's Reservation)	25	
Hays (on Ft. Belknap Reservation)	69	
Zortman	12	
Landusky	3	
Lewistown (including Roy and Hilger)	80	
Front Range	383	
Browning (on Blackfeet Reservation)	165	
Babb (on Blackfeet Reservation)	51	
Heart Butte (on Blackfeet Reservation)	9	
Cut Bank (near Blackfeet Reservation)	63	
Dupuyer	6	
Choteau	75	
Augusta	14	
Urban	1146	
Great Falls (incl. Black Eagle and Vaughn)	660	
Helena (incl. E. Helena)	178	
Butte	111	
Anaconda	47	
Billings	95	
Missoula	55	
Elsewhere in Montana	448	
Kalispell	52	
Libby	48	
Flathead Reservation	28	
Balance of the State	320	
<u>Out of State</u>		1178 (30%)
Washington	400	
California	168	
Oregon	133	
Idaho	73	
Wyoming	62	
North Dakota	40	
Other	304	
<b>Total</b>	<b>3893</b>	<b>3893</b>

SOURCE: LSTCIM 1987, 1990, 1991, 1992 [Petitioner's membership lists].

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reservation Indians, the reference here to "Indian" is believed to refer to both. These examples were not sufficient to make a determination that strong patterns of discrimination existed in the 1960's and 1970's.

## **Contemporary Social Relationships and Social Interaction**

### *Introduction*

The petitioner's members do not now live in a distinct settlement area, or in various distinct settlements made up largely or exclusively of Little Shell members or related Métis. There remain a substantial number of members in the towns where the Métis families settled beginning in the 1920's (see above).<sup>110</sup> There are 738 members in the Highline towns and Lewistown, including 224 at Havre. There are 383 members along the Front Range, including 288 are on the Blackfeet Reservation.<sup>111</sup> However, the current membership has spread well beyond these traditional locations (see Table 14). The largest single concentration is in Great Falls, with 660 members, 17 percent of the membership. Substantial numbers have moved to other Montana urban areas. Thirty percent live out of state.

Present-day informal social relations among Little Shell Band members are to a significant degree based on past association and kinship relations. The available interview information is most detailed within the Highline and Front Range regions, and for Great Falls.

### *Description of Interview Data*

Franklin and Bunte stated that they conducted interviews in 1993 and 1994 with 76 individuals from 60 households. Some of their interviews were done with two or three individuals in a household at the same time. Fifty-four of the interviews were with residents of the Highline (40) or the Front Range (14); another ten were urban, eight of them in Great Falls; and four were from western Montana.<sup>112</sup> The median birthdate for those interviewees who could be identified on the current membership list was 1928. Franklin and Bunte also prepared notes and transcripts of the Parenteau reunion, a senior's meeting in Malta, and visits with Little Shell members to cemeteries or areas of former residence.

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<sup>110</sup> Information was not available about how many Métis family descendants that are not enrolled in the Little Shell organization either because they are enrolled in a recognized tribe, or are not enrolled anywhere live in these towns.

<sup>111</sup> Includes 63 at Cut Bank, immediately adjacent to the reservation.

<sup>112</sup> There was insufficient information to determine the location or the membership status of other individuals interviewed.

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Campisi and Starna indicated that they conducted research in 1985 and 1986, interviewing a total of 93 individuals (Campisi and Starna 1987a, i). Their 1985 interviews were not included in the petitioner's submission and were not referenced in Franklin and Bunte's reanalyses of Campisi and Starna's data (Franklin and Bunte 1994, 133-134). The petitioner submitted copies of 57 interviews conducted by Campisi and Starna in August 1986. More than two-thirds of those 1986 interviews were with individuals born in 1925 or earlier.<sup>113</sup> The petitioner's submissions included other interviews by Campisi and Starna, conducted in 1989 and 1991, which were not referenced in any of the petition narratives (Campisi and Starna 1989-1991). Because the interviews for Campisi and Starna's report were conducted 13 or 14 years ago, their value for evaluating a community at present was somewhat limited.

A total of 31 interviews with 35 Little Shell members were conducted by BAR in May 1998. The BAR's interviews were weighted in terms of geography somewhat similarly to those of Franklin and Bunte, but with a higher proportion from Great Falls and Helena. Only one or two individuals interviewed by BAR or Franklin and Bunte were from the 30 percent of members living out of state. The BAR's interviewees had a somewhat younger median age than those of Franklin and Bunte. The interview selection by the BAR put more emphasis on present and past office-holders than did the two sets of petitioner interviews.

### *Kinship Networks*

The petitioner offered no systematic analysis which provided detailed data about how widely the petitioner's kinship networks are maintained. As described above, the available evidence indicates that kinship networks have generally been limited to a geographical region, or part of a region. Also, it has not been demonstrated that the family lines within a given region have been significantly linked to each other through marriage ties, although there have been at least several groupings of linked family lines. Although this qualification of the petitioner's research needs to be noted, Franklin and Bunte presented data to show that Little Shell members today generally maintain contact with kinsmen beyond their primary kin. Interviews by the petitioner and the BAR with a substantial number of individuals from different areas and family lines provided evidence to support this conclusion. Together with the closeness of kinship ties between ancestral lines of the petitioner due to the high rates of past marriages between them, the interviews were sufficient to support a conclusion that wide kinship networks are commonly maintained within regions and within portions of the petitioner's extensive membership.

Many of the BAR and petitioner interviews indicated that the people interviewed generally maintain social contact among a wide network of their kinsmen living within one of the geographical regions, but not across regional boundaries. "Wide" here means extending beyond immediate kin -- children, siblings, parents, grandparents, aunts, and

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<sup>113</sup> The age range appears to reflect a fieldwork focus on reconstructing as much of the earlier political organization as possible.

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first cousins. Individuals know how they are related not only to more distant relatives in their own family line, but also how they are connected to the multiple different Métis family lines that have intermarried with theirs in immediately past generations. A given person might describe his or her relationship to the Doney, Gardipee, Swan and other families, through various kinship connections. For example, Highline people interviewed could describe in detail how they were related to Joe Dussome and how he was related to a various families (FD 1998).

The Doney name may be the most widely recognized surname within the Little Shell membership. Present-day members with Doney ancestry tend to identify themselves and be identified by others as Doney rather than one of the other Métis families in their immediate ancestry. This is because of the large number of Doney descendants, extensive intermarriage with other family lines, and prominence of Doney descendants in the LIM/LSB organization. This body of kinsmen has somewhat of a distinct reputation, based on their family history, and the well-known four brothers who founded the family in Montana (Jacoby 1998; Vogel 1998). Current members generally recognize many other family names as local Métis, or "breeds," and as prevalent among the Little Shell membership. These include Salois, Gardipee, Berger, Gray, Swan, Laverdure, Lavenger, Fayant, Sinclair / St. Clair, Trotchie, LaRance, Parenteau and Azure.

Several of the major family lines have reunions from time to time. Franklin and Bunte collected data on reunions of the Doney family, the Parenteaus, Trotchies, Brouchs, and Boushie-Sinclair families. The Trotchie and Parenteau reunions include kinsmen from the United States and Canada. They include branches of these families which never resided in Montana and are not part of the petitioning group today. The Parenteau reunion includes both Métis and non-Métis branches of the family line and is held alternately in Montana and Canada (Parenteau 1998; Franklin and Bunte 1994, 84-85). The 1993 Boushie-Sinclair reunion was attended by 800 people. Franklin and Bunte described one reunion celebration, noting that it included elements similar to the old-style Métis celebrations such as fiddle dancing and traditional foods (Franklin and Bunte 1994, 84). Franklin and Bunte also reported that there was an annual reunion of families formerly resident at Gilman, including Pauls, Swans, Pochas, Sangrays, Luceros and Brewsters (Franklin and Bunte 1994, 111). The Gilman reunion is an annual one, attended by 50-60 people.

No instances were found of groups of related families acting in concert, and no indication that groups of related families are organized, informally or otherwise, for political or other purposes. However, kinship ties serve as communication networks on political matters (see later discussion of contemporary political processes).

### *Analyses of Informal Social Contacts*

Franklin and Bunte presented summaries and analyses of several kinds of data which intended to demonstrate that informal social contact is spread widely among the Little Shell membership at present (Franklin and Bunte 1994). They described evidence of

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informal social knowledge, including informal visiting (including telephoning) and gossiping. Their analysis of informal social contacts covered both contacts between extended kin and social contacts between unrelated Métis families.<sup>114</sup> They discussed funerals, family reunions, and tending of family graves.<sup>115</sup>

In a table labeled "Informal Social Interaction in the 1990's," Franklin and Bunte cited 18 of their interviews in the Highline area, six in Great Falls and five in the Front Range in which there is information showing informal visiting, knowledge of the affairs of other Little Shell, or other evidence of informal social contact (Franklin and Bunte 1994, table 5). All of their interviews (including those in the table) were indexed by Franklin and Bunte to show information falling within four categories of informal social interaction: gossip about individuals, visits and phone calls, kinship relations among community (town) members, and kinship relations among the immediate and extended family (Franklin and Bunte 1995a). This index indicates that in 59 of their 60 interviews there was information which fit one or more of these categories. A spot check of the interviews beyond the 29 in the table confirmed the accuracy of the index, and indicated that informal social contacts beyond immediate family is common. However, the petitioner presented no analysis which would show that these informal contacts substantially link most Little Shell members with each other, or that they link most members with each other within a geographical region or area within a region. In short, this demonstration that informal social contacts extend beyond immediate family does not demonstrate that the petitioner's extensive membership as a whole forms a distinct community.

Franklin and Bunte also presented data to illustrate their conclusion that among Little Shell members there continues to be a high level of interpersonal social knowledge of each other (Franklin and Bunte 1994, 91-98). They presented a number of examples of conversations between Little Shell members which included stories or anecdotes about both past and recent personal histories of the participants or Little Shell that they were related to or knew. These are characteristic of individuals with a long-standing personal acquaintance with each other. Franklin and Bunte attempted to demonstrate by these data that Little Shell members frequently have knowledge of other individual members' personal affairs, and that gossiping about members is common. They describe this as

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<sup>114</sup> Their discussion of informal social contacts did not consistently distinguish between social contacts of an individual with other Little Shell who are parts of what are fairly widely maintained kinship networks, and friendships with Little Shell who are not related. Although both kinds of information are significant data for showing informal social contact, the presentation was not as useful as it would have been if it described these separately.

<sup>115</sup> Campisi and Starna presented a description of the social contacts with other Little Shell members of 34 individuals that they interviewed (Campisi and Starna 1987a, 48-64). Almost all were from the rural towns, Great Falls, or Helena. The contacts described were almost all with primary kin, except for those of present or former political leaders, who had much broader contacts. Because it did not examine broader social contacts, this material was of little value in determining whether or not the Little Shell membership formed a social community in 1987.

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evidence that there are social relationships among the Little Shell membership which are more than casual ones. However, they presented only a few examples of specific conversations, and some of these concerned only close kinsmen. This material was too limited to be sufficient evidence that a high level of interpersonal social knowledge is commonplace among Little Shell members as a whole.<sup>116</sup>

Franklin and Bunte concluded that the informal social contacts described in their interviews resulted from relationships "which are the product of a shared history of intimate, community living with other Little Shell people" (Franklin and Bunte 1994, 79). The social knowledge and contact derived from past common residence or other close association in the past are still a significant influence on social interaction today. For example, an individual may know others because they grew up together, had worked together, or had attended the same New Year's festivities (FD 1998; Franklin 1993-94). The "moccasin flats" in the rural towns ended in approximately the mid-1950's, with the Great Falls Indian neighborhoods lasting somewhat longer. Approximately one quarter of current members (939 of 3,893) were born before 1940, so a substantial minority of the present membership is old enough to have participated in the Métis cultural life in the era of the "moccasin flats," though not necessarily having lived in one of those settlements.<sup>117</sup> Since these segregated neighborhoods existed in a number of towns which have not been shown to have interacted as a community in the past, present links to such past settlements may suggest continuing social interaction within portions of the petitioner's membership, but not show that interaction extended to the petitioner as a whole.

Franklin and Bunte concluded that there are local gathering places at present in Havre, Great Falls, and Browning where "Little Shell tend to interact." They named locations such as the tribal office (in Havre), bowling or bingo halls, the Native American center in Great Falls, and certain bars identified as so-called "breed bars." They did not give an estimate of the proportion of the membership that interacts in these settings, and do not cite specific interview data. BAR interview data confirmed their conclusion for Great Falls, but did not allow for an estimate of how many members were involved there. Franklin and Bunte went on to say that, "In Havre, for example, everyday communicative contacts, etc., link virtually all adults in the community to each other, so that the same group of names repeat again and again. . . . Very clearly these people all know each other and interact frequently" (Franklin and Bunte 1994, 88). Franklin and Bunte's interviews, and BAR's interviews, did not support a conclusion that virtually all the adults in Havre were informally socially connected. The information in these interviews is not extensive enough to do this. There are 224 members in Havre, but only 14 individuals were interviewed there by Franklin and Bunte. Further, the BAR Highline interviews provide

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<sup>116</sup> Although they indicate that their interview materials contain "literally dozens" of such "narratives" (Franklin and Bunte 1994, 93), these examples were not identified or analyzed in their report.

<sup>117</sup> Some families had to varying extents separated themselves from local Métis society (discussed above). The percentage of these could not be precisely estimated but based on the available interview data, these families were a minority. Judged by the Roe Cloud Roll applications, a relatively small minority were living out of state or in Montana but not on the Highline, Front Range, Great Falls or Helena.

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some data which indicate that there are some Little Shell Highline residents with whom the interviewee had little or no contact (J. Azure 1998; M. Doney 1998; Swanson 1998).

Franklin and Bunte conducted a total of 40 interviews on the Highline. There were no interviews farther east on the Highline than Malta. Their interviews also covered the Hays-Zortman area and Lewistown. Their report did not present conclusions for specific Highline towns other than Havre. Concerning the Highline, Franklin and Bunte concluded that "Little Shells of one area tend to be on very familiar terms with each other, not only within the same town but among adjacent towns" (Franklin and Bunte 1994, 87). The BIA interviews and Franklin and Bunte interviews support a conclusion that the Highline residents commonly have informal social contact with some other Little Shell residents of other Highline towns besides the one they reside in. This result is not surprising, given that many if not most adults have lived in more than one of the towns at some point in their lives, and have relatives distributed throughout the area. Only a minority of the petitioner's members now live along the Highline, and this evidence shows social interaction within one geographical region, not throughout the petitioner as a whole.

Franklin and Bunte commented briefly on informal social interaction in the Front Range area. They stated that "the same pattern of interlocking contacts [as seen on the Highline] can be seen within and between the Front Range communities of Choteau, Augusta, and Browning" (Franklin and Bunte 1994, 88). There were interviews with at least 14 Front Range individuals. The BAR interview information was consistent with Franklin and Bunte's conclusion that kinship based and other informal social ties are common on the Front Range (C. Salois 1998a; Brewster 1998). As on the Highline, however, this information on social interaction is limited to a minority of the petitioner's members and to one geographical region.

#### *Social Contact Between the Front Range and the Highline*

Although social contact and kinship links exist within each region, from all available evidence there does not appear to be at present, or to have been in recent decades, substantial informal social contact between individuals from the two different regions of traditional Little Shell settlement, the Highline and the Front Range. BAR interview questions about experience in the opposite region asked whether the interviewee knew someone from the opposite region, and, if so, how he or she knew them. These questions almost universally elicited a response from interviewees that they had little or no acquaintance with Métis families from the other area except from Little Shell organization meetings (FD 1998). For example, a long term chairman who served from the late 1980's until 1994 stated that she did not know the Front Range people except through meetings of the Little Shell organization (Swanson 1998). A very active individual who had been an area representative and is widely known throughout the Highline stated that he had attended events in Choteau a number of times without knowing that there was a large Métis population and a separate settlement of "Métis"

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people there (S. Doney 1998).<sup>118</sup>

This information is consistent with the fact that the various kinship networks of the Little Shell members within the geographical regions do not extend across the boundary between the two regions to any appreciable extent. Although Franklin and Bunte presented evidence that some intermarriages occurred in the past between the Métis families of the two areas, these were too few to “unite” the two regions (see the discussion under intermarriage).

### *Great Falls and Helena*

A fairly detailed investigation by BAR indicated that although Great Falls presently has a large population of Little Shell members, they do not form a social community (Guzman 1998; Koke 1998; Fleury 1998; Shield 1998; R. Salois 1998; Thomas 1998; Jacoby 1998). There are no longer any residential concentrations, although a public housing development reportedly has a substantial number of Little Shell, along with other Indians. There was not good evidence from BAR interviews or the petitioner's information that Little Shell members living in Great Falls know and have informal social contact with numerous other Little Shell living in Great Falls other than immediate relatives. Many of the examples cited in Franklin and Bunte's table of examples of informal social contact in Great Falls involved activities of the Great Falls Native American Center, and thus were not clearly examples of informal social contact within the petitioner (Franklin and Bunte 1994, table 5).

Franklin and Bunte stated that several bars in Great Falls are identified by their interviewees as so-called “breed bars” where “Chippewa-Cree Métis” (Little Shell, Rocky Boy's, and Turtle Mountain) hang out (Franklin and Bunte 1994, 88). They also stated that there are certain bingo parlors where Little Shell members regularly see each other. There was some support for these observations in BAR interviews. However, it could not be determined from the available information how much of the Little Shell population in Great Falls visited these two kinds of locations (Jacoby 1998; Thomas 1998).

Although the data cited above do not describe a significant level of informal social contact among the Little Shell members in Great Falls, the political history of the Little Shell Band provides evidence that there is some maintenance of social contacts among the members who live in the city. This is shown by past and present instances where Great Falls has appeared to act as a distinct political constituency (see the political narrative above). Local leaders have been able to achieve a fair degree of visibility with local Little Shell members and have been able at times to mobilize them for meetings, fund raising, and other activities (R. Salois 1998; Shield 1998). Getting local support for

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<sup>118</sup> Franklin and Bunte did not address this issue in their analysis of informal social interaction. A limited review of their interview data did not show information concerning informal social contacts between the two regions, except where acquaintance may have developed in Great Falls or other urban areas (Franklin and Bunte 1995a).

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political and organizational activities has been achieved in part through press coverage and the assistance of the local Indian center. The extent and nature of this political action implies that some local social contact has been occurring, and certainly that there was communication outside of formal meetings.

Franklin and Buntè stated that they were unable to offer much information concerning present-day Helena (Franklin and Bunte 1994, 72). The BAR field investigation concerning the present-day Little Shell membership in Helena was also limited. The available information indicates that there is not now a community locally (Mayer 1998; Swan 1998). However, as in Great Falls, the local Little Shell members at times, past and present, have formed a distinct political constituency and have been able to mobilize political support for their perceived interests (see narrative of political activities, above).

### *Out-of-state Members*

The profile of the birthplaces of out-of-state members (see above) shows that out-of-state residence is, for the most part, the product of relatively recent migrations, with few migrants before 1940 and increasingly frequent migration since 1950. The out-of-state population is not one which has been established for several generations outside the home areas of the Little Shell petitioner. "Home areas" is used here to refer to the locations -- the rural Highline and Highline towns (including Lewistown), Front Range towns, and Great Falls and Helena -- where residence areas largely made up of Métis families existed from the 1920's to the 1950's, or which were otherwise centers of Little Shell Métis settlement before 1950.

About 14 percent of the members born before 1959 were born out of state. Most of these individuals continue to reside out of state.<sup>119</sup> To the extent that the out-of-state members were born in Montana, especially in the home areas, and are thus more or less recent out-migrants, continued contact with Little Shell relatives in the home regions is credible.

Washington state has the largest number of Little Shell members outside of Montana, with 400 Little Shell members. This is 10 percent of the membership, or one-third of the out-of-state members. Of those Washington State members born in 1960 or before, 44 percent were born either on the Highline or the Front Range, and another 20 percent were born in Great Falls or Helena. An additional 14 percent were born elsewhere in Montana. Most of the rest (19 percent) were born in Washington state, with only 3 percent born elsewhere. The older the individual now residing in Washington state, the more likely he or she was born in the home areas. Of those born before 1929, 66 percent (25 of 38) were born on the Front Range or the Highline and another 9 percent (3 of 38)

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<sup>119</sup> About a fifth of those born out of state were born in Canada and North Dakota. Almost half of these mostly older individuals now live in Montana. As noted earlier, there is evidence that these resulted from the continuation of the migration that brought the Métis families into Montana in the latter 19th and early 20th centuries. Because they mostly reside in Montana now, and come from areas of Métis populations in North Dakota or Canada, they are not part of the post World War II migration of Métis out of Montana.

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in Great Falls or Helena. For those born between 1930 and 1949, the Highline-Front Range percentage dropped to 45 percent (45 out of 101), but the Helena and Great Falls total increased to 29 percent (29 of 101). These figures are consistent with the historical patterns of settlement, with the Highline and Front Range the oldest area of settlement in Montana, Great Falls and Helena next, and out-of-state migration generally not beginning until after World War II.

BAR and petitioner interviews do not provide adequate data to evaluate to what extent, or whether, members living outside the "home areas" of settlement maintain social contact with members of the Little Shell Band within that area. There is only limited discussion in the petition reports concerning social contacts of the residents of the Highline and Front Range towns and the two main Montana cities with out-of-state Little Shell members. Among the few exceptions is a brief mention that there is now an area representative from Spokane and that in 1996 a candidate for chairman campaigned in that city (see below).

Campisi and Starna's report included an analysis of the social contacts of a selection of 34 individuals, almost all from the rural towns, Great Falls, or Helena, which indicated that they maintained contacts with kinsmen who resided out of state as well as with kinsmen living elsewhere in Montana (Campisi and Starna 1987a, 48-64). However, the examples of kinsmen their interviewees were in contact with were limited to primary kin. The Franklin interviews were consistent with this, insofar as in-state interviewees made regular reference to contact with their primary kin living outside the state. The information in BAR interviews was also consistent in showing contact with immediate kin out of state. Those interviews, however, did not focus on the question of maintenance of contact by out-of-state members. This information did not demonstrate that social contacts extend beyond primary kin.

The petitioner report narratives, and the notes and transcripts of petitioner interviews, do not indicate whether the question of contacts with out-of-state kinsmen beyond immediate kinsmen was addressed or not. Further, the available data did not provide information whether there were out-of-state families with no contact with the home area, and if so, how many such families there may be. The petitioner and BAR interviews were primarily with individuals living in the "home areas" (see above). Most of the rest of the interviews were with members from elsewhere in Montana.

### *Annual Joe Dussome Day*

There has been only one regular event, other than family occasions and political meetings, that has brought Little Shell members together. This event is the annual Joe Dussome Day, which has been held since 1990.<sup>120</sup> In 1991, there were 94 attendees (Franklin and

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<sup>120</sup> The announcement for the 1993 Joe Dussome Day referred to the event that year as "the fourth," suggesting the current series may have begun in 1990 (LSTCIM 11/13/1993; see also Fleury 1998). A similar annual event, first termed "Pembina Days" was established in approximately 1979. The available

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Bunte 1995b, 171) and in 1992, 113 guests signed the guestbook (Franklin and Bunte 1994, 152). Franklin and Bunte attended the 1993 reunion, which was attended by more than 225 adults (including some Rocky Boy members and non-Indian spouses of Little Shell members). Held in Havre, it was attended largely by members from the Highline area, Lewistown, and Great Falls, with some attendees from other Montana locations (Franklin and Bunte 1994, 113). The 1996 celebration held at Black Eagle (a suburb of Great Falls) was combined with a quarterly meeting and was the occasion of announcing the results of the elections for officers. Franklin reports that he at one point made a head count of well over 200 adults, which because of fluctuating attendance was probably less than the total attendance (Franklin 1997, 15). Franklin described this occasion as both a social event, with traditional fiddling and foods, and a political event. In 1998, separate celebrations were apparently held in Havre and in Billings. The estimated total attendance was 200 (LSTCIM, Mar. 1998, 5). These attendance figures represent approximately one-tenth or less of the petitioner's adult members.

### *Funerals*

Franklin and Bunte mentioned several funerals in support of their argument that the Little Shell form a social community at present (Franklin and Bunte 1994, 82-83). For two of the funerals noted, the interviews indicated that large numbers of Little Shell members, beyond the immediate family, had attended (LaRance 1993; Flansberg 1993). Three other funerals, all in Great Falls, were described as having a large turnout of Little Shell and other Indians from the city.

The BAR interviews inquired about three funerals of well-known Little Shell that had occurred (all on the western Highline) just before or during the field visit. Interviewees who had attended these funerals made general observations that a large number of Little Shell had attended (Teske 1998; Fleury 1998), without giving further detail. In the instance of one of the funerals, some of the Highline interviewees had not attended and had limited knowledge of or connection with the individual who had died (G. Azure 1998). This is consistent with the observation that even though members may have widespread social contacts within their region, the extent of those contacts also have limits.

The available information concerning the funerals mentioned in interviews indicates that some funerals of Little Shell members are attended by some members outside the immediate circle of the relatives of the deceased. However, there were not sufficient examples, nor sufficient details in the available examples, to be able to confirm this conclusion or to determine how many outside the immediate family generally attend funerals of Little Shell members.

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evidence indicates the event was not held between approximately 1980 and 1990. There was no mention of the event between 1980 and 1990 in the available minutes and other documents.

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### *Evidence from Political Communication*

Additional information about social contact and communication was gained from responses to BAR interview questions about political processes. These questions attempted to determine the existence, and extent, of informal political communication. Their purpose was to investigate whether there was information and opinion passed by word of mouth among the members and between members and officers concerning political issues such as the actions of the council and officers.

Information on the political processes at present indicated that there was a significant amount of communication about particular issues between individual members and both councilmen and area representatives (see below). Area representatives and councilmen heard from members of their own kinship network, and some nonrelatives, who expressed opinions on matters such as the failure to hold elections in 1992, the status of the Havre office, and the actions of the controversial chairman James Parker Shield.<sup>121</sup>

It was also found that there was frequently a pre-existing relationship between the official (councilman, officer or area representative) and the member expressing an opinion. Commonly, an interviewee would know some of these "political figures" through earlier informal contact, for example, where they had lived, or through their kinship network (Swanson 1998; Koke 1998; G. Azure 1998). However, it was also not uncommon for a member to identify councilmen or other officials who had not been known to them before they met at a meeting, and for such officers to have been contacted by members they did not know personally (Koke 1998; C. Salois 1998a; Jacoby 1998). No instances were found of prior informal contact, in the context of political communication, by a Highline individual with a "political figure" from the Front Range, or vice versa.

### *Summary Concerning Informal Social Interaction*

Overall, the interview data, from the petitioner and BAR taken together, support a finding that individual adult members of the Little Shell maintain informal social contact with at least some other Little Shell members outside of their immediate, primary kin. There are many examples in Franklin and Bunte interviews and BAR interviews of instances of informal social contact, usually locally, with at least some Little Shell outside of the interviewee's primary kin.<sup>122</sup> The information concerning informal social interaction is limited in that the selection of interviewees by the petitioner's researchers, Franklin and Bunte, was somewhat disproportionately weighted towards older individuals and

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<sup>121</sup> The analysis of BAR interview data did not fully segregate contacts based on the extended kinship network of the political officeholder from contacts with other members.

<sup>122</sup> Because of the size of the petitioner's membership and its wide geographical distribution, there is no expectation that any individual member would have an informal acquaintance with all or even most of the rest of the petitioner's members. Thus, the analyses here concern whether members have significant social participation with other Little Shell who are either relatives beyond their primary kin or individuals who are not kinsmen.

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individuals who lived in the rural towns where the "moccasin flats" had been (Franklin and Bunte 1994, 87). The data are most adequate for the towns and rural areas of the Front Range and Highline (as far east as Malta). Information about the city of Great Falls, where 17 percent of the membership lives, was sufficient to indicate that there is less informal social contact among the resident population than was the case in the rural areas. Information about Helena, the second largest urban population, is very limited but does not indicate a community of Little Shell members.

There was little information about the social interaction of the 30 percent of members who were resident out of state with members in the "home" areas. There were only a handful of interviews with out-of-state members in any of the three sets of interviews. An analysis of those members resident in Washington State (one third of the out of state membership) indicated that approximately half were born either in one of the two main regions or in one of the two main urban centers, Great Falls and Helena. The time available for preparation of this report did not allow for an analysis of the remainder of the out-of-state individuals to determine whether they were closely related to those living in the two main regions or the two main urban centers. No analysis was made of the 19 percent of the membership living in Montana but not within these four areas.

There were no examples in any of the three sets of interviews (FD 1998; Franklin 1993-94; Campisi and Starna 1986) of individuals whose contacts were limited to attending formal meetings, had only recently made contact with the Little Shell, or had not known they were of Métis background until they enrolled.<sup>123</sup>

### *Affiliation with Other Montana Tribes*

Approximately 10 percent of Little Shell members live on or near one of the Montana reservations. Most of these individuals are married to members of the reservation tribe or are descendants of such marriages. Some descendants of these marriages are not on the Little Shell roll, because they are enrolled with the tribe of their non-Little Shell parent and the Little Shell Band prohibits dual enrollment with a recognized tribe<sup>124</sup> (see Franklin and Bunte 1994, 52-54). These descendants do not show on the chart of the geographical distribution of the membership (Table 14). The exact number of current marriages of Little Shell members to members of reservation tribes was not determined for this report. Franklin and Bunte stated they recorded 115 existing marriages between Little Shell members and members of other tribes, and concluded that this count was likely to be substantially incomplete (Franklin and Bunte 1994, 52).

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<sup>123</sup> Several interviewees stated there were Little Shell members who would not admit it or only recently discovered they were "Little Shell" (J. Azure 1998). There was insufficient information to identify to whom this may have referred.

<sup>124</sup> Because of membership requirements of the reservation tribes, not all children of these marriages were eligible to enroll with the tribe of the parent from a recognized tribe (Bremner 1998; S. Doney 1998).

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There are 60 enrolled Little Shell members living in two small towns on the Blackfeet Reservation, Babb and Heart Butte. These settlements constitute an exception to the generalization that there are no longer specific areas more or less exclusively occupied by Little Shell and other Métis families (Franklin and Bunte 1994, 72, 79). Another 165 members live at Browning, on the Blackfeet reservation, and 63 at Cut Bank, just beyond the reservation boundary. Many, if not most, of these individuals are part of families that have married into the Blackfeet Tribe. There are other individuals from these intermarried families living in these locations who are enrolled with the Blackfeet and not enrolled with the Little Shell Band because of the prohibition against dual enrollment.

A historic antipathy between the Blackfeet and the Cree, predating the reservation, remains strong (Franklin and Bunte 1994, 105-107; Bremner 1998; Jacoby 1998). Consequently, a very strong ethnic boundary remains between the the Blackfeet and Little Shell families, who are commonly identified as Cree in this area (Bremner 1998). The derogatory term "Cree bacon" is still in use there to refer to individuals from Little Shell families (Jacoby 1998). Nonetheless, the Blackfeet tribe has recently adopted several Little Shell Band members who live on the reservation (FD 1998).<sup>125</sup>

There are 69 Little Shell members in Hays, which is on the Fort Belknap Reservation, or in Zortman and Landusky, which are nearby, just outside the reservation boundary. Some of the Little Shell who live in these settlements are married to Fort Belknap tribal members (S. Doney 1998; FD 1998; Franklin and Bunte 1994, 52-54). Some of their descendants are enrolled with the Fort Belknap Tribe and therefore are not enrolled with the Little Shell Band. Antipathy exists between the Little Shell Métis and the reservation tribes (Gros Ventre and Assiniboine) on the Fort Belknap Reservation, where intermarriages with Assiniboine go back to the 19th century. There have been several well-known clashes over jobs and land rights between Little Shell members married to tribal members and the Fort Belknap tribe (S. Doney 1998; G. Azure 1998; Franklin and Bunte 1994, 154).

An undetermined number of members are married to members of other Montana tribes; Rocky Boy's Band, the Crow Tribe, or the Northern Cheyenne Tribe. Some live on or near the reservations of these tribes. Distinctions appeared to be less sharply drawn between Little Shell Métis and Rocky Boy's reservation members than at Blackfeet and Fort Belknap, perhaps because of their greater commonality of background (Anderson 1998).

### *Connections with the Turtle Mountain Band*

The current Little Shell membership does not appear to have significant social ties with the Turtle Mountain Band of Chippewas in North Dakota. There were no instances found of social visiting to the Turtle Mountain area, although some individuals know of distant relatives at Turtle Mountain (FD 1998; G. Azure 1998). There are a few Turtle Mountain

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<sup>125</sup> These individuals have relinquished their Little Shell membership.

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individuals, past and present, who have married Little Shell people. These marriages were generally well-known to Highline members who were interviewed. Franklin and Bunte found nine marriages to people from Turtle Mountain (Franklin and Bunte 1994, 52).

When asked who among the Little Shell Band were from Turtle Mountain, interviewees generally responded that some Little Shell Band families are particularly thought of as having family connections with Turtle Mountain or having come from there. Among the most frequently mentioned were the Azures and the LaFountains. Stories were common about individuals who at one point or another in the past 25 years had received small checks or probate notices from Turtle Mountain Agency in connection with inherited land interests at Turtle Mountain. A number of Little Shell members have had interests in probate proceedings on the Turtle Mountain Reservation (BLA 10/26/1992). In one case, in 1978, a Doney who was elected secretary of the Little Shell Band had to resign because she was dually enrolled with the Turtle Mountain Band (LSTCIM 10/7/1978).

Highline interviewees could identify individuals from the Turtle Mountain reservation who had lived in their area during the "moccasin flats" era. They viewed them as a distinct but not substantially different category of Métis (Gilbert 1998; Short 1998; Vogel 1998). Some of these were Turtle Mountain members living on Turtle Mountain public domain allotments. Those interviewees who mentioned them did not indicate that there was a close social relationship with these allottees (e.g., Gilbert 1998).<sup>126</sup>

### *Discrimination by Non-Indians*

There was no evidence that the Little Shell people today face the widespread discrimination that occurred in the past. Interviewees generally did not report present-day discrimination. One interviewee reported that there remains substantial discrimination of a quiet kind in the Choteau area today (Brewster 1998). The discrimination referred to was in social attitudes and patterns of friendship, not in employment or in housing. This person's non-Indian wife, also from Choteau, reported that she had frequently been snubbed by non-Indians since she had married him. A similar report of social discrimination was given by a long-time resident of Havre (Swanson 1998).

Franklin and Bunte concluded, based on their interview data, that "strong patterns of discrimination" exist in the "towns of Montana where most Little Shell live" (Franklin and Bunte 1994, 104). Discrimination by whites, or perception of it, was cited in 13 of their 60 interviews (Franklin and Bunte 1995a). It was not indicated whether this subject was raised in all of their interviews, making it impossible to determine what proportion of the interviewees might have experienced discrimination in recent times.

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<sup>126</sup> BAR interviews did not support Franklin and Bunte's statement that, "The Little Shell have always had close ties with the allotted Turtle Mountain Chippewa living in Montana" (as opposed to families which were viewed as derived from Turtle Mountain but which were not allottees in Montana (Franklin and Bunte 1994, 51-52).

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However, many of the examples Franklin and Bunte cite, or which are listed in their subject index of their interviews, concerned distinctions between Little Shell Métis and the Indians of the Blackfeet and Fort Belknap Reservations rather than distinctions made by non-Indians (Franklin and Bunte 1994, 104-105). BAR interview data strongly confirmed their conclusion that there continue to be strong negative distinctions drawn between reservation Indians and the Little Shell Métis at the Fort Belknap, Blackfeet, and Rocky Boy's reservations (S. Doney 1998; Bremner 1998; G. Azure 1998). Data were not available concerning the status of Little Shell living on the other Montana reservations or married to tribal members from those reservations. However, some individuals from the rural towns and Great Falls also reported experiences with these attitudes in relations with reservation Indians (Maki 1998; Shield 1998). Only a small minority of Little Shell members, about 10 percent, live on a reservation, so these strong social distinctions from reservation Indians were not widespread among the petitioner's members.

There is sufficient evidence only to indicate that a small degree of discrimination or negative distinction in relations with non-Indians continue to exist in the rural towns, but not that widespread or strong patterns of discrimination exist. The distinctions made were not shown to extend to housing, marriage or employment, but may involve informal social relations. Equivalent data were not available concerning Little Shell residents of Great Falls and other Montana cities.

### *Identity*

Little Shell members generally identified themselves and their people, in informal conversations with each other, as "breeds" or "half-breeds" (FD 1998).<sup>127</sup> These identifications were often followed by a reference to being "Métis." Identification as "Chippewa" or, less frequently, to "Cree" was also common. More formally, and when interacting with non-members, members frequently referred to themselves as "Little Shell people" as well as Chippewa. In most cases, an individual's self-identification as Chippewa, Cree, or Indian was not expressed as conflicting with identification as Métis. Tribal historian Robert Van Gunten explained this by saying, "Most Little Shell, if not all, are Metis, and we don't really work at making a distinction" (Bryan 1985, 98). However, for some, especially among the Front Range people, Métis is an alternative, or a preferred identity, to Indian. For some others, Chippewa is the preferred identity (Van Gunten 1998).

Little Shell members frequently have described "their people" as "falling between" the reservation Indians and the whites, and characterized themselves as having long been quite distinct from either (e.g., G. Azure 1998; Bremner 1998). Being Métis, as distinct from Indian in this sense, is a source of pride. Little Shell interviewees commonly reported negative comments about Métis, or "breeds," from Indians on reservations where Little Shell have lived or worked.

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<sup>127</sup> These are pejorative terms when used by outsiders to refer to the group and its members.

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Although interviewees consistently identified themselves as "Little Shell people," their descriptions of their family histories and backgrounds (on the Métis sides) only infrequently referenced Chief Little Shell or his band specifically (FD 1998). Franklin and Bunte did reference one individual who said that her great-grandfather, Jean-Baptiste Wilkie, had been a member of Little Shell's council, but they gave no further examples (Franklin and Bunte 1994, 110). A significant number of interviewees referred with pride to their ancestors' participation in the Louis Riel rebellions before 1900 (e.g., Short 1998; R. Salois 1998; Koke 1998). Many described family connections in Canada, sometimes to Indian reserves (e.g., G. Azure 1998; Short 1998; Anderson 1998; Parenteau 1998; Fleury 1998; C. Salois 1998a; Bremner 1998). Others referenced a family history connecting them to Turtle Mountain, or, less specifically, to North Dakota, consistent with the genealogical evidence.

### *Cultural Differences Today*

The traditional Métis culture survives today to a limited extent. Franklin and Bunte attempted to estimate the percentage of members today who maintain some of the cultural practices that earlier in the century made the Métis families culturally distinct from the surrounding non-Indian and Indian communities. There were sufficient examples from interviews to conclude that some minor cultural differences survive among a large proportion of the membership, and significant differences among a small portion of it. The small differences were primarily some traditional foods and aspects of New Year's celebrations. The Michiff language was the only significant cultural difference.

Franklin and Bunte concluded that 37 of the 60 households they visited, or 62 percent of them, practice traditional foodways (Franklin and Bunte 1994, 101). The BAR interviews were consistent with this, finding that a number of people are familiar with and prepare some of the traditional Métis foods. Franklin and Bunte said that their interviewees indicated that these Little Shell households take part in the New Year's practice of "'feeds' and visiting, at least within their extended families" (Franklin and Bunte 1994, 101). The latter qualification is important, since although New Year's celebrations are still fairly common, they are much smaller and more limited than the elaborate celebrations characteristic of the Métis culture in the past. A typical statement is one from an older leader who described the old style celebrations as ending after World War II (H. Paul 1991). Present-day celebrations, in contrast with the past, appear to be limited to extended families (cf. Vogel 1998; H. Paul 1991). Some individuals noted that some of the Little Shell members living in Montana cities hold some version of the New Year's celebration. The BAR interviews, together with Franklin and Bunte's interviews, provided sufficient instances to conclude that small scale New Year's celebrations, with some traditional foods, are commonplace. However, these households may prepare these foods only a few times a year at most. As described, these foodways reveal small cultural differences, not a significant cultural difference, from the surrounding non-Indian and Indian cultures.

Franklin and Bunte concluded, in discussing their interview data concerning the foodways

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and the New Year's celebrations, that "there is no reason to conclude that the sample is unrepresentative" (Franklin and Bunte 1994, 102). However, they present no analysis to demonstrate whether their interviewees were representative or not. Their interviews, as discussed above, appear to be disproportionately weighted towards older individuals and inhabitants of the rural, small town areas where the Little Shell have lived since the 1920's. These individuals are more likely to have maintained some of the traditional culture than those who have moved elsewhere. Thus a precise measure of the extent to which these cultural traditions are practiced among the membership could not be developed.

Franklin and Bunte found that of 76 individuals they interviewed, 14 were fluent speakers of the Michif language, and 20 were partial speakers or passive bilinguals (Franklin and Bunte 1994, 101-102). Of the fluent speakers, the youngest was born in 1934, with four born in the 1920's and the rest earlier. Franklin and Bunte offered no definitive conclusions from this about the percentage of Little Shell members who speak the language. They stated concerning this finding that, "our sampling is hardly exhaustive, however, so that there may well be younger Little Shell speakers that simply were not in our pool of interviewees." In contrast to their discussion of traditional foodways and the New Year's celebrations, here they appeared to argue that their sample was not representative. To the degree that their interview sample was weighted toward older, rural individuals, mostly likely to be culturally conservative, it is likely that speakers are overrepresented among their interviewees.

Judging by interviews with older adult members who grew up with fluent speakers but did not learn (or retain) the language, it appears unlikely that there are more than a very few younger speakers (FD 1998; Sinclair 1979; Johnson 1979). Little Shell leaders interviewed in 1998 concerning a proposed language program did not indicate that they were aware of younger speakers (Anderson 1998; Maki 1998).<sup>128</sup>

## Contemporary Political Processes

In 1994, the Little Shell for the first time elected their officers by balloting conducted throughout the state rather than voting by those attending the annual meeting. Polling places were established in major population centers of Little Shell members within Montana. Absentee balloting was also allowed, so that members could vote by mailing in a ballot. Various political forces led to the shift to statewide balloting, which was a result of an effort to reform electoral processes. These reforms came about as a result of complaints by members and leaders about the handling of the 1992 election and about the incumbent council and chairman. The Native American Rights Fund, the group's legal advisor, encouraged the voting. A NARF spokesman was quoted as saying that it was important for the petitioner to show significant participation through voting (Great Falls .

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<sup>128</sup> The Little Shell Band has asked one older member to develop a language teaching program and has also considered a proposal to seek a grant for language preservation (Anderson 1998; Van Gunten 1998).

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*Tribune* 1994).

The movement for reform began from two sources. From within the Little Shell organization, efforts were begun by the council and area representatives. More or less simultaneously, a separate movement was begun outside of the council by James Parker Shield, who was returning to Little Shell Band politics after an absence of 12 or 13 years.

Interviews, minutes, and other sources indicated that there had been unhappiness among members about the 1992 annual meeting at which it was concluded to continue the existing council without holding a new election (the parallel action in 1990 was not specifically mentioned). Complaints were voiced that this action had taken place at a very poorly attended meeting which people claimed had not been advertised as an election meeting (Koke 1998; Shield 1998). The election committee chairman reported to the council in 1994 that many of the people she had talked to objected to the way the 1992 election meeting had been held and that, consequently, there was the feeling that the incumbents retained in office in 1992 should be subject to a vote by the membership (LSTCIM 8/13/1994).

Little Shell Band members, in BAR interviews in 1998, also gave other, more general reasons for preferring statewide balloting: that it was a fairer way to hold an election because of the great distances to travel to meetings and frequent bad weather, and that the demands of work make it difficult to travel to the annual meeting (FD 1998).

James Parker Shield in 1994 characterized the Little Shell political landscape as one in which it was hard to communicate because of the long distances between the various places where members lived. He said also that most of the tribe "had no clue as far as the federal recognition effort" but that it strongly wanted information, which was not getting out from the council (Shield 1994). He cited frustration of the membership with "the lack of elections," making the council in effect self-appointing, and stated that criticism was "gathering steam." Shield also stated that people felt frustrated because they felt "the [election] process is not open."

The issue of the lack of an election in 1992, and questions about how the next election was going to be held, first surfaced in Little Shell Band minutes in April 1994 (LSTCIM 4/23/1994). Questions were raised about the 1992 "decision to keep the present council." It was asked whether absentee votes would now be allowed, and when would a new constitution, with new election provisions, be put into place.

At a June 18, 1994, area meeting, Darrell Koke, chairman of the area representatives, presented ideas for revising the election process such as advertising the election, having election judges, and having polling places in each area. The council appointed her and councilman John Gilbert to head a committee of area representatives to prepare a "proposal of voting in the areas rather than at a community location" (LSTCIM 6/18/1994). This group became the election committee that designed and carried out the 1994 election.

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At this same area meeting, Shield stated that he had held a meeting that same day in Great Falls where "it was decided by the people that they would put together a Constitutional Convention to draft a 'living' active constitution" (LSTCIM 6/18/1994). He said "it is time that the Little Shell started acting as a tribe." Shield said he came to the area meeting to inform the council of his actions, but that he was not asking their permission. The council stated at an August 1994 meeting that Shield had indicated at the June meeting that "he and other members of the Tribe are convening a Constitutional convention to write a new constitution that better represents the wishes of the people. He does not have the approval of the Tribal Council in this move" (LSTCIM 8/13/1994). Shield, however, stated in an interview in June 1994 that there was one member of the council who was working with him (Shield 1994). There was no evidence that Shield held any further meetings after June 1994, or carried out plans for a constitutional convention.

Shield stated in the June 1994 interview that he was promoting statewide elections and revision of the tribal constitution as a means to "pry loose" the hold on the Little Shell council of chairman Deborah Swanson and her supporters (Shield 1994). He indicated that statewide balloting would bring him greater support than he could gather at an annual meeting, and "guaranteed" that it would defeat Swanson. Franklin and Bunte noted that in June 1994 Chane Salois, a key ally of Swanson, had "questioned Shield's motives" in promoting constitutional revision, apparently reflecting a not inaccurate view that Shield was promoting change in part for his own political benefit (Franklin and Bunte 1995b, 179).

During the subsequent election Shield became the first Little Shell Band candidate to actively campaign. Shield stated he was campaigning because it was important for people "to know more about the candidates and not to just vote for relatives, like a lot of our people have done in the past." (Shield 1994). He stated further, that "more important is that tribal members know about the election and get out and vote" (*Great Falls Tribune* 1994).

The election committee presented two proposals for elections at the September 17, 1994, quarterly area meeting in Great Falls (LSTCIM 9/1/1994). One was essentially to retain the old statewide convention system. The other proposal called for: "30 days public notice of election; nominations for Council positions to be accepted September 17 to October 25 to the election committee," with the election to be on November 26. In addition, the proposal called for polling to take place in each area. The area representatives were to be responsible for time and place of voting and to have a list of eligible voters. Finally, the proposal stated that "voting can be done by absentee ballot." The second proposal was accepted by a majority of the approximately 100 people present (LSTCIM 9/1/1994, signup sheet). While Great Falls was well represented among those present, there were an equal number from the Highline, as well as many from Helena and from the western part of the state.

Also at the September meeting, John Gilbert presented a petition dated July 1. There was

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no indication who had circulated the petition, although Franklin and Bunte indicate that they understood it to have been promoted by Gilbert and Koke themselves to develop support for electoral reforms (Franklin and Bunte 1995b, 179). The petition contained eleven statements. It called for the election to cover the entire council, not just those whose terms were up. It stated that "the majority of the Little Shell members were not represented at the meeting two years ago in Billings when it was decided to keep the same council members," and that "had there been public notices of the election of the council there would have been more members in attendance." The latter reflected the feeling among the membership that the 1992 Billings meeting was poorly attended and thus that the election was improper. The reforms requested by the petition included balloting "in each area" (i.e., statewide election), nominations from the areas in advance of the election, absentee balloting, publication of notice of the election in the media, and other changes.

The petition contained 151 names, most from Havre or elsewhere in the Highline or from relatives of Highline signers who were living elsewhere. Franklin and Bunte concluded that these represented the majority of the families living in Havre and Chinook and at Rocky Boy's reservation (Franklin and Bunte 1995b, 179-180). They noted that Shield's efforts were based on support from Great Falls, his political constituency, and suggested that the efforts of the council, and Shield, together show the breadth of political concern with the electoral processes among the membership.

The 1994 election was held on November 26. Elected to the four council seats<sup>129</sup> were incumbents John Gilbert and Tim Zimmerman, as well as James Parker Shield and Roger Salois, both from Great Falls (LSTCIM 12/10/1994). Gilbert was the top votegetter with 502 votes. According to a rough count, there were 681 ballots cast, of which 622 were considered to have been cast by eligible voters (Franklin and Bunte 1994, 152). The percentage of eligible voters voting was 18 percent.<sup>130</sup>

John Sinclair, who initially challenged the 1994 election on a number of procedural grounds,<sup>131</sup> also specifically challenged the election of James Parker Shield. At the first quarterly meeting after the election, Sinclair raised the issue of whether the 1977 Little Shell constitution barred James Parker Shield from holding office (LSTCIM 1/14/1995). Section V of the constitution states that if an office holder "be found guilty of a felony or misdemeanor involving dishonesty" the governing body of the Little Shell "shall declare

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<sup>129</sup> There was nothing in the written record to indicate why or by what action the September proposal to include the incumbent officers voted upon in 1992 in the election was discarded.

<sup>130</sup> This percentage was calculated based on 3,505 eligible voters, the number of individuals on the Little Shell membership list who were born in 1976 or before. The membership list is that used for this finding, which includes supplements through 1992.

<sup>131</sup> An initial count had shown Sinclair as being elected to the council. This result was announced in the press and then retracted after a recount (Great Falls *Tribune* 1/6/1995). Sinclair did not pursue his challenge based on this apparent counting error.

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the position vacant" (LSTCIM 9/10/1977). The section had been written with sufficient ambiguity that it was unclear whether it referred to someone who had at some time been convicted of a felony, or if it only meant an officer holder who committed a felony while in office. Shield noted at the January meeting that he had made no secret of problems he had had earlier in his lifetime and that they were well-known. His position was that the constitutional provision only referred to actions while in office.

The council after some discussion voted to seat Shield and the others elected (LSTCIM 1/14/1995). Also seated as councilman was Judy Jacoby, the highest vote getter among those not winning office. Jacoby filled a slot opened by the resignation of the First Vice Chairman, who had resigned as of the date of that meeting.<sup>132</sup>

It is clear that by 1994 a financial crisis had developed which resulted in a lack of funds to pay the office rent and other bills (Gilbert 1998; R. Salois 1998). At some point early in 1995, the tribal office closed for lack of funds and the files were put in storage.

Another political crisis developed in 1995, resulting in the removal from office of Deborah Swanson, who had been the chairman since 1988. The issues behind Swanson's removal are indicated by statements at the September 16, 1995, council meeting by a councilman who alleged that "Swanson has refused to abide by the wishes of the board in relocating the tribal offices, has refused to comply with reasonable requests for information and failed to act in the Tribe's best interests with respect to our recognition proceedings." Tribal finances and questions concerning enrollment records were also at issue (LSTCIM 9/16/1995). It is likely that the sentiment among members objecting to the failure to hold an election in 1994 stemmed in part from political discontent over the handling of the Havre office by the incumbent chairman. The council voted at its September 16 meeting to remove her from office (LSTCIM 9/16/1995). Vice-chairman Mack McGillis was made acting chairman.

There is good evidence that the way the operations of the tribal office, then at Havre, were being conducted had been an issue among members even before the 1994 election (FD 1998), and continued to be for many members after the election.<sup>133</sup> Although opinions differed, many individuals interviewed were aware of, or had received complaints, that the office was never open. Linked with this were complaints that the chairman and the enrollment officer, who lived in Havre, were unresponsive, refusing to give out information or respond to inquiries (FD 1998; Vogel 1998).

The location of the tribal office was a political issue in 1994, as it had been earlier. At a

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<sup>132</sup> As has been the standard practice, the second vice-chairman moved up to first, and a councilman moved up to second vice chairman, leaving an open councilman slot.

<sup>133</sup> Determining the truth of these allegations is not relevant for purposes of an acknowledgment finding. The significance of the allegations lies in what the controversy reveals about the political processes of the petitioner.

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July 1994 "District" meeting in Great Falls, in a discussion of other political controversies, it was stated by some that Great Falls should be an "area office" after Federal recognition. The location of the office was put on the 1994 ballot as a referendum, with Havre receiving 359 votes, Great Falls 177, and other locations 25 (*Great Times* 11/6/1996). There was also a meeting in Great Falls in 1995, attended by approximately 70 members, which voted that Havre remain the location of the office (Sinclair 1998).

Despite the 1994 "referendum" and earlier meeting in 1995, the council voted, immediately after ousting Swanson in September 1995, to move the office to Great Falls. The council in 1995 was dominated by Great Falls members. Councilmen Roger Salois and James Parker Shield, as well as acting chairman Mack McGillis, who were all from Great Falls, organized the efforts of members in Great Falls to move the office and establish it in Great Falls (R. Salois 1998; Shield 1998). Council members and others from Great Falls traveled to Havre, removed tribal files from storage and transported them to Great Falls. Interviewees described a fairly active group of members in Great Falls at this time who worked on fund raisers to get the funds to pay off the Little Shell debt and pay for office space in Great Falls (R. Salois 1998; Fleury 1998; Shield 1998; LSTCIM 10/14/1995). Those persons instrumental in moving the office argued that there was considerable sentiment among the membership to move the office to Great Falls because the city was more centrally located for members (R. Salois 1998; Shield 1998; *Great Falls Tribune* 9/26/1995).

The issue of the location of the office was linked in people's opinions with shifting power to Shield and his allies in the Great Falls area and away from Swanson, whose supporters were primarily based in Havre and elsewhere on the Highline. Chairman Swanson later characterized the conflict in part as a geographical one between the Highline and Great Falls. She likened it to the conflicts which had occurred in the 1970's and early 1980's when John Sinclair was chairman (Swanson 1998) and the conflicts during Joe Dussome's era. She characterized the Great Falls members' opinions as the "Hill 57 attitude," suggesting that this encompassed Helena and Butte as well.

The 1996 election was again conducted by statewide balloting. James Parker Shield ran for chairman, teaming up on a slate of candidates with John Gilbert for First Vice Chairman, Tim Zimmerman for Second Vice Chairman, and Roger Salois, for council, all of whom had served on the existing council. Also on the slate was Caroline Fleury, a newcomer, who ran for council. Shield and Gilbert appear to have been the prime movers, one of their campaign fliers being identified as from the "Shield/Gilbert Committee" (Shield and Gilbert 1996). Former acting chairman Mack McGillis, from Great Falls, who was by then no longer an officer, was allied with Shield's group.

Shield and, to a lesser extent, Gilbert, campaigned for office, holding informational meetings in towns as far away as Spokane (Shield 1996). Franklin characterized the turnout at these meetings as "substantial" given the size of the local population (Franklin 1997, 8). The largest attendance was 25 at Hays, where the enrolled membership,

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including children, was 69. Shield was also particularly skillful in getting media coverage of his campaign. NARF provided a grant in the amount of \$2,960 to pay for election expenses (LSTCIM 8/3/1996).

Shield and his slate ran on a platform of bringing a "new approach" to tribal business (C. Salois 1998b). Shield and his allies planned to come in with a program to change the system of governance in a number of ways. In a recent interview Shield pointed to his sponsorship of widening committee membership to include noncouncil members as an example (Shield 1998). One of their campaign fliers listed Federal acknowledgment as their "mission" and their goals as enrollment of all eligible members, economic development, preservation of Little Shell history and culture, open, honest and fair tribal government, and improved communication between the council and members (Shield and Gilbert 1996).

They were opposed on the ballot by former chairman John "Bud" Sinclair, who ran against Shield for chairman, and Sinclair's ally, Melvin Swan. Judy Jacoby chose not to run again, citing as her reasons the political conflicts of the past two years, during which she, Swan, and Sinclair had often opposed Shield (Jacoby 1998). Two candidates ran against Gilbert: Robert Van Gunten, who was informally allied with Sinclair and Swan, and Robert Doney.

A total of 640 ballots were cast in the election held November 16, 1996. Of these, 525 were found to be valid. This represented 14 percent of the eligible voters.<sup>134</sup> Most of the other ballots were found to have been cast by individuals whom the election committee could not readily identify on the tribal roll, although it concluded that some may have been enrolled under a different name (Franklin 1997, 12). Of the 640 ballots, 180 were cast at polling places, about 200 were absentee ballots which were delivered to the polling places, and the balance were absentee ballots which were mailed in (Franklin 1997, 10-11). Franklin visited the polling places at Great Falls, Havre, and Hays on voting day. He concluded that there was a large amount of informal social interaction at the voting places in Great Falls and Havre, as well as food being served, and some dancing (Franklin 1997, 13).

Shield and his slate were all elected. Shield received 298 votes to Sinclair's 224. Gilbert received 344 to his opponents' combined total of 176. Zimmerman defeated Swan 312 to 205 (LSTCIM 11/23/1996). Also elected were Mary Tobe Whittaker, running unopposed as secretary-treasurer, and Caroline Fleury, Roger Salois, and Henry Gladeau, also unopposed, for council. The results were announced at the annual Joe Dussome Day celebration in late November 1996, which was attended by over 200 adults (Franklin 1997, 15).

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<sup>134</sup> The percentage was calculated based on 3,632 eligible voters, the number of individuals on the Little Shell membership list born in 1978 or before. The membership list is that used for this finding, which includes supplements through 1992.

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The election quickly generated a high level of controversy. Strong protests developed against how the election was conducted and against seating Shield as chairman. The lead figures in opposing the election were Jacoby, Swan, and Sinclair (Jacoby 1998; Swan 1998; Sinclair 1998; Shield 1998; Franklin 1997, 18). Darrell Koke, head of the area representatives, wrote a public letter of protest to the council in late December which is considered to have helped spark opposition to Shield (Jacoby 1998). Following Koke's letter, Jacoby also directed a strong protest letter to the council, dated December 23, 1996.

It appears that Jacoby, Swan, and Sinclair had campaigned against Shield before the election. Jacoby had contacted her extensive network of relatives on the Highline, as well as friends and relatives in Great Falls, where she was living, advising them to vote against Shield (Franklin 1997, 19; Jacoby 1998). Jacoby is both a Doney and a Laverdure, and is related to many in the Highline towns and Lewistown. Jacoby reported that there was a great deal of word-of-mouth protest between the election and the January 11, 1997, meeting at which the newly elected officers were to be installed (LSTCIM 1/11/1997). She reported also that she had received 45 letters on the subject of the election.

At the January 11, 1997, meeting, Shield's seating as chairman was challenged first by Darrell Koke, then chair of the area representatives, and then by Jacoby, Sinclair, and Swan (LSTCIM 1/11/1997). Although the issue of Shield's background was reprinted, his actions during the interval between the election and the January meeting appear to have been the central political issue. Koke objected that Shield, although he was not yet chairman, had already rented a separate office for the chairman across town from the Little Shell office, had printed his own letterhead for the chairman's office, and was already sending out letters. These same complaints were repeated in interviews conducted by BAR with individuals from a wide variety of family lines and backgrounds (FD 1998).

Koke then requested that the council remove Shield. Jacoby had declined Koke's request to bring such a motion, stating that the area representatives (i.e., Koke) should bring the matter to the council. Jacoby instead moved, unsuccessfully, to have the election nullified. It was finally agreed that Shield would be seated, subject to a 90-day probationary period during which the area representatives would set up a committee to evaluate Shield's behavior. The council at this point was more or less equally divided between Shield supporters and opponents.

The council held a separate meeting after the general council meeting to go over the issues with Shield (LSTCIM 1/11/1997). They raised the issue of Shield not keeping the council informed and not making decisions for the Little Shell Band without tribal council approval or disapproval. He reiterated his promise, made during the general meeting, to resign after 90 days if the council at that point was not satisfied. At the request of acting chairman John Gilbert, the council agreed to try to work with Shield "for the good of the Little Shell."

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Immediately after the January 11 council meeting, Jacoby, Swan, and Sinclair organized a petition drive, sending out two petitions and a letter indicating that they hoped to invoke the referendum process in the constitution (Sinclair et al. 1997). One petition called for interpreting the constitutional clause concerning "felony" to prohibit office holding by a person who had committed a felony at any time (LSTCIM 1997a). The other called for the council to declare the entire election null and void because of various claimed irregularities (LSTCIM 1997b). The irregularities cited included problems with polling places, problems with the distribution of absentee ballots, and the apparently inadvertent distribution of the Shield "slate" literature with part of the mailing of the absentee ballots. The latter was frequently cited by interviewees who objected to the election (FD 1998). It appears that various individuals contacted by Jacoby, Swan, or Sinclair, and by others who contacted them, pulled together relatives and friends to sign the petitions. In addition to Jacoby and her allies, the acting chairman John Gilbert also received a significant number of protests of the election (Gilbert 1998).

By February, Shield had lost the support of the council, including all of his former political allies, except for one council member. At a February 11, 1997, meeting, the council asked him to resign voluntarily, giving as their reasons the harassment of phone calls from members concerning the actions that Shield took without consulting the tribal council, his "lack of communication with other tribal council members, his making decisions without informing the tribal council," his not being a "team player," and the "stress, divisiveness and turmoil that was occurring" (LSTCIM 2/11/1997). Shield refused to resign. The council then passed a motion to remove him. Only one of Shield's "slate" members supported him, by abstaining from the vote to remove him. John Gilbert was made chairman and Darrell Koke was selected by the council to fill the vacancy created on the council by Gilbert becoming chairman.

There was no indication in the February 11 meeting minutes that a committee of area representatives had made a review of Shield's actions, as had been planned at the January 11 meeting. David Parenteau was appointed at the February meeting to replace Koke as chairman of the area representatives. Parenteau wrote to each of the 18 area representatives immediately after the meeting to ask whether they approved or disapproved of removing Shield. Seventeen of the 18 agreed with the action, and one dissented. Parenteau's action was taken with the agreement of the council, although not, apparently, at the council's direction (LSTCIM 3/11/1997).

A petition dated February 12, 1997, was circulated among the membership. It stated that the signers "strongly agree[d] with the decision of the tribal council" to remove Shield. There was no indication who circulated the petition, nor whether it was presented to the council or the officers. There were 61 signatures, almost all from Great Falls or from Havre or other Highline towns. Signatories included several area representatives, Toby Whittaker, the secretary-treasurer, and council member Darrell Koke.

At the March 1997 quarterly meeting, the first since Shield's removal, Jacoby and Sinclair

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again raised the issue of the validity of the election.<sup>135</sup> The chairman and council agreed to accept a "petition" which had 263 names on it as well as 45 letters Jacoby had received on the subject of the election in January (Jacoby 1997).<sup>136</sup> During the meeting, NARF attorney Perego, in response to a question from chairman Gilbert, advised against nullifying the election, saying there was no body of law which would hold the election illegal and that "the tribe would be shooting itself in the foot and disenfranchising a large majority" if it nullified the election. After an extensive discussion of the questions by members and area representatives, it was decided not to nullify the election. In what was seen as a peace gesture, Jacoby and Sinclair were nominated to the election committee for the next election (Franklin 1997, 33; Jacoby 1998; LSTCIM 3/8/1997). This action was instigated by David Parenteau, chairman of the area representatives. Eighty-five people signed in for this meeting, including officers, council members, and area representatives.

Jacoby stated in an interview that she was aware that there was a great deal of discontent among the elders about the amount of open conflict at these meetings (Jacoby 1998).<sup>137</sup> She, and petition researcher Robert Franklin, consider that this dislike of open conflict is part of the political culture of the Little Shell Band. Franklin cited as part of his evidence for this proposition a videotape of the March 1997 meeting which shows active audience participation in opposing the "bickering and fighting" and in seeking to reach agreement (Franklin 1997, 29-30).

Shield filed suit in state district court on May 9, 1997, to overturn his removal, obtaining a temporary restraining order reinstating him as chairman from May 12 through May 22 (Montana Dist. Court 5/12/1997). The council responded with the help of substantial legal aid from NARF, holding that the state court did not have jurisdiction because of tribal sovereignty (LSTCIM 6/6/1997). Shield argued that the group was a non-profit corporation, and thus subject to state jurisdiction (Great Falls *Tribune* 5/20/1997).

The lawsuit was dismissed, subsequent to a May 22, 1997, hearing, pursuant to a joint stipulation from both parties to resolve the issue internally (Montana Dist. Court 5/29/1997; Great Falls *Tribune* 5/31/1997). Shield stated that he agreed to withdraw the suit because pursuing it would compromise the tribe's sovereignty by having a state court decide an internal political issue (Shield 1998; Great Falls *Tribune* 5/31/1997). The court noted in its dismissal that it appeared that there was "good cause . . . that the Court has no

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<sup>135</sup> Jacoby noted in this meeting that she was sending her materials to Robert Franklin, the lead researcher for the Little Shell petition (LSTCIM 2/11/1997). Franklin incorporated these materials into his analysis of the 1996 election which was submitted as part of the Little Shell Band's petition (Franklin 1997).

<sup>136</sup> The "petition" presented to the council was a list 263 individuals objecting to the election, compiled from letters, signatures on the petitions they had circulated, and phone calls between late December 1996 and March 1997 (Jacoby 1997 and 1998). Additional protests were received by Jacoby after that point, reaching a total of 283 (Jacoby 1998).

<sup>137</sup> Jacoby has noted that at the same time she was being pressured by others to be the "point person" for the protest (Jacoby 1998).

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jurisdiction to hear this matter. . . ." (Montana Dist. Court 6/3/1997).

As an alternative, the council voted on May 27, 1997, to set up an independent adjudicatory panel of three Little Shell members to hear the case and issue an advisory, non-binding decision to the tribal council (Gilbert 1997). After this process had begun, and letters and briefs exchanged, Shield withdrew his request for the hearing (Shield 1997). This ended his actions to contest his removal.

### *Further Analysis of the Shield Removal*

James Parker Shield has been an effective but often controversial political catalyst whose occupation of office has twice lead to internal conflict within the Little Shell group and to his removal or withdrawal from office. The events and processes leading to his removal in 1997 seem to parallel his earlier removal from office in 1981 (see above). He is very well known among the Little Shell membership, as well as among non-Indians, because of the positions he has held in the Little Shell organization, in the Great Falls Indian Alliance, and as state Indian coordinator, and, in part, because of the controversies he has generated in those positions. Shield, who grew up on Hill 57, has had a strong political base in Great Falls, as a result of his activities there over the years.

Knowledge of, and opinion about, Shield's actions and the council action to remove him from office was widespread among the membership (FD 1998). Those interviewed expressed strong opinions about Shield, and indicated only a minority of members continued to support him. The most common theme expressed in the interviews was that he was a brilliant man who saw far into the future of the Little Shell Band, and that he was also a highly skilled politician. Interviewees were also of the opinion, however, that he was uncontrollable and acted on his own without consulting with the council or others within the Little Shell Band.

### *Area Representatives*

The area representative system was reorganized, and somewhat revitalized, in 1993, when the council established the position of chairman of the area representatives. Darrell Koke, of Havre, was appointed in 1994 as the first chairman. While in this position she became more involved in Little Shell politics. Koke is credited with strengthening the area representative system. She produced a set of guidelines for area representatives, in effect a manual for how to hold meetings, etc. (Koke 1994).

The current head of the area representatives indicated that, as a result of a push by the area representatives, they were now regularly allowed to attend council meetings (Parenteau 1998). This was sought by area representatives in order to have better information about the council's activities to bring to members (Allen 1998; Vogel 1998). There was evidence that area representatives, rather than being elected in local meetings as in the past, are now often individuals who have requested and received appointment by the council (Parenteau 1998; Thomas 1998).

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One current council member stated that the area representatives were "the ones that really have the power" and that they could oust the council if they wanted to get together to do it (R. Salois 1998). While this probably overstates their influence, based on other interviews (e.g., Gilbert 1998; Jacoby 1998; S. Doney 1998; G. Azure 1998), it reflects the important role that area representatives have played in political events in the past decade.

The area representatives played an important role in the change to statewide elections. The election committee appointed by the council in 1994 to prepare proposals for a revised election process was initially characterized as a committee of area representatives and was co-chaired by Darrell Koke (LSTCIM 6/18/1994). Koke had, prior to that time, brought some of the ideas being talked about by the area representatives to the attention of the council. One of the council members described the area representatives' reporting of membership complaints about the past elections as a major factor in the council's agreement to revise the system (C. Salois 1998a). The ideas were at least partly the result of meetings held by the area representatives in their areas (Thomas 1998). The 1994 election committee's notes of its July 12, 1994, meeting indicated that the committee anticipated that the area representatives would either hold area meetings or otherwise make contact with individuals in their area to discuss and find out the members' preferences about each of the issues concerning revising the election process (LSTCIM 7/12/1994).

The area representatives also played a role in the political conflicts over Shield. The council sought their approval of its action to remove Shield (see above). The area representatives' role as representing members' opinions is also evident in the discussions at the council meetings from January through March 1997. Darrell Koke and David Parenteau, her successor, apparently felt that as chairmen of the area representatives they were in a position to offer support for the council's actions and to mobilize favorable political opinion. Jacoby and Sinclair also sought area representative support by trying to involve Darrell Koke in support of their efforts to have Shield removed and to nullify the 1996 election (FD 1998).

#### *Geography and Political Processes*

The rural towns and the two cities where many Little Shell ancestors moved in the 1920's and 1930's and where many members still reside cover a very large geographic span (see Figures 6 and 7). Between Wolf Point at the east end of the Highline and Havre at the west end, the distance by road is 209 miles. From Havre to Browning is 162 miles. From Browning to Great Falls, through the Front Range rural towns such as Choteau, is approximately 127 miles by road. Helena is another 90 miles south of Great Falls. Great Falls to Lewistown is 107 miles. And Lewistown to the Highline at Malta (passing by Zortman and Landusky) is 112 miles.

It is generally felt by Little Shell political leaders who have been active in the past 20 years that the geographic dispersion of the membership is, as in the past, a difficulty with

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which the Little Shell Band governing institutions have had to deal (Swanson 1998; Shield 1998; R. Salois 1998; FD 1998). The problems of distance and travel are repeatedly mentioned. The geographical factor is also reflected in the commonly expressed idea that being a council member or officer necessarily meant frequent travel, often in difficult weather (Swanson 1998; C. Salois 1998a). A variety of measures have been used to keep sufficient contact and a flow of information across the large distance separating the locations where Little Shell members live. Some are a continuation of the organizational features established by Dussome's organization in the late 1930's.

The area or quarterly meeting is seen by leaders and members as a way to have the leadership come to a local area rather than always meeting in a central place (Swanson 1998; Vogel 1998). In the same way the area representatives are a means of distributing information locally and gathering opinion and support. They were and are expected to hold local meetings to accomplish this (Thomas 1998).

The 1994 change from electing officers at an annual meeting to statewide balloting is described by Little Shell leaders as having been made in part to deal with the distances separating Little Shell members in Montana. Among other reasons, the change resulted from unhappiness with the statewide convention, which meant that only the relatively few individuals who could attend were able to vote in elections. Members complained about the time and expense of traveling long distances to the annual meetings, even though modern travel conditions are vastly improved over even those of the 1950's (FD 1998).

Another manifestation of the geographical factor is that members complained to the council and officers of a lack of communication if quarterly meetings and other organization activities were not held from time to time in their area, or if it seemed that they were only being held in one or two locations (e.g, Van Gunten 1998). It has thus been, and continues to be the practice today, according to a number of leaders, to rotate quarterly and annual meetings among different locations so that more people can participate, given the limitations on the ability of many members to travel long distances to a meeting. The locations where it is considered appropriate to hold quarterly meetings appear to be limited to those which have been centers of Little Shell settlement since early in the century, i.e., the urban centers of Helena and Great Falls, the Highline from Havre to Malta, Lewistown, and either Choteau or Browning on the Front Range.

Geographical rivalry has flared up from time to time. It was evident in the LIM conflicts with the MLI in the early 1950's, as it had been in the 1930's and early 1940's. It also was part of the basis for the political conflicts in the early 1980's.

Geographical rivalry and problems of communication with members have been concerns in connection with the location of the tribal office. The issue came up in the early 1980's, when offices were briefly established in Great Falls and then Helena. The location of the office established in 1989 became a political issue, especially between the Highline and Great Falls. The political calculation for a tribal office location tends to come down to Great Falls versus Havre, both being relatively central and both having a relatively large

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number of members. Great Falls, which has the largest number of members and is traditionally an area for urban migration, is not identified with either the Highline or the Front Range and, proponents argue, has better airline service (Gilbert 1998; R. Salois 1998).

#### *Economic Needs as a Present-Day Political Issue*

The economic needs of members is not as strong a political issue now as it was in the 1930's and early 1940's. However, several interviewees stated that the membership is still relatively poor and in need of assistance (Maki 1998; Van Gunten 1998; Sinclair 1998).

Economic needs have come before the council in the past several years as an issue primarily in the context of enrollment. Because the Little Shell members have had some access to some services from the Indian Health Service and the BIA since the early 1970's, individuals have sought enrollment to gain access to these benefits. Little Shell officials cited these services and benefits as currently one of the driving issues for individuals seeking enrollment, because evidence of enrollment with the Little Shell Band could be used to obtain health services from the Indian Health Service (FD 1998; Maki 1998; Vogel 1998; Gilbert 1998). Tribal council officials were concerned that a suspension of new enrollments, in effect since at least 1992, was hurting older individuals who needed medical help and were eligible to be members (Maki 1998; Gilbert 1998).

Complaints were common in BAR interviews that the reservation tribal governments administering Indian Health Service (IHS) contracts or BIA education programs were incorrectly limiting access by Little Shell members (FD 1998; Jacoby 1998; S. Doney 1998). Interviewees frequently commented that access to IHS services and BIA educational grants has varied from one year to another, as Federal Government and reservation tribal government policies changed.

Franklin and Bunte noted that the Little Shell office has frequently been called upon to help get medical services through the IHS, primarily by certifying enrollment and/or tribal ancestry. It has also provided certification of membership for purposes such as preference in state and Federal hiring, for obtaining Montana State higher education tuition waivers, and other, similar, purposes (Franklin and Bunte 1994, 153).

#### *Membership Requirements as a Political Issue*

There was some limited evidence that maintenance of the blood degree requirement has been a political issue discussed by the membership in the past decade. The issue was also raised at a number of meetings in the 1980's. Some interviewees said that it was appropriate to maintain a blood degree, but that with outmarriage the present requirement meant that increasingly some of the younger generation could not be enrolled (e.g., S. Doney 1998). Because there was information from only a limited number of interviews, and little mention in minutes, there was not sufficient information to establish whether maintenance of a blood degree requirement for membership is presently an important

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political issue for the Little Shell Band membership.

### *Participation by Non-Members*

For the past five or ten years, as a result of the freeze on enrollment, some people who are not enrolled members have been participating in the political activities of the Little Shell Band. At one point it was ruled by the council that an unenrolled individual could become an area representative if that person's membership application was pending (LSTCIM 6/18/1994). In 1995, a council member requested that the enrollment be completed for three unenrolled individuals who were area representatives (Jacoby 1995). A substantial number of individuals whose names did not appear on the membership list cast votes in the 1994 and 1996 statewide elections, although their votes were not counted (see above). The names of unenrolled individuals appeared on the lists of those protesting the 1996 elections (Jacoby 1998; Franklin 1997, 28).

As far as could be determined, all of these nonmember participants were immediate relatives of enrollees, rather than representing "new" family lines not previously part of the group (FD 1998). The Little Shell Band enrollment officer and others noted that many people, especially older ones, did not realize that the enrollments done before 1984, when the current enrollment process was begun, are not considered valid (Maki 1998). Consequently, these people incorrectly believe that they are members. Others, who were determined by the BIA to be eligible for the Pembina award, assumed that this meant that they were also enrolled with the Little Shell Band, not realizing that enrollment with the petitioner was a separate process.

### *Enrollment for the Pembina Judgment Fund Award*

Franklin and Bunte argue that between 1982 and 1993 communication concerning the Pembina judgment roll process was frequent between the Little Shell council and officers and the membership (Franklin and Bunte 1994, 145-148). There were 1,722 members of the Little Shell Band accepted on the Pembina judgment roll (Franklin and Bunte 1994, 147). There are no figures on how many of these successful applicants communicated with the Little Shell office and Little Shell enrollment officer Edna Teske, but the BAR interviews and the evidence cited by Franklin and Bunte indicate that a large number of inquiries were made. Presumably there were also inquiries by applicants who were subsequently rejected for the payment.

Because the Little Shell enrollment officer was the primary BIA contact for the preparation of the Little Shell portion of the Pembina roll, the Little Shell office was a logical contact for members. The primary information sought by members from the enrollment officer and the council concerned the application process, e.g., the documentation of ancestry that was required, and an explanation of the distinction between applying for the judgment payment and enrollment in the Little Shell organization. Members also sought information about how and when the payment would be made.

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Minutes of area and tribal council meetings between 1980 and the present show that the claims payment, and the somewhat cumbersome application process, were frequent topics of discussion (see above). Enrollment and application for the claims payment were cited as one of the reasons for opening the first tribal office in 1989 (*Havre Daily News* 5/11/1989). Failure to respond to inquiries concerning enrollment, and the closure of the Havre office where the enrollment operation was conducted, was one of the political issues which led to the removal of former Chairman Swanson and moving the office to Great Falls (see discussion above). Franklin and Bunte cited two 1993 area meetings where the Pembina award was discussed at length as evidence for widespread communication with the membership (Franklin and Bunte 1994, 147).

Franklin and Bunte also cited as evidence of communication the log of calls to the Little Shell office for nine months of 1993. Their analysis of the log concludes that 880 different individuals called, of which "the vast majority" were members (Franklin and Bunte 1994, 153). However, they did not provide a separate count of inquiries which concerned the Pembina award, as opposed to inquiries for other purposes. They merely stated that "substantial numbers" of the inquiries were about the award (Franklin and Bunte 1994, 147).

The evidence shows communication by a large number of people looking to the tribal council and officers for information about the Pembina award. It also shows that the council held meetings to get information out to members. The minutes and interviews also show that the council and officers were reacting to the concerns of the membership by inquiring of the Bureau about the Pembina judgment enrollment process and by requesting Bureau action concerning its implementation.

### *Fund-raising and Miscellaneous Council Activities*

According to present and recent Little Shell political leaders, the operations of the tribal office and other organizational activities have been financed to a substantial degree by donations from the members and fund-raising activities rather than by government or other grants (Gilbert 1998; R. Salois 1998; C. Salois 1998a).<sup>138</sup> A common device has been to have a raffle or lottery at a quarterly meeting or at Joe Dussome Day. The money to move the tribal office from Havre to Great Falls in 1995 and to pay off outstanding bills was raised by activities such as raffles of donated items and yard sales organized by members in Great Falls (R. Salois 1998; Shield 1998). Similar activities for fund raising were described by former chairman Deborah Swanson as occurring in Havre and on the Highline during her term as chairman between 1988 and 1995. Franklin notes that \$535 was raised at a March 1996 meeting from donations and a raffle (Franklin 1997, 34).

A detailed analysis was not made of available data concerning fund-raising activities,

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<sup>138</sup> NARF has provided funding for elections, and petition research, at least since 1993. The group had an Administration for Native Americans grant (ANA) in 1990, but has not been a regular recipient of ANA grants.

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particularly of how many members may have participated. Present and past leaders describe these activities as small scale efforts which together with the individual financial resources of council members and officers have been the primary means of funding the organization from the mid-1980's to the present (i.e, during their tenure). According to most accounts, these efforts raise only small sums of money -- at most a few hundred dollars at a time (FD 1998).

In 1997, and probably 1998, the Little Shell council arranged for the inclusion of the group in the distribution of the meat of buffaloes culled from Federal herds (*Great Times* 3/12/1997; Sinclair 1998). The distribution was carried out by members appointed by the council. These members prepared the meat and identified families and individuals who wanted the meat by calling members, putting notices in the newspaper and at Indian centers, and receiving letters requesting it. The council was not, by the available evidence, involved in deciding who would receive the meat. Although Franklin referred to this as a distribution to "needy" members (Franklin 1997, 36), the available information did not indicate that economic need was a criterion for being included in the distribution. In 1997, 212 individuals in Montana, and others elsewhere, received buffalo meat (*Great Times* 3/12/1997).

### *Little Shell Eligibility for BIA and IHS Services*

The Bureau of Indian Affairs in 1970 began to provide some limited services, particularly for higher education, to individual Little Shell members. Services were provided on the basis of blood degree, without regard to enrollment in a recognized tribe (BIA 5/4/1970, 1/30/1978). Federal policies in that era allowed some Bureau services to be provided to individuals of one-quarter Indian blood or more, regardless of tribal enrollment (Interior 6/12/1978). The Department of the Interior stated in 1971, with reference to the Montana unenrolled Indians, that, "Those who can establish a specific degree of Indian blood are now entitled to certain services from the Bureau of Indian Affairs" (BIA 6/21/1971). BIA services since about 1975 have reportedly included grants for higher education (Swanson 1993). The extent of services, and the basis for services, varied somewhat in different years (see BIA 5/4/1970, 1/30/1978; Interior 6/12/1978). It was not determined for this report precisely what BIA services were provided in what years, nor the exact basis for those services at a given time.

Little Shell members received some services from the Indian Health Service as early as the 1970's. IHS policies have varied over time, but have been based on the general principle that Indians who were members of recognized tribes, or descendants of a recognized tribe, were eligible for direct services.<sup>139</sup> In 1988, the Director of the IHS Billings area office informed the chairman of the Little Shell that the Little Shell members were considered descendants of a recognized tribe, apparently Turtle Mountain, and thus eligible for direct services from the IHS (IHS 1988). Little Shell minutes in

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<sup>139</sup> Little Shell eligibility was limited to direct services from an IHS facility. They were not eligible for "contract services" from the private sector for care not available at an IHS facility.

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1989 indicated that members were eligible for direct services from IHS if they filled out certain forms which the Turtle Mountain Agency verified (LSTCIM 4/8/1989). In 1994, the Director of the Indian Health Service informed the Native American Rights Fund that eligibility for IHS services required demonstration of descent from a federally recognized tribe (IHS 1994). It stated further that the IHS relied on the Department of Interior to determine whether the Little Shell members were considered descended from the Turtle Mountain tribe and thus eligible. In 1997, however, the IHS Associate Area Director for Billings advised IHS service unit directors that any individual who was an enrolled member of the Little Shell tribe was eligible for direct services (IHS 1997a). The Fort Belknap Service Unit Director, in commenting on this advisory, noted that this eligibility was because "the Little Shell membership is considered descendants of a federally recognized tribe" (IHS 1997b).

Presently, however, Little Shell members complain that they often face restrictions on IHS services that they did not face in the past. Their comments indicate that this is a result of reservation governments taking over IHS direct service units under contracts with the IHS (S. Doney 1998; Jacoby 1998; Sinclair 1998). However, interviews and Little Shell minutes indicated that perceived limitations on medical services from IHS, as well as limits on education services from BIA, have been an issue for Little Shell members for the past 20 years (FD 1998). Problems with IHS and Bureau services were mentioned in council minutes in 1978, 1983, and 1989, among other years (LSTCIM 10/7/1978, 5/14/1983, 4/8/1989, 5/13/1989). Access to services is a reason that some individuals have sought enrollment and a concern of the present (1998) Little Shell council because the petitioner's current freeze on new enrollments prevents some older people from access to IHS medical services (Maki 1998; Gilbert 1998).

#### *Little Shell Relationship with the State of Montana and Montana Indian Tribes*

The Montana Inter-Tribal Policy Board has served as an advisory body to the government of the State of Montana since 1951. The Board includes representatives from all of the Montana tribes. In 1952, the list of member tribes included the Landless Indians of Montana (MITPB 1952). The group has been a member of the Board since that time. According to Little Shell leaders, members of the Little Shell of one quarter or more degree Indian blood have been eligible since at least the mid-1980's for state college tuition waivers on the same basis as Montana reservation Indians (Swanson 1998; C. Salois 1998a). They have also been eligible, in the same manner as members of reservation tribes, for an exemption from state taxes as long as they reside and work on a reservation and are enrolled with the Little Shell (Swanson 1993). Recently, the state has reportedly considered revoking this exemption for the Little Shell (C. Salois 1998a). The Governor of Montana in 1992 submitted a letter to the Bureau of Indian Affairs supporting acknowledgment of the Little Shell Band (Stephens 1992). The Governor's letter was accompanied by documents concerning the Little Shell's relationship with the State of Montana.

Resolutions in support of Federal acknowledgment of the Little Shell petitioner have been

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passed by Indian organizations and federally recognized tribes: in 1978 by the Inter-Tribal Board of Montana, which includes the Little Shell band as a member; in 1985 by the National Tribal Chairman's Association, the tribal council of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, and the tribal council of the Northern Cheyenne Tribe; and in 1992 by the Chippewa Cree Tribe of Rocky Boy's Reservation and the Turtle Mountain Band of Chippewa Indians of North Dakota (MTPB 1978; NTCA 1985; Confederated Salish and Kootenai Tribes 1985; Northern Cheyenne Tribe 1985; Chippewa Cree Tribe 1992; Turtle Mountain Band 1992). In 1996, the Turtle Mountain Band passed and submitted to the BIA a resolution "reconfirming its support of Federal Recognition of the Little Shell of Montana" (Turtle Mountain Band 1996). No documentation was received with any of these resolutions.

### **The Petitioner's Membership:**

#### *Governing Documents*

The petitioner considers its governing document to be the "Constitution and By-Laws of the Little Shell Tribe of Chippewa Indians of Montana" which was adopted on September 10, 1977 (LSTCIM 9/10/1977). Article I of the constitution defined the governing body of the group as the Executive Board, which consisted of a president, vice-president, second vice-president, secretary-treasurer, and area council members. An Executive Committee, consisting of the president, vice-presidents, secretary-treasurer, and at least three council members, constituted a quorum for conducting business on the Board's behalf. The duties of the officers were described in Article VII. Articles IV and VI described the procedures for proposing ordinances or resolutions and for adding amendments to the constitution. Article V defined the group's membership criteria. Any Indian of Pembina ancestry and one-quarter degree Indian blood was eligible for membership, provided that they had never received an allotment of land derived from an Indian reservation. All children born to members who possessed one-quarter degree of Indian blood were entitled to membership. The article required applicants to be approved for membership by the group's Executive Committee.

In the petition documentation the petitioner submitted to the BIA in 1984, it included an uncertified copy of its 1977 constitution as its governing document. The same submission, however, also contained a copy of the "Official Constitution and By-laws of the Little Shell Tribe of Chippewa Indians of Montana [which was] Adopted by Tribal Members May 16, 1981 at Helena, Montana" (LSTCIM 9/10/1977). The language in Section I of the 1981 constitution was confusing in regards to limiting membership to persons of at least one-quarter "Pembina Chippewa Blood." The BIA asked the petitioner to provide an explanation of its membership requirements, as well as a copy of the minutes of the meeting at which the 1981 constitution had been approved, and a copy of a list of members who had voted or were eligible to vote on its ratification (BIA 4/8/1985).

In the interim between the submission of the petition documentation and the BIA's

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response to it, however, the group had reaffirmed the 1977 constitution as its "operative, governing document" at a meeting of the Little Shell petitioner on May 26, 1984 (LSTCIM 5/26/1984, resolution). Despite this action, there apparently was still some confusion regarding interpretation of the membership criteria (LSTCIM 3/7/1987a). On September 14, 1985, after receiving the BIA's query, the petitioner passed Resolution No. 85-1 in order to rescind language in the earlier Resolution 84-11 of May 26, 1984, which, like the rejected 1981 constitution, purported to limit tribal membership to persons of "at least one-quarter Pembina Chippewa blood," which was further defined as "Chippewa-Cree blood derived from Pembina ancestry." The 1985 resolution reaffirmed that Article V, Sections I, II and III of the constitution of 1977 defined who was eligible for membership (LSTCIM 9/14/1985).

At a special meeting held in Havre on March 7, 1987, the petitioner passed Resolution 87-1 which again reaffirmed the 1977 constitution as its governing document. This resolution further stated that the membership criteria enumerated in Article V, Sections I, II, and III of the 1977 constitution were recognized as "constituting and describing the sole and entire class of Indian persons eligible for membership." The resolution of 1987 said that it superseded the resolution of 1985. The new resolution provided "further clarification" of the provisions of the 1977 constitution, and stated that this interpretation was "consistent with the historical and contemporary understanding of the Tribe and its members" (LSTCIM 3/7/1987b). The following comparison shows how the 1987 resolution interpreted Article V of the 1977 constitution:

### Section I, Article V, 1977 Constitution:

1977 Constitution: All members of the Little Shell tribe of Chippewa Indians of the State of Montana whose application as an Indian has been approved or may hereafter be approved by the Executive Committee of said Tribe.

Resolution of March 7, 1987: This section means that members of the Little Shell Tribe shall consist of those Little Shell Chippewa Indians, also referred to as Pembina Indians, listed or eligible for enlistment on the Roe Cloud Roll, provided that said Indian's application for enrollment in the Little Shell Tribe has been approved by the Tribal Council.

### Section II, Article V, 1977 Constitution:

1977 Constitution: Any Indian of Pembina ancestry and one-quarter (1/4) degree Indian blood providing they never have received an allotment of land derived by other Indian Reservations through adoption or marriage, subject to approval identical to Section I.

Resolution of March 7, 1987: This section means that members of the Tribe shall consist of any descendant of those members included in Section I, provided that said descendant [sic]: (1) possesses a minimum of 1/4 degree Indian blood; (2) is not enrolled in another Indian tribe; and (3) has applied and been approved for enrollment by the Tribal Council.

### Section III, Article V, 1977 Constitution:

1977 Constitution: All children born to members of the Tribe who possess one-quarter degree (1/4) Indian blood are entitled to membership.

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Resolution of March 7, 1987: This section means that any child born to members in Section II are eligible for enrollment. The intent is to make eligible for membership any Section II member's child who possesses a minimum of 1/8 Indian blood. Membership is contingent upon making application to and securing the approval of the Tribal Council for enrollment.

From this interpretation of the constitution, it is apparent that the petitioner relied on the Roe Cloud Roll as the prime, although not the sole, source for identifying the Indians of Pembina or Little Shell Chippewa descent who qualified for membership in its group. This interpretation of Section I, that the membership consisted of those "listed or eligible for enlistment on the Roe Cloud Roll," opened the way for non-enrolled siblings of Roe Cloud enrollees, and their descendants, to be eligible for membership in the group. The phrase "or eligible for enlistment on the Roe Cloud Roll" appeared to indicate that applicants need not trace their ancestry to someone who was on the Roe Cloud Roll, but rather to someone who would have qualified for that roll. If applicants did not trace directly to a Roe Cloud Roll ancestor, they could use the 1917 McLaughlin report, the Rocky Boy's census, or the genealogies of the Red River households 1818-1870 to document their Chippewa ancestry (BAR 5/13/1998). While this language appeared to broaden the field of candidates for membership, approval by the council and the interpretation of Section II that an applicant must have 1/4 degree Indian blood and be of Pembina / Little Shell descent added some limitations on who could qualify for membership. Section III allowed the children of the 1/4 Indian blood degree members, if they possessed at least 1/8 Indian blood degree and were approved by the council, to become members.

The petitioner again reaffirmed the 1977 constitution as its governing document when it answered a grievance filed by its former chairman, James Parker Shield, in 1997 (Gilbert 1997).

### *Membership Lists*

The combined petitioner's membership lists dated 1987, 1990, 1991, and 1992 comprise the official membership of the petitioning group, as certified by its council (BAR 5/13/1998). There were 3,366 names on the 1987 list, 319 names on the 1990 list, 112 names on the 1991 list, and 97 names on the 1992 list as submitted to the BIA by the petitioner (LSTCIM 1987, 1990, 1991, 1992). The BIA combined these lists into a master database to facilitate its research on the petition, eliminating duplicate names and deceased individuals from the combined list, and concluded that there are 3,893 members of the petitioner's organization. This total has been used for statistical purposes throughout this report. This combined membership list replaces earlier membership lists of the petitioner's organization. The prior membership lists submitted by the petitioner were those of 1978 and 1984. There are no known earlier membership lists of the petitioner's organization.

The petitioner submitted to the BIA a copy of a list, dated April 1978, which included the names of 804 applicants for membership (LSTCIM 1978). Some of the applicants had an

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address and an application number, but many did not. It appears that an adult parent was assigned an application number and that the applicant's children were not assigned separate application numbers. Although the names were arranged in a loose alphabetical order, the list contained no ages, birthdates, or cross references to other family members to help identify the individual. The column labeled "Enrollment #" was blank in every instance. It appears that 546 names on the 1978 list match names on the certified 1987-1992 membership lists. There are six women on the 1978 list who may also be on later lists with a different surname, but without a birthdate or other identifying characteristics, the BIA could not assume they were the same individuals. There were 258 names on the 1978 list that could not be accounted for on the petitioner's later membership lists. The former enrollment officer stated that when all members were asked to re-enroll in 1984, many of the people on the 1978 list were found to be members of the Turtle Mountain Band of Chippewa or of federally recognized tribes in Montana. She also stated that several people assumed that if they applied for the Pembina judgment award, they also were automatically applying for membership in the Little Shell band. This was not the case, and their names would not appear on the later lists unless they had submitted the proper application form (BAR 5/12/1998). It is also assumed that a number of the 1978 applicants are now deceased.

The petitioner submitted a membership list dated September 25, 1984, of 1,871 names (LSTCIM 1984, membership list). Each membership list entry on the 1984 list recorded the person's roll number, name and address, gender, birth date, birth place, tribe, blood degree (Chippewa and other), father's name, birth date, birth place, tribe and blood degree, and mother's name, birth date, birth place, tribe and blood degree. This membership list was part of the petitioner's response to the BIA's "obvious deficiency" review letter and included a copy of pages of the 1984 membership list with corrections to birth dates, blood degrees, addresses, spelling, and parentage. Several persons were noted as deceased, and some annotations included their exact death date. Others were noted as dual enrollees with the recognized tribes of the Rocky Boy's or Turtle Mountain Reservations. The names of the dual enrollees did not appear on the subsequent 1987 or later lists. A few names on the 1984 list had a hand-written note "delete," but no explanation was made as to why the member was deleted. Other names were marked "delete/duplicate," which included women who were listed by their maiden name or previous marriage surname as well as their current name. Some individuals were listed more than once, with variations in the spelling of their names (e.g., James C. Brown and James Brown).

### *Dual Membership*

The petitioner's constitution does not allow for dual membership in a federally recognized tribe as well as in the Little Shell band. At the time of the petitioner's re-enrollment project in the 1980's, individuals who were already members of other tribes were removed from the membership list (BAR 5/11/1998, 5/12/1998, 5/13/1998). Some of the individuals who had been on the 1978 membership list were removed because they were found to be members of the Turtle Mountain Band of Chippewa (BAR 5/14/1998).

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Some of the ancestry charts and membership records submitted by the petitioner cite enrollment numbers for the Turtle Mountain Band of Chippewa for collateral relatives or spouses (for example, see descendants of Charles St. Arnaud). The Turtle Mountain Band's enrollment criteria states that persons whose names appear on the May 24, 1940, roll, or their descendants who have 1/4 Indian blood and who are not permanent residents of Canada, are eligible for membership in the Turtle Mountain Band (Turtle Mountain Band 1959). The enrollment officer at the Turtle Mountain Agency stated that many of the "Montana Chippewa" have tried to enroll at Turtle Mountain, but that unless they or a direct line ancestor was on the 1940 base roll, they were not eligible (BAR 5/21/1998). The BIA's comparison of the 1940 Turtle Mountain roll with the petitioner's current membership list did not reveal individuals enrolled in both organizations.

The BIA's review of the membership records of the federally recognized tribes in the Billings Area Office shows that the names of 15 of the petitioner's members also appear on the membership records of these tribes. Eight names on the petitioner's membership list also appear on the 1997 Rocky Boy's Reservation membership list, three names on the petitioner's membership also appear on the 1997 Ft. Belknap membership list, and four names on the petitioner's membership list appear on the 1996 Blackfoot Tribe's membership list (BAR 5/14/1998, 5/15/1998). These 15 individuals appear to have one parent who is a member of the federally recognized tribe and one parent who is a member of the Little Shell petitioner. There is no evidence that any significant number of the petitioner's membership are members of federally recognized tribes in Montana.

### *Membership Files*

The petitioner submitted copies of an ancestry chart and a page from the membership list for each person on the 1984 membership list. Very few of the ancestry charts had full dates of birth, death or marriage for anyone other than the applicant. In most instances, these forms and charts connected the individual on the membership list to parents, grandparents, aunts, uncles, siblings, or other relatives on the Roe Cloud Roll. The pedigree charts contain as many as five generations back in the individuals's history, much more information than the membership list which only named the applicant's parents and grandparents.

The genealogical records submitted with the petition were arranged by the petitioner in file folders by ancestral lines. For example, a file with "Lally Doney and Angela Moran" on the folder label had charts for some of the descendants of that couple. In most cases, it appears that the names on the file folders were also the names of individuals who appeared on the Roe Cloud Roll. There are some exceptions, but not many. The file folder may have named only one or two ancestors with Roe Cloud descent when, in actuality, there were others. BIA research confirmed additional descent from, or connections to, Roe Cloud enrollees. This information was added to the BIA's database of the petitioner's membership in order to help clarify the group's enrollment process.

During the BIA's site visit in May 1998, the membership files in the petitioner's offices

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were examined to confirm the procedures and determine how the group maintains its files. Each member, including minors, has a separate file with a birth certificate or baptismal record, ancestry chart, individual history chart, and if applicable, a copy of the data in the parent's file. The member's records were found to be arranged in alphabetical order, with a separate file for the 1987 membership list, and each of the subsequent supplemental lists compiled in 1990, 1991, and 1992 (BAR 5/13/1998).

The petitioner also maintains a separate file for the pending applications which have not been acted on by the petitioner's council. The files for pending members contain the same forms and certificates as the files for certified members. The individual membership files contain the "Enrollment Criteria List," which lists seven items that must be in the files. Those items are: (1) a completed and signed application form, (2) the name and number of a Roe Cloud Roll ancestor, (3) a family tree [ancestry chart], (4) an individual history chart, (5) birth and baptismal certificates, (6) a record verifying Indian blood degree, and (7) the names of any ancestors enrolled on a reservation and the name of the reservation.

Other letters and forms in the files of both members and pending applicants include: a form relinquishing membership in either a federally recognized tribe or in the Little Shell petitioner, in compliance with the group's prohibition of dual enrollment; a form for blood degree certification signed by the petitioner's enrollment officer; a form letter acknowledging receipt of a letter requesting information about enrolling; a notice acknowledging receipt of application or other enrollment questions; and a form letter verifying that the individual is a member of the petitioning entity of Montana. Some files also have notices that the individual does not meet the requirements for enrolling with the Turtle Mountain Chippewa. Some files also contain a letter explaining a recent fund-raising project which involved taking photographs of members at quarterly meetings and making identification cards.

In addition to the standard forms and letters, some files also contain death certificates, marriage records, probate records, letters from the BIA stating that the person was eligible to receive funds pursuant to the 1971 Act as a Pembina descendant, estate records, pages of published genealogies, church records of baptisms and marriages, and Indian allotment records. Not all of the files have all of the records cited above, but they do appear to have the records required by the petitioner's governing documents and resolutions to determine that the applicant is entitled to enroll as a member. The files do consistently contain the birth certificates, applications, ancestry sheets, individual history charts, and letters from the enrollment committee requesting documentation. The enrollment resolutions do not specify that the individual submit certified copies of birth certificates or other vital records. Most files reviewed during the site visit had photocopies of certified birth certificates or baptismal records for the applicant, rather than the original, certified document (BAR 5/13/1998).

The petitioner's enrollment committee checks each application and file to ensure that all of the forms and procedures outlined in the group's membership criteria are in place

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(BAR 5/13/1998). The enrollment committee continues to update the files by checking them for missing documents, such as birth certificates or affidavits regarding dual enrollment. At the quarterly meetings, they request relatives of persons with incorrect addresses to help "track down" the new addresses. Members of the enrollment committee said that it was up to the applicant to supply documentation of descent from the Turtle Mountain Chippewa (BAR 5/12/1998).

The enrollment committee stated that the council was not accepting new membership applications because of concerns that it would slow down the acknowledgment process if there were changes in the membership at this time. However, the council does act on questions of dual enrollment and removal of names from the membership list. The enrollment committee cited to a meeting in March 1998 when the council acted on three members' requests to remove their names from the list (BAR 5/13/1998). Edna Teske, the petitioner's former enrollment officer, stated that the council had previously removed the names of individuals who were found to be dually enrolled in a federally recognized tribe (BAR 5/13/1998).

When asked by the BIA how the Indian blood degree was calculated, Teske stated that the Turtle Mountain Agency records, the Roe Cloud Roll, McCumber report, and Rocky Boy's (McLaughlin and Wheat) rolls were used to prepare the ancestry charts and to calculate the blood degrees at the time of the Pembina judgment award (BAR 5/13/1998). In turn, the current enrollment committee uses the charts prepared by Teske in the 1980's, as well as the earlier Roe Cloud Roll, McCumber report, and Rocky Boy's rolls, to determine whether new applicants meet the petitioner's own membership requirements (BAR 5/13/1998).

#### *Teske's 1994 Report*

In 1994, Edna Teske prepared a report on the petitioner's members who had appeared either as an adult or a child on the Roe Cloud Roll. The report was titled "Teske's 312 Little Shell Elder Enrollees Also Enrolled in the ca. 1937 Roe Cloud Census: Historic Evidence of Chippewa-Cree Ancestry" (Franklin 1995, table 1). As sources for "historic evidence of Chippewa-Cree ancestry," her report identified the "member, member's lineal ancestor, or sibling of either member or member's lineal ancestor" who had appeared on the Roe Cloud Roll as well as on the index to the 1880 McIntyre report on "Half-Breed Scrip" recipients, the 1890 census of the Mahone Commission, a presumed 1892 "List[e] des familles métis américaine de Pembina" attributed to Bottineau, the 1906 Turtle Mountain census and Family History Books, the 1917 Rocky Boy's roll by McLaughlin, the 1934 Rocky Boy's roll, or the "Genealogy of Red River Households 1818-1870" compiled in Sprague and Frye's 1983 book on *The Genealogy of the First Métis Nation* (Franklin 1995, 6). However, not all of these sources, such as the McLaughlin report and Sprague and Frye's book, identified the individuals they listed specifically as Pembina Chippewa.

Although Teske's 1994 report was not an exhaustive study of the origins of all the

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members or their ancestors listed on the Roe Cloud Roll, it did provide a list of the sources that were used by the petitioner to confirm Chippewa or Chippewa-Cree ancestry. Of the 312 Roe Cloud enrollees listed in the Teske report, 24 cited only to the Roe Cloud Roll for proof of descent. However, most of the people in the report had ancestors on three or four of the historical lists, and some had as many as five ancestors on the various lists. The table of "Red River Households 1818-1870" cited in Teske's report provided evidence for the origins of 199 of the 312 Roe Cloud enrollees. There were 111 of the enrollees who had an ancestor or collateral relative on the 1880 index to the McIntyre report of the Métis who had received "half-breed scrip" under the Red Lake and Pembina treaties of 1863 and 1864. Teske found that 157 enrollees were connected by descent or collaterally to someone on the "ca. 1892 Bottineau list" of American Métis. Sixty-two of the enrollees connected to someone on the 1890 Turtle Mountain commission census, and 114 of them had an ancestor or collateral relative who was named in the 1906 (or later) Turtle Mountain censuses and Family History Books. Fifty-eight enrollees had a lineal ancestor or collateral relative on McLaughlin's 1917 Rocky Boy's roll, and 40 enrollees had an ancestor or collateral relative on the 1934 Rocky Boy's roll (Franklin 1995, table 1).

### *Descent from a Historical Tribe*

Many of the petitioner's ancestors can be traced in historical records to the Métis residents of the Red River Settlement in British territory in the years from at least 1835 to 1870, and the Pembina and St. Joseph settlements in American territory in 1850 and the following decades. About 27 percent of the petitioner's members descend from individuals residing in the British Red River Settlement about 1835. Twenty-five adult heads of households can clearly be identified on the 1850 census of Pembina County, Minnesota Territory, as ancestral to the petitioner. Approximately 48 percent of the petitioner's members descend from the 25 families identified on the 1850 census.<sup>140</sup> In addition, some of the petitioner's ancestors appeared on the 1873 and 1874 tax lists of Pembina County, Dakota Territory. Forty-six of the petitioner's ancestors can be identified in the records of the Red River Settlement about 1870. Approximately 38 percent of the petitioner's members descend from the 46 ancestors living in 1870 in the British Red River Settlement. However, only 12 percent (467 of 3,893) of the petitioner's members are descendants of 1870 residents of the Red River Settlement who had not previously been on the 1850 census of Pembina County.<sup>141</sup> Although this evidence indicates the historical origins of the majority of the petitioner's ancestors, it is not evidence of descent from a historical Indian tribe.

While the petitioner has claimed descent from a group of Chief Little Shell's followers

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<sup>140</sup> See the section of this report on the "Red River Chippewa and Métis, 1790-1850's" for a more detailed analysis of the 1850 census.

<sup>141</sup> See the section of this report on the "Métis Migration to Montana, 1870's-1880's" for a more detailed analysis of the 1870 census.

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who allegedly were excluded from the Turtle Mountain Band of Chippewa in 1892 and migrated to Montana together, the documentary evidence and the oral histories of some of the members reflected a quite different pattern. There was a historical tribe of Chippewa Indians at Turtle Mountain which was a successor to the treaty tribe of 1863. Although some of the petitioner's ancestors had close family ties to this band, the predominant portion of the petitioner's membership could not be traced, with the evidence available for this finding, to a core set of ancestors who existed within the Turtle Mountain tribal entity prior to 1892. It is possible, however, that research in additional sources, such as the Indian census rolls of the Turtle Mountain reservation, could reveal additional genealogical ties to that historical tribe. The conclusion that the available evidence fails to show that most of the petitioner's members descend from the historical Turtle Mountain Band does not necessarily mean that the petitioner's members do not descend from a historical tribe of Chippewa Indians. An alternative hypothesis is that they may descend from a historical Pembina Band which existed prior to 1892, and which negotiated the treaty of 1863.

The petitioner's descent from the Pembina Band of Chippewa Indians as constituted in 1863 and 1864 when it treated with the Federal Government can be estimated from sources which were reviewed for this report. The records are in two categories: those contemporary to the treaty and those created after the fact. Contemporary records included lists of treaty signers, an annuity roll of 1864, and the McIntyre report of 1880 which identified Chippewa "mixed bloods" who received land scrip as beneficiaries of the treaties of 1863 and 1864 with the Red Lake and Pembina bands. Later records include the BIA's judgment award roll of 1994 which identified individuals who were descendants of Pembina Chippewa individuals identified at any time in the 40 years between the 1863 treaty and the 1905 Turtle Mountain cession. These sources, which already have been discussed separately in this report according to chronology, are reviewed here together in a brief summary of the extent to which the petitioner's members descend from a historical tribe.

One of the signers of the 1863 treaty, Joseph Gomon (Gourneau), a "Pembina warrior," appears to be an ancestor of some of the petitioner's members (*Statutes 1863*). None of the three Pembina men who signed the 1864 treaty can clearly be identified as ancestral to the petitioner's members. There are 74 descendants from the Gourneau family among the petitioner's 3,893 members. The records that were closest in time to the treaty, and would therefore most likely reveal the names of the majority of the tribal members, were the annuity rolls created to fulfill the treaties. The voucher for annuities paid in 1864 which was submitted by the petitioner only listed the recipients by their phonetic Indian names (*BIA 1864*). However, the vast majority of the petitioner's ancestors, as listed in the ancestry charts submitted by the petitioner, and verified by the BIA, were identified by their French or English surnames. Therefore, it was not possible to clearly connect the petitioner's ancestors with individuals on the 1864 list alone. Neither the petitioner nor BIA researchers attempted to match all of the petitioner's ancestors with the names on any of the subsequent annuity lists. Thus, at this time, only 2 percent of the petitioner's

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ancestors can be linked directly to a probable member of the treaty band.<sup>142</sup>

In 1880, Special Agent McIntyre of the General Land Office made a report on the recipients of land scrip under the treaties of 1863 and 1864. His lists included 28 ancestors of the petitioner's members who can clearly be identified as scrip recipients, while another 8 men on his lists are possible ancestors. This count of ancestors in McIntyre's report includes all scrip recipients regardless of what McIntyre said about the merits of their claim to scrip. At least 37 percent, and perhaps as many as 45 percent, of the petitioner's members descend from men identified in McIntyre's report as scrip holders (GLO 1880). The petitioner's enrollment secretary, Edna Teske, also found that 111 of 312 Little Shell elders listed on the Roe Cloud Roll, about 36 percent of them, had a lineal or collateral connection to a treaty scrip recipient (Franklin 1995, table 1). McIntyre, however, found that some of the scrip recipients had received scrip as relatives of the Red Lake Band or were members of non-treaty tribes, so not all of these men had received scrip as relatives of the Pembina Band. About 33 percent of the petitioner's members descend from men on McIntyre's list who received treaty scrip as a relative of a member of the Pembina Band of Chippewa (GLO 1880, list A).<sup>143</sup>

The roll created to distribute the judgment award for the 1863 treaty, as authorized by the Act of 1971, included descendants of the "mixed blood" relatives of the Pembina Band who received benefits provided by the treaty. Thus, in assembling the judgment roll, the Federal Government concluded that the mixed-blood or Métis descendants, with at least 1/4 Pembina Chippewa blood, had equal rights to receive an award with the descendants who were members of the Pembina successor tribes of Turtle Mountain Chippewa, Minnesota Chippewa, and the Chippewa-Cree Tribe of Rocky Boy's Reservation. The Act of 1982 which authorized the distribution of the judgment award for the 1905 Turtle Mountain cession included the roll created for the Act of 1971 as one of its acceptable sources of proof of descent from the historical Pembina Band. Therefore, individuals who received a judgment award under either distribution act were considered to be descendants of a member, or relative of a member, of the Pembina Band as it had been constituted in 1863. The awards were made on the basis of lineal descent, and Congress's distribution acts did not require the "mixed-blood" or Métis descendants receiving the awards to have maintained tribal relations until the time of the acts, either as an entity of their own or as part of the historical tribe or its successors.

The research conducted by the BIA at the time of the judgment fund distribution acts assumed that individuals on the Roe Cloud Roll, who had Chippewa ancestry, were descendants of the Pembina Chippewa of treaty times (BIA 8/19/1980, 10). Using this same assumption, the 77 percent of the members of the petitioning group who have a

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<sup>142</sup> See the section of this report on "Treaty Negotiations and Benefits, 1850-1880" for a more detailed analysis of the treaty ancestors.

<sup>143</sup> See the section of this report on "Treaty Negotiations and Benefits, 1850-1880" for a more detailed analysis of the McIntyre report of 1880.

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lineal or collateral relative with Chippewa ancestry on the Roe Cloud Roll would be considered descendants of the Pembina Chippewa of treaty times.<sup>144</sup>

The 1994 judgment roll contained 51 percent of the 3,366 individuals who were on the 1987 membership list of the Little Shell Band (BIA 3/24/1994; LSTCIM 1987, membership list). The petitioner's supplemental lists of 1990, 1991, and 1992 included 528 individuals who had not been on the 1987 list, but the available evidence does not indicate how these more recent members of the group relate to individuals on the 1994 judgment roll. At least 38 percent of the 3,893 current members of the petitioning group appeared on the 1994 judgment roll (BIA 3/24/1994). Therefore, using the Government's criteria for the disbursement of funds in the judgment award of 1994, it follows that 38 percent of the petitioner's members descend from individuals who were part of, or related to a member of, the Pembina Band or its successors at some time prior to 1905.<sup>145</sup>

The Turtle Mountain Band of Chippewa has been found to be one of the successor tribes to the Pembina Band of the treaty of 1863 (BIA 8/19/1980, 11). Thirty heads of families on the Mahone Commission's 1890 census of the Turtle Mountain Band can be clearly identified as some of the petitioner's ancestors (Mahone et al. 1890). Twenty-one of the petitioner's ancestors were on the McCumber Commission's roll of 1892 (McCumber et al. 10/1/1892). A total of 31 ancestors of the petitioner's members were listed on one of these two commission rolls. Only 6 percent of the petitioner's current members descend exclusively from the 10 individuals who were listed as members of the Turtle Mountain Band by the 1890 commission, but who were absent from the 1892 McCumber roll. Thus, this evidence does not support the theory that the petitioner descends principally from individuals excluded from the Turtle Mountain Band by the McCumber Commission. About 26 percent of the petitioner's current members descend from one of the 31 individuals who were accepted by either of the two Federal commissions as a member of the Turtle Mountain Band prior to the negotiation of the 1892 agreement.<sup>146</sup>

At least an additional 9 percent (362 of 3,893) of the petitioner's members descend from individuals who were on the 1884-1900 family registers or the 1906 family history books of the Turtle Mountain Agency. Thus, at least 35 percent of the petitioner's members descend from an ancestor who can be considered a member of the Turtle Mountain Band at some time during the period from 1884 to 1906. However, these records do not provide a complete accounting of all of the petitioner's ancestors who may have been a part of the historical Turtle Mountain Band. A more thorough search of the Indian census records of the Office of Indian Affairs after 1885 (BIA 1885-1940), for example, may

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<sup>144</sup> See the section of this report on the "Indian Reorganization Act and the Roe Cloud Roll, 1934-1940" for a more detailed analysis of the Roe Cloud Roll.

<sup>145</sup> See the section of this report on the "Indian Claims Commission Awards, 1964-1994" for a more detailed analysis of the judgment rolls.

<sup>146</sup> See the section of this report on the "McCumber Agreement, 1890-1899" for a more detailed analysis of the commission rolls.

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identify additional ancestors living at Turtle Mountain in this era.

The Chippewa Cree Tribe of the Rocky Boy's Reservation was identified by the Bureau of Indian Affairs, for purposes of the judgment awards, as a tribe which had enrolled members who were descendants of the 1863 Pembina treaty band (BIA 8/15/1980; 8/19/1980, 2, 9, 12). About 24 percent of the petitioner's members trace to ancestors who were on either the 1909 census of Rocky Boy's band by Wheat or the 1917 report on Rocky Boy's population by McLaughlin (BIA 4/20/1909; Interior 7/16/1917; BAR 1998).<sup>147</sup>

In summary, the available evidence indicates that a minority (33 percent) of the petitioner's members descend from ancestors who were related to members of the Pembina Band of Chippewa during the era of the treaty of 1863. Because these mixed-blood relatives of the treaty band were descendants of someone who had been a member of the band at an earlier time, the petitioner's members who descend from men who received treaty scrip as a relative of the Pembina Band therefore descend from a member of the band in a generation earlier than the treaty. The evidence indicates that a minority (26 percent) of the petitioner's members descend from ancestors who were members of the Turtle Mountain Band during the era of the McCumber Agreement of 1892. Thus, the evidence available for this finding does not show that the petitioner's membership consists of descendants from a historical Indian tribe, or from historical tribes which combined.

This review of the evidence and assumptions relating to descent ultimately from the historical Pembina Band of Chippewa has examined individual sources. It remains to ask how these sources of evidence can be combined. Some of the petitioner's members descend both from an ancestor who was a relative of a member of the Pembina Band and an ancestor who belonged to the Turtle Mountain Band, its partial successor. Because of marriages between the petitioner's family lines, there are multiple lines of descent and duplication of points of origin for the petitioner's ancestors. These measurements of descent from these two historical tribes, therefore, are not exclusive of each other. This means that these two measurements cannot be added together as a measurement of descent from the Pembina Band and the tribe which evolved from it, because this would include the double counting of the petitioner's members with descent from both historical entities.

If this duplication and double counting is eliminated in a way which gives priority to descent from the Pembina Band, which is the historical tribe cited in the petitioner's governing document, and next adds descent from the Turtle Mountain Band, its partial successor according to the Indian Claims Commission, then 33 percent (1,293 of 3,893) of the petitioner's members descend from the historical Pembina Band (based on the treaty of 1863 and McIntyre's report of 1880 on treaty scrip recipients) and an additional

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<sup>147</sup> See the section of this report on "Montana Settlements, 1900's-1920's" for a more detailed analysis of the Rocky Boy's rolls.

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15 percent (582 of 3,893) of the petitioner's members descend exclusively from the successor Turtle Mountain Band (based on an additional 395 members having descent from individuals on the 1890 and 1892 commission censuses and another 187 members having descent from individuals who were on the 1884-1900 family registers or the 1906 family history books of the Turtle Mountain Agency). Because the Turtle Mountain Band evolved from the Pembina Band, these exclusive lines of descent can be totaled to show that 48 percent (1,875 of 3,893) of the petitioner's members trace their ancestry back to the Pembina Band of Chippewa and its related Métis families, or to its successor.

If Pembina ancestry is assumed for the Chippewa element of the Rocky Boy's Band of Chippewa-Cree, as was done by the Bureau of Indian Affairs in preparing the 1994 judgment roll for the distribution of the Indian Claims Commission's award, then an additional 14 percent (543 of 3,893) of the petitioner's members with descent from a Rocky Boy's member of Chippewa ancestry, but not descent from a Pembina Band or Turtle Mountain Band ancestor, could be included as individuals of Pembina Chippewa descent, bringing the total of members with Pembina ancestry to 62 percent (2,418 of 3,893).

If all of the descendants of the eight men on McIntyre's report who may be ancestors of some of the petitioner's members were counted, then another 7 percent (289 of 3,893) could be added to the computation of the petitioner's members with Pembina Chippewa descent.

There are at least 433 individuals on the petitioner's membership list, about 11 percent of its members, who descend from an ancestor who was at the Red River Settlement in 1835 or 1870, but not from any of the ancestors identified as having had ancestry from the Pembina Band, Turtle Mountain Band, or Rocky Boy's Band. Although these members may have Métis, Cree, or other Indian ancestry, it has not been shown at this time that they have Pembina Chippewa ancestry. Almost all of these 433 individuals have at least one ancestor who was on the Roe Cloud Roll in 1938. Thus, with further research the petitioner may be able to show that some of these members who appear to descend exclusively from the Métis population at the Red River Settlement in Canada also had Pembina Chippewa ancestry.

The petitioner did not submit genealogical charts for all of the new members on the 1987 membership list, or for any of the new members on its 1990, 1991, and 1992 supplemental membership lists. For individuals who were the children of individuals already in the genealogical database, the BIA's researchers attached that existing genealogical information to the new members who lacked a genealogical chart. In this fashion it was possible to connect some of these new members to their ancestors. However, the descent of many individuals on the 1987-1992 membership lists could not be attached to existing genealogical information. For example, about 900 individuals with 1987, 1990, 1991, or 1992 membership numbers have not shown descent from, or close collateral relationships to, someone on the Roe Cloud Roll. Because of this missing information, many of the petitioner's most recent members could not be counted as

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members who have descent from a historical tribe. It is possible that the petitioner will be able to show that a significant number of these individuals also descend from ancestors with established Pembina Chippewa descent.

Proposed Finding

LITTLE SHELL TRIBE OF CHIPPEWA INDIANS OF MONTANA

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Note: When the petitioner submitted its documented petition, it indicated that it had deposited both its "tribal archives" and a "Helen Arthur collection" of documents in the Special Collections department of the Renne Library at Montana State University in Bozeman. The petitioner has not done this, however, and therefore the Montana State University library does not hold these collections of documents.

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Little Shell

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#### Little Shell Tribe of Chippewa Indians of Montana [LSTCIM] (cont.)

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Little Shell (MT): Proposed Finding - Technical Report

TABLE 1

PETITIONER'S ANCESTORS: BRITISH RED RIVER SETTLEMENT, ca. 1835

<u>Name / ID No.</u>	<u>Parish</u>	<u>Lot</u>	<u>Notes</u>
George Fidler [b.<1807] # 1541	St. Francois-Xavier, Assiniboine R.	83	
Charles Gladue [b.1776] # 1969	St. Francois-Xavier, Assiniboine R.	141	a,f
James Short [b.1809] # 4367	St. Francois-Xavier, Assiniboine R.	149	b
Andre Trottier [b.1791] # 4711	St. Francois-Xavier, Assiniboine R.	164	d,e,f
Eusebe LeDeoux [b.1811] # 2870	St. Francois-Xavier, Assiniboine R.	171	
Oliver LaRoque [b.1797] # 2792	St. Francois-Xavier, Assiniboine R.	177	e,f
Louis Gardipee [b.1782] # 1898	St. Francois-Xavier, Assiniboine R.	181	a
Angus McGillis [b.1775] # 3357	St. Francois-Xavier, Assiniboine R.	184	a
Antoine Houle [b.1787] # 2221	St. Francois-Xavier, Assiniboine R.	191	c,e
George Kipling [b.1801] # 2298	St. Clement, Red River	24	e
Peter Whitford [b.1795] # 5180	St. Andrew, Red River	30	
James Anderson [b.1775] # 79	St. Andrew, Red River	98	a,b
Joseph LaFournaise [b.1776] # 2527	St. Boniface, Red River	112	b,c,(d)
Jean Baptiste Wilkie [b. ?] # 5186	St. Vital, Red River	13	(d),f
John Kipling [b.1770] # 2293	St. Norbert, Red River	205	b
Alexis Belgarde [b.1800 ca.] # 270	St. Norbert, Red River	96	d,f

SOURCE: Sprague and Frye 1983, table 2.

NOTES:

Except as noted, all of these men were identified as "Metis" in Sprague and Frye 1983, table 1.

<sup>a</sup> Individual was identified as "European" in Sprague and Frye 1983, table 1.

<sup>b</sup> A spouse of the individual was identified as "Indian" in Sprague and Frye 1983, table 1.

<sup>c</sup> Individual's "race" was not cited in Sprague and Frye 1983, table 1.

<sup>d</sup> On the 1850 Pembina census. <sup>(d)</sup> Son on the 1850 Pembina census.

<sup>e</sup> In the Red River Settlement, ca. 1870.

<sup>f</sup> Son received 1863 treaty scrip. <sup>(f)</sup> Son a possible treaty scrip recipient or applicant.

Little Shell (MT): Proposed Finding - Technical Report

TABLE 2

PETITIONER'S ANCESTORS: PEMBINA CO., MINNESOTA TERRITORY, 1850

# House	Name on Census	Petitioner's Name	Age	Family Size	Birthplace	Notes
18	Joseph Ramville	Renville	37	6	British Red River	
22	Francois Fion	Fayant / Fagnant	60	11	British Red River	b
33/72	Baptiste Cart / Churette	Charette	40	7	Pembina	c,(c)
34	Francois St. Pierre	St. Pierre	49	6	Pembina	
59	Pierre Berger	Berger	34	7	British Red River	c
61	Gabriel Azure	Azure	26	3	Pembina	c
73	Edward Wells	Wells / Welsh	38	6	British Red River	(c)
75	Michael Klaync	Kline	31	9	British Red River	
84	Andre Trotter	Trottier / Trotchie	66	6	British Red River	a,b,(c)
90	Charles Peltier	Peltier / Peltchie	52	13	Pembina	b
92	Antoine LaPierre	LaPierre	37	7	British Red River	
94	Baptiste Wilker	Wilkie	47	12	Pembina	(a),c
100	Charles Azure, Sr.	Azure	29	7	Pembina	c
102	Antoine Azure	Azure	56	4	British Red River	
108	Peter Laverdure	Laverdure	31	6	Pembina	c
109	Joseph Gernon	Gourneau	25	3	Pembina	c
115	Baptiste Davis	Davis	28	7	British Red River	
126	Louis Landrie	Landrie / Landry	44	7	British Red River	b
129	Antoine Houle [Sr.]	Houie	50	2	Pembina	
133	Joseph Gernon	Gourneau	60	4	LaPointe, Wis.	c
137	Alexis Bellgard	Belgarde	50	8	British - Canada	a,(c?)
145	Baptiste LaFournier	LaFournaise	35	9	British Red River	(a)
147	Joseph Lonais	Doney	29	5	British Red River	
175	Francois Klaync	Kline	31	4	British Red River	(c?)
187	Jacque Morrisette	John Moursette	57	12	British Red River	

SOURCES: U.S. Census 1850; White Weasel n.d. [1850 census].

NOTES:

<sup>a</sup> In the Red River Settlement, ca. 1835. <sup>(a)</sup> Father in the Red River Settlement, ca. 1835.

<sup>b</sup> In the Red River Settlement, ca. 1870.

<sup>c</sup> Received 1863 treaty scrip. <sup>(c)</sup> Son received 1863 treaty scrip. <sup>(c?)</sup> Son a possible treaty scrip recipient or applicant.

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TABLE 3

PETITIONER'S ANCESTORS: RECIPIENTS OF SCRIP UNDER TREATIES OF 1863-1864

<u>Name</u>	<u>Status</u> <sup>1</sup>	<u>Residence</u>	<u>Comments</u>	<u>Notes</u>
Joseph Amelin [Hamelin] #241	Good	St. Vincent	"Pembina 1/2 breed"	a,f
Antoine [La Belle] Azure #137	Good	St. Joseph	family at Pembina	e
Charles Azure [Sr.] #325	[Good]	"Can't find"	family at Pembina	c,e
Charles [Charlience] Azure #326	[Good]	[Mountains]	family at Pembina	e
Gabriel Azure #136	Good	St. Joseph	family at Pembina	c,t
Pierre Berger #138	Bad	Dead	"not a Chippewa"	c
Pierre Bottineau #119	Good	Red Lake Falls	-	
John B. Charette [Sr.] #49	Good	Pembina	-	c,e
John Charette #185	Good	Pembina	-	c
Frank Courchane #14	Good	Pembina Mt.	"mother from Red Lake"	f
Joseph Dussome #18	Good	Mountains	-	
Jonas Emely [Amlin] #135	Doubtful	Turtle Mts.	family "from Red River"	
Joe Flammand [Flament] #52	Good	White Earth	"from Pembina"	
Pete Flammand [Pierre Flament] #277	Good	Pembina	always "in ceded country"	
Antoine Gladeau #360	Not Good	Wood Mts.	"Cree 1/2 breed"	b
Joseph Gourneau [3d] #363	[Good]	Pembina	father "Chippewa mixed"	c,e
Joseph Gourneau [Jr.] #364	[Good]	[Pembina]	"Chippewa mixed blood"	c
Joseph Jerome #140	Good	St. Vincent	-	
Paul Kipling [Kipland] #152	Good	Dead	known at Pembina	
Antoine LaPlante #305	[Bad]	Mountains	"Cree 1/2 breed"	
Pierre Laverdure #396	Bad	Ft. McLeod	"Sioux or Assiniboine"	c,[d]
Charles St. Arneau #321	[Good]	Mountains	brother's status is "good"	
Louis Thomas, Jr. #234	Good	Pembina	-	
Charles Trotchie [Trottier] #444	?	?	no one could identify	b,c,[d]
Isadore Walette #173, #466	Good	Northwest	["of the Pembina tribe"]	
Joseph Walette #375	Good	Mountains	"of the Pembina tribe"	
Daniel Wells #389	Good	St. Vincent	father at St. Joseph	c,d
John Baptiste Wilkie [Sr.] #172	Good	St. Joseph	"first settlers at Pembina"	b,c

SOURCE: GLO 1880 [McIntyre Report], List A.

NOTES:

<sup>1</sup> Status of application for scrip, according to GLO Agent McIntyre (GLO 1880).

<sup>a</sup> Joseph Francis Amelin (70 descendants) or Joe Emely (57 descendants), or both, in petitioner's ancestry.

<sup>b</sup> Father in the Red River Settlement, ca. 1835.

<sup>c</sup> On the 1850 Pembina census.

<sup>d</sup> In the Red River Settlement, ca. 1870. <sup>[d]</sup> Father in the Red River Settlement, ca. 1870.

<sup>e</sup> On the 1892 McCumber Commission roll.

<sup>f</sup> Descendant on the 1917 Rocky Boy roll.

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TABLE 4

PETITIONER'S ANCESTORS: BRITISH RED RIVER SETTLEMENT, ca. 1870

<u>Name / ID No.</u>	<u>Parish</u>	<u>Lot</u>	<u>Notes</u>
Joseph Pocha [b.1800] # 3943	High Bluff, Assiniboine River	66-70	
Joseph Pocha [b.1833] # 3775	High Bluff, Assiniboine River	68	
Andre Desjarlais [b.1822] # 1277	Baie St. Paul, Assiniboine River	13, 246	
Charles Peltier [b.1805] # 3584	Baie St. Paul, Assiniboine River	222	b
Andrew St. Germaine [b.1838] # 4549	St. Francois-Xavier, Assiniboine R.	94	d
Francois St. Germaine [b.1782] # 4599	St. Francois-Xavier, Assiniboine R.	100-101	[d]
Leander St. Germaine [b.1839] # 4596	St. Francois-Xavier, Assiniboine R.	101	
Francois Fayant [b.1796] # 1460	St. Francois-Xavier, Assiniboine R.	115-133	b
Hugh Ross [b.1793] # 4246	St. Francois-Xavier, Assiniboine R.	115-133	[d]
Antoine Houle [b.1787] # 2221	St. Francois-Xavier, Assiniboine R.	116-133	a
Francois St. Germaine [b.1833] # 4597	St. Francois-Xavier, Assiniboine R.	127	[d]
John J. Ross [b.1832] # 4226	St. Francois-Xavier, Assiniboine R.	136	
William Fiddler [b.1827] # 1544	St. Francois-Xavier, Assiniboine R.	147	
Oliver LaRoque [b.1797] # 2792	St. Francois-Xavier, Assiniboine R.	177	a.[c?]
Cuthbert McGillis [b.1822] # 3358	St. Francois-Xavier, Assiniboine R.	181-190	
Louis Landry [b.1816] # 2591	St. Francois-Xavier, Assiniboine R.	195-196	b
Moses Landry [b.1845] # 2684	St. Francois-Xavier, Assiniboine R.	195-196	[b]
Andre Trottier [b.1791] # 4711	St. Francois-Xavier, Assiniboine R.	195-196	a.b.[c]
Jean Baptiste Fayant [b.1801] # 1461	St. Francois-Xavier, Assiniboine R.	197	
Alexander Jeannotte [b.1828] # 2354	St. Francois-Xavier, Assiniboine R.	199-202	d
Angus McGillis [b.1838] # 3354	St. Francois-Xavier, Assiniboine R.	202-204	
Jean Baptiste Trottier [b.1841] # 4971	St. Francois-Xavier, Assiniboine R.	202-204	
James (Napolean) Whiteford [b.1827] # 5175	St. Francois-Xavier, Assiniboine R.	202-204	
Alexander Gardipee [b.1842] # 1805	St. Francois-Xavier, Assiniboine R.	none	
Baptiste Gardipee [b.1832] # 1808	St. Francois-Xavier, Assiniboine R.	none	
Bonaventure Gardipee [b.1822] # 1893	St. Francois-Xavier, Assiniboine R.	none	
Louis Gardipee [b.1836] # 1806	St. Francois-Xavier, Assiniboine R.	none	
Calaise LaFountain [b.1826] # 2520	St. Francois Xavier, Assiniboine R.	none	[d]
Jean Baptiste LaFrambois [b.1806] # 2529	St. Francois-Xavier, Assiniboine R.	none	
Alexander McGillis [b.1811] # 3356	St. Francois-Xavier, Assiniboine R.	none	
Modeste McGillis [b.1848] # 3596	St. Francois-Xavier, Assiniboine R.	none	
Charles Bremner [b.1835] # 500	Headingley, Assiniboine River	42	
Alexander Bremner [b.1793] # 492	Headingley, Assiniboine River	43	
John Swan / Swain [b.1832] # 4914	St. Charles, Assiniboine River	75	
Joseph Laverdure [b.1785] # 2837	St. Charles, Assiniboine River	90	[c]
George Kipling [b.1804] # 2298	St. Clement, Red River	24	a
George Ram Kipling [b.1824] # 2299	St. Andrew, Red River	264-267	
Moses Carrier [b.1819] # 720	St. Boniface, Red River	15	
Emmanuel Champagne [b.1801] # 739	St. Boniface, Red River	15	
Eli Paranteau [b.1835] # 3818	St. Boniface, Red River	117-113	
Joseph Paranteau [b.1817] # 3807	St. Boniface, Red River	117-113	[d]
Daniel Wells [b.1836] # 5231	St. Norbert, Red River	31-27	c
Alexander Moran [b.1836] # 3194	St. Agathe, Red River	575	d
Louis Moran [b.1812] # 3195	St. Agathe, Red River	577	
Francois Dubois [b.1775] # 1322	St. Agathe, Red River	577-579	
John Baptiste Dubois [b.1826] # 1320	St. Agathe, Red River	579	

SOURCE: Sprague and Frye 1983, table 4 and table 5.

NOTES:

<sup>a</sup> In the Red River Settlement, ca. 1835

<sup>b</sup> On the 1850 Pembina census. <sup>[b]</sup> On the 1850 Pembina census as a child.

<sup>c</sup> Received 1863 treaty scrip. <sup>[c]</sup> Son received 1863 treaty scrip. <sup>[c']</sup> Son a possible treaty scrip recipient or applicant.

<sup>d</sup> On the 1890 Mahone Commission census. <sup>[d]</sup> Widow or child on the 1890 Mahone Commission census.

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TABLE 5

PETITIONER'S ANCESTORS: MARRIAGES AT ST. PETER'S MISSION, 1874-1892

<u>Date</u>	<u>Place</u>	<u>Groom</u>	<u>Bride</u>
1874/ 8 /29	-	W[illiam] DuBray	Marie Malaterre
1877/ 1 /29	Milk River	Modeste Gladeu	Melinie Azure
1877/ 7 /13	Milk River	John Swan [James Jain]	Elisa Nome
1878/ 1 /29	Milk River	Francois Azure. #1	Marie Berger
1878/ 1 /29	Milk River	Vital Turquotte	Adele Berger
1878/ 3 /31	Milk River	John Plummer	Catherine Cook
1879/ 1 / 8	Ft. Belknap	Clement Azure	Margaret Edo
1879/ 1 /15	-	Francis Laverdure	Marie Turcotte
1879/ 2 /21	-	John M. [Lionel] Doney	Virginia LaFountain
1879/ 3 /25	St. Peters	Ambrose LaPierre	Adelaid Roseblane
1879/ 3 /25	St. Peters	Francis Henry LaPierre	Maria Rosa Swan
1880/ 2 / 9	Milk River	Francois Azure. #2	Julia Peltier
1880/ 2 /10	Milk River	John Malaterre	Marie Roseblane
1880/ 4 / 6	-	Alexander Azure	Marie Azure
1880/ 5 / 4	Judith Basin	Anthony Fleury	Ernestine Wells [Hermestina Welsh]
1880/ 8 /30	South Fork Sun R.	John Baptiste Pambrum	Catherine [Euphrasina] Malataire
1881/ 1 /24	St. Peters	Moyse Azure	Margaret Champion
1881/ 2 / 9	South Fork	Francis Munro ?	Marie
1881/ 5 /10	Judith Basin	William LaFramboise	Catherine Berger
1881/ 7 /10	Ft. Assiniboine	Bernard Thomas [Tami]	Eliza [Laiza] St. Dennis
1881/ 9 /20	St. Peters	Ambrose Larance	Catherine Nome
1881/11/21	St. Peters	Bonaventure Azure	Magdaline Gardipee
1882/ 1 /23	St. Peters	John Aloysius Courchene	Marie Alphonsina Azure
1882/ 2 / 3	Musselshell R.	Charles LeMire	Aloysia Swan
1882/ 2 /21	St. Peters	John Gardipee	Henrietta Blagon
1882/ 3 / 8	Carroll	William Baston	Marie Goslin
1883/ 3 / 7	Carroll	Isidore Azure	Carolina Paquin
1883/ 3 /14	Judith Basin	John Thomas Welsh	Aloysia Wilky
1883/ 4 / 3	Judith Basin	Bonaventure Gardipee	Catherine LaRocque
1883/ 4 /10	Judith Basin	Daniel [David] Laverdure	Mary M. [Natalie] Wells
1883/ 4 /10	Judith Basin	Joseph Laverdure	Marie Upsilonina Welsh
1883/ 4 /25	-	John Parrent	Marie Malaterre [DuMay]
1883/ 4 /30	Judith Basin	Joseph Welsh	Julia Wilky
1883/ 8 /21	St. Peters	Anthony Azure	Julia Collins
1884/ 1 /28	St. Peters	Henry McCullough Ford	Rose Daniels
1884/ 3 / 8	St. Peters	John Thompson	Elizabeth Ouellette
1884/ 8 / 4	Flat Willow Cr.	Eli Louis [Leon] Gardipee	Marie LaRocque
1885/ 1 / 4	St. Peters	Peter Beauchamp	Julia Azure
1885/ 5 / 5	South Fork	Pascal LaPier	Mariann Collins
1885/12/ 5	Badger Cr.	Elais Gardipee	Antonia Kataitsips-tsaki
1886/ 1 / 7	St. Peters	Alexander James Foster	Cecilia Azure
1886/ 1 /12	St. Peters	Hilary Sangray	Helen Trottier
1886/ 1 /19	Judith Basin	Elias Paul	Rose Daniels / Dognon
1886/ 2 / 1	St. Peters	Aloysius Brunon	Isabella Collins
1886/ 8 /22	Lewistown	Modeste Rocheleau	Catherine Berger
1886/11/23	St. Peters	Francis Azure	Emma [Marie Virginia] Larance
1888/10/23	St. Peters	Albert Larance	Eliza St. Germain
1888/10/23	St. Peters	John Baptiste Swan	Julia Larance
1889/ 5 /20	St. Peters	Caleb (Tom) Anderson	Flora (Marie) Swan
1889/ 5 /20	St. Peters	Frank Sangray [Francis Landre]	Mary Ann Anderson
1889/10/14	St. Peters	Peter Sangray	[Mary] Christine Swan
1891/ 5 /28	St. Peters	William Belgarde	Christine Laverdure
1892/ 4 /25	St. Peters	Charles Swan	Marian Deschenaux [Marie Deshnoe]
1892/ 7 /27	St. Peters	Moses LaPierre	Ida LaFramboise

SOURCE: McFarlane 1981 [St. Peter's Mission records].

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TABLE 6

PETITIONER'S ANCESTORS: MONTANA TERRITORY, 1880

<u>Name</u>	<u>County</u>	<u>District</u>	<u>E.D.</u>	<u>House</u>	<u>Age</u>	<u>Background</u>
Katie Conway	Choteau	Ft. Benton	3	144	26	b. Montana
Eli L. Gardipee	Choteau	Ft. Benton	3	161	22	b. Dakota [gr'father R.R.]
Charles Trochie	Choteau	Ft. Benton	3	168	43	Pembina 1850; father R.R
Daniel (& Louise )Wells	Choteau	Ft. Benton	3	[171]	45	Red R. 1870; b. Dakota
Alexander Guardipee	Choteau	Shoukin	4	47	50	Red River 1870
Baptiste Guardipee	Choteau	Teton R.	4	67	48	Red River 1870
Eli Guardipee	Choteau	Teton R.	4	68	23	b. Canada
Jack Swan	Lewis &	St. Peter's	20	59	29	Father from Red River
Frank LaPier	Lewis &	St. Peter's	20	61	29	Father at Pembina 1850
Gabriel Azure	Lewis &	St. Peter's	20	63	57	Pembina 1850
Francois Courchene	Lewis &	St. Peter's	20	65	46	[Pembina ca. 1860]
Charles Azure, [Jr.]	Lewis &	St. Peter's	20	68	45	Pembina 1850
Anthony/Antoine Azure	Lewis &	St. Peter's	20	71	55	Pembina 1850
Gabriel Beauchman	Lewis &	St. Peter's	20	75	34	b. Dakota
Paul Nomee	Lewis &	St. Peter's	20	77	48	b. Canada
Baptise Lavadure	Lewis &	St. Peter's	20	81	30	b. Dakota
Modeste Gladeau	Lewis &	St. Peter's	20	82	32	b. Canada
Moses LaPierre	Lewis &	Sun R.	20	217	?	b. Minnesota
Henry M. Ford	Lewis &	Sun R.	20	223	16	b. Montana
Louis Malatare	Lewis &	Sun R.	20	229	47	b. British Columbia
John Courchene	Meagher	Judith Basin	23	27	20	b. Canada [ / Dakota]
John Charette	Meagher	Judith Basin	23	32	37	Pembina 1850
Jacob Berger	Meagher	Judith Basin	23	34	25	Father at Pembina 1850
Isadore Berger	Meagher	Judith Basin	23	35	32	Pembina 1850
Pierre / Peter Berger	Meagher	Judith Basin	23	36	60	Pembina 1850
Isaie Berger	Meagher	Judith Basin	23	37	35	Pembina 1850
Moses LaTray	Meagher	Judith Basin	23	42	32	b. Canada
Joseph Doney	Meagher	Judith Basin	23	44	37	Pembina 1850
John M. Doney	Meagher	Judith Basin	23	46	22	Father at Pembina 1850
Pierre Laverdure	Meagher	Judith Basin	23	53	65	Pembina 1850

SOURCES: U.S. Census 1880; also: U.S. Census 1850; Sprague and Frye 1983, tables 4 and 5; and Riel 1985, 5:216, 220, 221, 235, 239, 259, 285, 288, 303, 347.

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TABLE 7

MIGRATION TO MONTANA OF PETITIONER'S 1835 RED RIVER ANCESTORS

<u>Name of 1835 Ancestor</u>	<u>Descendant in Montana</u>	<u>Date Descendant in Montana</u> <sup>1</sup>	<u>Location in Montana</u>	<u>Descendants in Petitioner</u> <sup>2</sup>
Alexis Belgarde [b.1800 ca.]	child	1868 birth grchild	Milk River	96
Louis Gardipee [b.1782]	child	1874 birth grchild	Sun River	126
Charles Gladue [b.1776]	grandchild	1878 birth g'grchild	"Harlem"	70
Eusebe LeDeoux [b.1811]	child	1879 birth grchild	Yellowstone [R.]	159
Andre Trottier [b.1791]	child	1880 census	Ft. Benton	26
Oliver LaRoque [b.1797]	grandchild	1880 census	Ft. Benton	126
Jean Baptiste Wilkie [b. ?]	grandchild	1880 census	Lewistown	259
Antoine Houle [b.1787]	grandchild	1880 birth g'grchild	Chester	107
Peter Whitford [b.1795]	grandchild	1883 per application	Choteau Co.	34
James Anderson [b.1775]	grandchild	1883 per application	Choteau Co.	34
James Short [b.1809]	grandchild	1885 birth g'grchild	Malta	152
Joseph LaFournaise [b.1776]	g'grandchild	1900 c. 2g'grchild	[Valley Co.]	15
Angus McGillis [b.1775]	grandchild	1902 birth g'grchild	Dupuyer	38
George Fidler [b.<1807]	g'grandchild	1926 birth 2g'grchild	[Blaine Co.]	10
John Kipling [b.1770]	3g'grandchild	1931 birth 4g'grchild	Teton Co.	25
George Kipling [b.1801]	2g'grandchild	1931 birth 3g'grchild	Teton Co.	25

SOURCES: U.S. Census 1880; Interior 7/16/1917 [McLaughlin roll]; BIA 1937 [Roe Cloud roll applications]; McFarlane 1981 [St. Peter's Mission records]; White Weasel n.d., 106-124 [1850 census]; Petitioner's ancestry charts.

NOTES:

See Table 1 for additional information about the petitioner's 1835 ancestors.

<sup>1</sup> Some dates of birth and dates of marriage are estimates.

<sup>2</sup> Because some of the petitioner's members are descendants of more than one of these individuals, this column can not be added to obtain a total.

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TABLE 8

MIGRATION TO MONTANA OF PETITIONER'S 1850 PEMBINA ANCESTORS

<u>Name of 1850 Ancestor</u>	<u>Descendant in Montana</u>	<u>Date Descendant in Montana</u> <sup>1</sup>	<u>Location in Montana</u>	<u>Descendants in Petitioner</u> <sup>2</sup>
Alexis Belgarde	child	1868 birth grchild	Milk River	44
Michael Kline	child	1869 birth grchild	"Lewistown"	37
Francois St. Pierre	child	1869 birth grchild	"Lewistown"	37
Francois Fayant	child	1878 birth grchild	St. Peter's	129
Andrew Trotchie	child	1880 census	Ft. Benton	26
Pierre Berger	self	1880 census	Judith Basin	189
John Baptiste Charette	child	1880 census	Judith Basin	33
Joseph Doney	self	1880 census	Judith Basin	536
Joseph Gourneau [Sr.]	grandchild	1880 census	Judith Basin	55
Joseph Gourneau [Jr.]	child	1880 census	Judith Basin	55
Pierre Laverdure	self	1880 census	Judith Basin	168
John Baptiste Wilkie	child	1880 census	Judith Basin	293
Gabriel Azure	self	1880 census	St. Peter's	328
Antoine LaPierre	child	1880 census	St. Peter's	79
Antoine Azure	child	1880 census	St. Peter's	61
Charles Azure, Sr.	child	1880 census	St. Peter's	59
Edward Wells	grandchild	1880 marriage	Judith Basin	46
Frank Kline	child	1882 birth grchild	[Valley Co.]	96
Charles Peltchie	grandchild	1883 birth g' grchild	Choteau Co.	104
Louis Landrie	grandchild	1893 marriage	St. Peter's	24
John Moursette	child	1896 birth grchild	Flathead Co.	10
Jean Baptiste LaFournaise	grandchild	1900 birth g' grchild	[Valley Co.]	15
Joseph Renville	grandchild	1907 birth g' grchild	Wolf Point	19
John Baptiste Davis	grandchild	1919 birth g' grchild	Wolf Point	18
Antoine Houle [Sr.]	grandchild	1934 birth g' grchild	Blaine Co.	18

SOURCES: U.S. Census 1880; Interior 7/16/1917 [McLaughlin roll]; BIA 1937 [Roe Cloud roll applications]; McFarlane 1981 [St. Peter's Mission records]; White Weasel n.d., 106-124 [1850 census]; Petitioner's ancestry charts.

NOTES:

See Table 2 for additional information about the petitioner's 1850 ancestors.

<sup>1</sup> Some dates of birth are and dates of marriage estimates.

<sup>2</sup> Because some of the petitioner's members are descendants of more than one of these individuals, this column can not be added to obtain a total.

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TABLE 9

MIGRATION TO MONTANA OF PETITIONER'S 1863 TREATY SCRIP ANCESTORS

<u>Name of 1863 Ancestor</u>	<u>Descendant in Montana</u>	<u>Date Descendant in Montana</u> <sup>1</sup>	<u>Location in Montana</u>	<u>Descendants in Petitioner</u> <sup>2</sup>
Antoine Gladeau	child	1877 marriage	Milk River	68
Frank Courchane	self	1877 per McLaughlin	[Cascade Co.]	9
Charles Trotchie [Trottier]	self	1880 census	Ft. Benton	27
Pierre Berger	self	1880 census	Judith Basin	183
John Charette	self	1880 census	Judith Basin	33
John B. Charette [Sr.]	child	1880 census	Judith Basin	33
Joseph Gourneau [Jr.]	grandchild	1880 census	Judith Basin	74
Joseph Gourneau [3d]	child	1880 census	Judith Basin	29
Pierre Laverdure	self	1880 census	Judith Basin	166
John Baptiste Wilkie [Sr.]	child	1880 census	Judith Basin	287
Charles [Charlience] Azure	self	1880 census	St. Peter's	57
Charles Azure [Sr.]	child	1880 census	St. Peter's	57
Gabriel Azure	self	1880 census	St. Peter's	227
Daniel Wells	child	1880 marriage	Judith Basin	58
Joseph Dussome	child	1881 marriage	Malta	258
Paul Kipling	child	1881 birth grchild	Lewistown	26
Antoine [La Belle] Azure	self	1884 birth child	St. Peter's	18
Joseph Amelin [Hameline] <sup>a</sup>	child	1885 birth grchild <sup>a*</sup>	Choteau Co.	? <sup>b</sup>
Antoine LaPlante	grandchild	1898 birth g'grchild	Toole Co.	10
Jonas Emely [Amlin]	child	1912 birth grchild	Phillips Co.	33
Louis Thomas, Jr.	grandchild	1913 birth g'grchild	Fergus Co.	1
Joseph Jerome	child	1913 birth grchild	Sheridan Co.	3
Charles St. Arneau	grandchild	1913 birth g'grchild	Sheridan Co.	3
Pierre Bottineau	grandchild	1914 birth g'grchild	Wolf Point	9
Joe Flammand [Flament]	child	1915 birth grchild	Pondera Co.	9
Isadore Walette	grandchild	1933 birth g'grchild	Ft. Peck	5
Joseph Walette	g'grandchild	1933 birth 2g'grchild	Ft. Peck	5
Pete Flammand [Pierre Flament]	child	1937 application	Roosevelt Co.	6

SOURCES: U.S. Census 1880; Interior 7/16/1917 [McLaughlin roll]; BIA 1937 [Roe Cloud roll applications]; McFarlane 1981 [St. Peter's Mission records]; White Weasel n.d., 106-124 [1850 census]; Petitioner's ancestry charts.

NOTES:

See Table 3 for additional information about the petitioner's ancestors who received 1863 treaty scrip.

<sup>1</sup> Some dates of birth and dates of marriage are estimates.

<sup>2</sup> Because some of the petitioner's members are descendants of more than one of these individuals, this column can not be added to obtain a total.

<sup>a</sup> Joseph Francis Amelin or Joe Emely in petitioner's ancestry. <sup>a\*</sup> Descendant of Joseph F. Amelin.

<sup>b</sup> Undetermined: possibly 68 (Joseph Amelin), 56 (Joe Emely), or 124 (combined).

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TABLE 10

MIGRATION TO MONTANA OF PETITIONER'S 1870 RED RIVER ANCESTORS

<u>Name of 1870 Ancestor</u>	<u>Descendant in Montana</u>	<u>Date Descendant in Montana</u> <sup>1</sup>	<u>Location in Montana</u>	<u>Descendants in Petitioner</u> <sup>2</sup>
Bonaventure Gardipee	self	1874 birth child	Sun River	16
James (Napolean) Whiteford	self	1874 birth child	?	72
Modeste McGillis	self	1875 birth child	"Fergus Co."	18
Hugh Ross	child	1877 birth grchild	"Wolf Point"	27
John J. Ross	self	1877 birth child	"Wolf Point"	27
Francois Fayant	child	1878 birth grchild	St. Peter's	126
Calaise LaFountain	child	1879 marriage	St. Peter's	236
Oliver LaRoque	child	1879 birth grchild	Yellowstone [R.]	104
Eli Paranteau	self	1879 birth child	Yellowstone [R.]	104
Joseph Paranteau	child	1879 birth grchild	Yellowstone [R.]	104
Alexander Gardipee	self	1880 census	Choteau Co.	81
Baptiste Gardipee	self	1880 census	Teton River	29
Louis Gardipee	grandchild	1880 census	Ft. Benton	182
Andre Trotter / Trotchie	child	1880 census	Ft. Benton	26
Daniel Wells	self	1880 census	Ft. Benton	60
Antoine Houle [b.1787]	grandchild	1883 birth g'grchild	"Rocky Boy"	107
Charles Peltier	grandchild	1883 birth g'grchild	Choteau Co.	104
Alexander McGillis	grandchild	1885 birth g'grchild	Phillips Co.	254
Moses Carrier	child	1886 birth grchild	[Teton Co.]	26
Emmanuel Champagne	grandchild	1886 birth g'grchild	[Teton Co.]	26
Joseph Laverdure	grandchild	1890 birth g'grchild	Dearborn River	54
John Swan / Swain	child	1890 birth grchild	Dearborn River	54
Louis Landry	grandchild	1893 marriage	St. Peter's	24
Moses Landry	child	1893 marriage	St. Peter's	24
Jean Baptiste Fayant	grandchild	1894 birth g'grchild	Valley Co.	36
Angus McGillis	child	1894 birth grchild	Valley Co.	38
Jean Baptiste Trottier	child	1897 birth grchild	Blaine Co.	82
Cuthbert McGillis	grandchild	1902 birth g'grchild	Pondera Co.	38
Joseph Pocha [Sr.]	grandchild	1902 birth g'grchild	Lewis & Clark Co.	79
Joseph Pocha [Jr.]	child	1902 birth grchild	Lewis & Clark Co.	79
Jean Baptiste LaFrambois	grandchild	1905 birth g'grchild	Cascade Co.	25
Alexander Bremner	grandchild	1906 birth g'grchild	Milk River	14
Charles Bremner	child	1906 birth grchild	Milk River	14
Andrew St. Germaine	child	1907 birth grchild	Wolf Point	7
Francois St. Germaine [Sr.]	grandchild	1907 birth g'grchild	Wolf Point	47
John Baptiste Dubois	child	1910 birth grchild	Hill Co.	15
Francois Dubois	grandchild	1910 birth g'grchild	Hill Co.	15
Andre Desjarlais	grandchild	1919 birth g'grchild	Wolf Point	18
Alexander Jeannotte	child	1919 birth grchild	Phillips Co.	74
Leander St. Germaine	grandchild	1919 birth g'grchild	Wolf Point	27
William Fiddler	g'grchild	1926 birth 2g'grchild	[Blaine Co.]	10
Francois St. Germaine [Jr.]	grandchild	1927 birth g'grchild	Roosevelt Co.	13
George Ram Kipling [Jr.]	g'grchild	1931 birth 2g'grchild	Teton Co.	25
George Kipling [Sr.]	2g'grchild	1931 birth 3g'grchild	Teton Co.	25
Alexander Moran	g'grchild	1949 birth 2g'grchild	Wolf Point	9
Louis Moran	2g'grchild	1949 birth 3g'grchild	Wolf Point	9

SOURCES: U.S. Census 1880; Interior 7/16/1917 [McLaughlin roll]; BIA 1937 [Roe Cloud roll applications]; McFarlane 1981 [St. Peter's Mission records]; White Weasel n.d., 106-124 [1850 census]; Petitioner's ancestry charts.

NOTES:

See Table 4 for additional information about the petitioner's 1870 ancestors.

<sup>1</sup> Some dates of birth and dates of marriage are estimates. <sup>2</sup> Because some of the petitioner's members are descendants of more than one of these individuals, this column can not be added to obtain a total.

Little Shell (MT): Proposed Finding - Technical Report

TABLE 11

PETITIONER'S ANCESTORS: TURTLE MOUNTAIN RESERVATION, 1890-1892

Name	1890	1892	Age	Family Size	Category on Rolls	Notes
	#	#				
Michael Allard	6	-	48 /	8	Mixed blood ON resn.	f
Andrew Allery	4	6	37 / 49	9	Mixed blood OFF resn.	
Anthony Azure	2	12	65 / 68	3-4	Mixed blood ON resn.	[a]
Charles Azure, Sr.	19	16	75 / 76	2	Mixed blood ON resn.	a,e
Charles Azure, Jr.	21	17	53 / 55	4-5	Mixed blood ON resn.	[a],e
Louis Belgarde, #1	30	16	57 / 50	11	Mixed blood OFF resn.	[a]
Susan [Susette] Belgarde	41	30	61 / na	1-2	Mixed blood ON resn.	
Antoine Brien	17	45	64 / 67	5-6	Mixed blood OFF / ON	
[John] Baptiste Charette, [Sr.]	54	53	85 / 88	6	Mixed blood ON resn.	a,e
John Baptiste Davis, Sr.	89	70	71 / 73	4	Mixed blood ON resn.	a,f
Louis Davis	64	-	33 /	8	Mixed blood ON resn.	[a],f
Charles Demontgine [Demontigny]	87	-	72 /	1	Mixed blood ON resn.	d
Joseph Gourneau, [3d]	117	105	63 / 62	4-7	Mixed blood ON resn.	a,e
John Hayes	132	118	25 / 26	3	Mixed blood ON resn.	
Antoine Houle, [Jr.]	129	121	65 / 65	5	Mixed blood ON resn.	[a]
Alexander Jeanotte	59	-	53 /	6	Mixed blood OFF resn.	b,f
Gaspar Jeanotte, Jr.	64	-	27 /	5	Mixed blood OFF resn.	[b],f
Margaret Gourneau Kipling	142	131	63 / 63	1	Mixed blood ON resn.	[a]
Charlotte Adams LaFontaine	159	163	60 / 63	3	Mixed blood ON resn.	
Moses LaPierre	167	134	49 / 50	3-4	Mixed blood ON resn.	
Oliver LaRoque	80	-	28 /	5	Mixed blood OFF resn.	f
Pete LaValley	178	147	44 / 45	7-8	Mixed blood ON resn.	
Alexander Martell	204	177	na / 38	4	Mixed blood ON resn.	
Alexander Morin	187	-	55 /	7	Mixed blood ON resn.	b,f
Peter [St. Pierre] Morin	101	57	44 / 46	8	Mixed blood OFF resn.	
Susanna Daigon Parenteau	233	-	78 /	1	Mixed blood ON resn.	c
Charles Putra, [#2]	219	197	47 / 50	12	Mixed blood ON resn.	
Andre St. Germaine	122	-	52 /	4	Mixed blood OFF resn.	b,f
Cherez St. Germaine / Theresa Bonneau	124	-	65 /	4	Mixed blood OFF resn.	c
Joseph Thomas	250	227	43 / 46	7	Mixed blood ON resn.	
Vital Turcotte	-	74	/ 33	8	Mixed blood OFF resn.	

SOURCES: Mahone et al. 1890 [Mahone roll]; McCumber et al. 10/1/1892 [McCumber roll].

NOTES:

- <sup>a</sup> On the 1850 Pembina census. <sup>(a)</sup> Father on the 1850 Pembina census.
- <sup>b</sup> In the Red River Settlement, ca. 1870. <sup>(b)</sup> Father in the Red River Settlement, ca. 1870.
- <sup>c</sup> Husband in the Red River Settlement, ca. 1870.
- <sup>d</sup> In the Red River Settlement before 1870, according to Sprague and Frye 1983, Table 1.
- <sup>e</sup> Received 1863 treaty scrip.
- <sup>f</sup> On the January 1892 list of the "Grand Council" of the Turtle Mountain Band (Turtle Mtn. 1892).

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TABLE 12

LOCATION OF PETITIONER'S ANCESTORS IN MONTANA, 1920

<u>County</u>	<u>E.D. #</u>	<u># Households</u>
Big Horn	Crow Resn.	10
Blaine	10	3
Blaine	242	5
Blaine	244	2
Cascade	31	2
Fergus	84	5
Fergus	86	4
Fergus	87	1
Fergus	90	1
Fergus	91	3
Fergus	103	2
Fergus	106	5
Fergus	111	8
Fergus	112	1
Glacier	125	2
Glacier	126	6
Glacier	Blackfeet Resn.	6
Hill	130	2
Hill	131	2
Hill	132	2
Hill	136	2
Hill	Rocky Boy Resn.	4
Lewis & Clark	102	1
Lewis & Clark	106	1
Lewis & Clark	107	3
Lewis & Clark	114	1
Lewis & Clark	119	1
Lewis & Clark	125	16
Missoula	169	1
Pondera	163	5
Phillips	152	2
Phillips	153	3
Phillips	156	15
Phillips	157	3
Phillips	158	1
Phillips	160	2
Phillips	161	3
Phillips	162	1
Phillips	239	1
Phillips / Blaine <sup>a</sup>	Belknap Resn.	12
Roosevelt	188	3
Roosevelt	189	1
Roosevelt	191	2
Roosevelt	196	1
Sheridan	200	1
Teton	207	7
Teton	208	3
Teton	214	3
Toole	216	2
Valley	226	3

SOURCE: U.S. Census 1920 (Petition Document: 1995 Exhibit 31).

NOTES:

<sup>a</sup> Ft. Belknap Resn. = Phillips Co. (8). Blaine Co. (4).

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TABLE 13

LOCATION OF ACCEPTED ROE CLOUD ROLL APPLICANTS, ca. 1938

<u>Highline and Lewistown</u>		400
Havre	31	
Chinook	16	
Zurich	5	
Harlem	67	
Dodson	15	
Malta	13	
Glasgow	20	
Wolf Point (on Ft. Peck Reservation)	51	
Brockton (on Ft. Peck Reservation)	3	
Poplar (on Ft. Peck Reservation)	1	
Rocky Boy's Reservation	33	
Ft. Belknap Reservation	2	
Hays (on Ft. Belknap Reservation)	56	
Zortman	20	
Landusky	12	
Timber Ridge	1	
Lewistown	54	
<u>Front Range</u>		55
Browning (on Blackfeet Reservation)	21	
Babb (on Blackfeet Reservation)	15	
Choteau	10	
Augusta	8	
Gilman	1	
<u>Urban</u>		43
Great Falls	10	
Helena	31	
Billings	1	
Missoula	1	
<u>Elsewhere in Montana</u>		50
Flathead Reservation (Polson, Arlee, St. Ignatius)	27	
Crow Reservation and Hardin	10	
East of Ft. Peck (Culbertson, Froid, Dagmar)	9	
Others (location unknown)	4	
<u>Address not given</u>	2	2
<u>Total</u>	550	550

SOURCE: BIA 1938 (Petition Document: 3000-8-85) and BIA 1945 (Petition Document: 3000-5-47).

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TABLE 14

LOCATION OF PETITIONER'S CURRENT MEMBERS, 1992

<u>Montana</u>		2715 (70%)
Highline and Lewistown		738
Havre	224	
Chinook	76	
Zurich	5	
Harlem	50	
Dodson	39	
Malta	59	
Glasgow	41	
Wolf Point (on Ft. Peck Reservation)	38	
Poplar (on Ft. Peck Reservation)	17	
Box Elder (on Rocky Boy's Reservation)	25	
Hays (on Ft. Belknap Reservation)	69	
Zortman	12	
Landusky	3	
Lewistown (including Roy and Hilger)	80	
Front Range		383
Browning (on Blackfeet Reservation)	165	
Babb (on Blackfeet Reservation)	51	
Heart Butte (on Blackfeet Reservation)	9	
Cut Bank (near Blackfeet Reservation)	63	
Dupuyer	6	
Choteau	75	
Augusta	14	
Urban		1146
Great Falls (incl. Black Eagle and Vaughn)	660	
Helena (incl. E. Helena)	178	
Butte	111	
Anaconda	47	
Billings	95	
Missoula	55	
Elsewhere in Montana		448
Kalispell	52	
Libby	48	
Flathead Reservation	28	
Balance of the State	320	
<u>Out of State</u>		1178 (30%)
Washington	400	
California	168	
Oregon	133	
Idaho	73	
Wyoming	62	
North Dakota	40	
Other	304	
<b>Total</b>	<b>3893</b>	<b>3893</b>

SOURCE: LSTCIM 1987, 1990, 1991, 1992 [Petitioner's membership lists].

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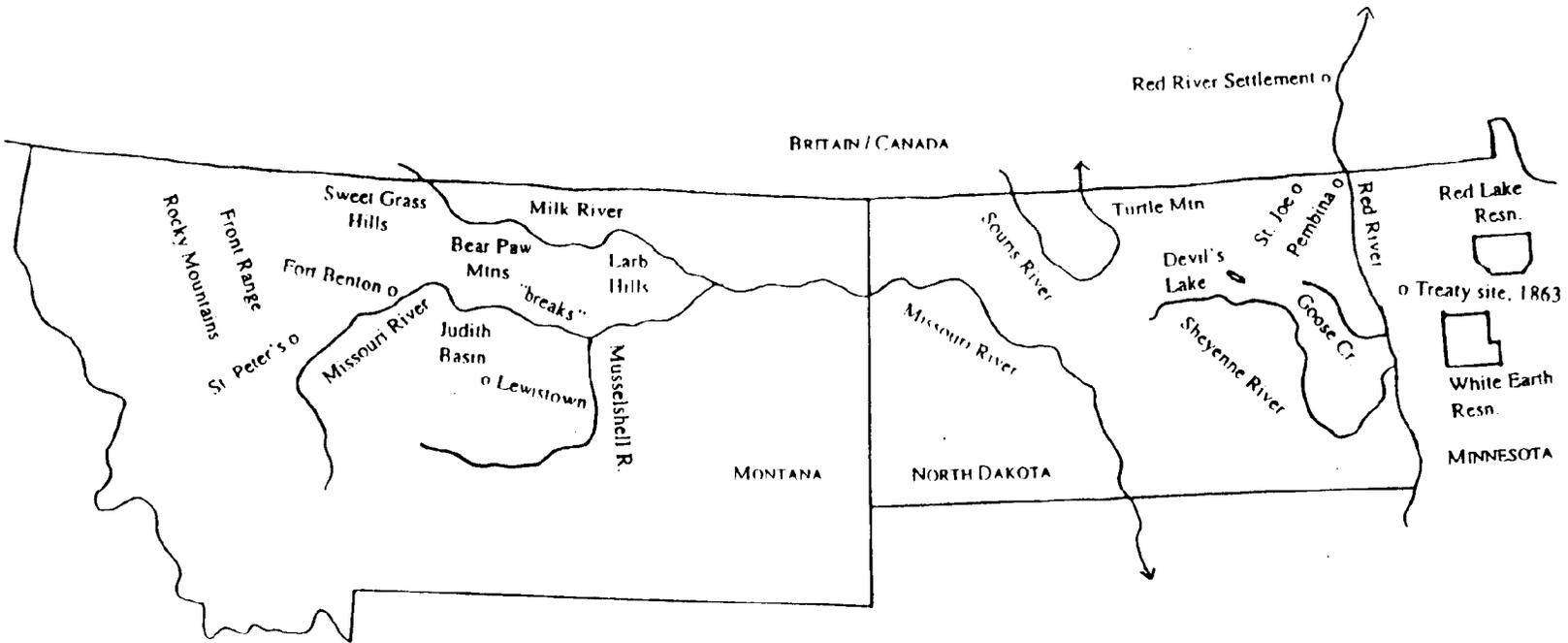


FIGURE 1: AREA MAP, 19th CENTURY

Source: Branch of Acknowledgment and Research



Little Shell (MT): Proposed Finding - Technical Report

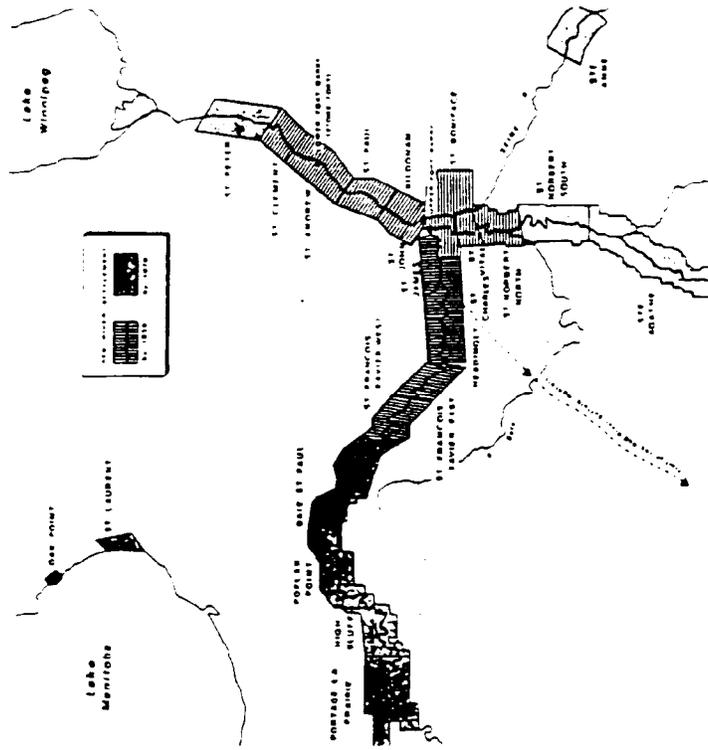


FIGURE 2: BRITISH RED RIVER SETTLEMENT, 1835 - 1870

Source: D.N. Sprague and R.P. Frye, comp., *The Genealogy of the First Métis Nation* (1983), 26.

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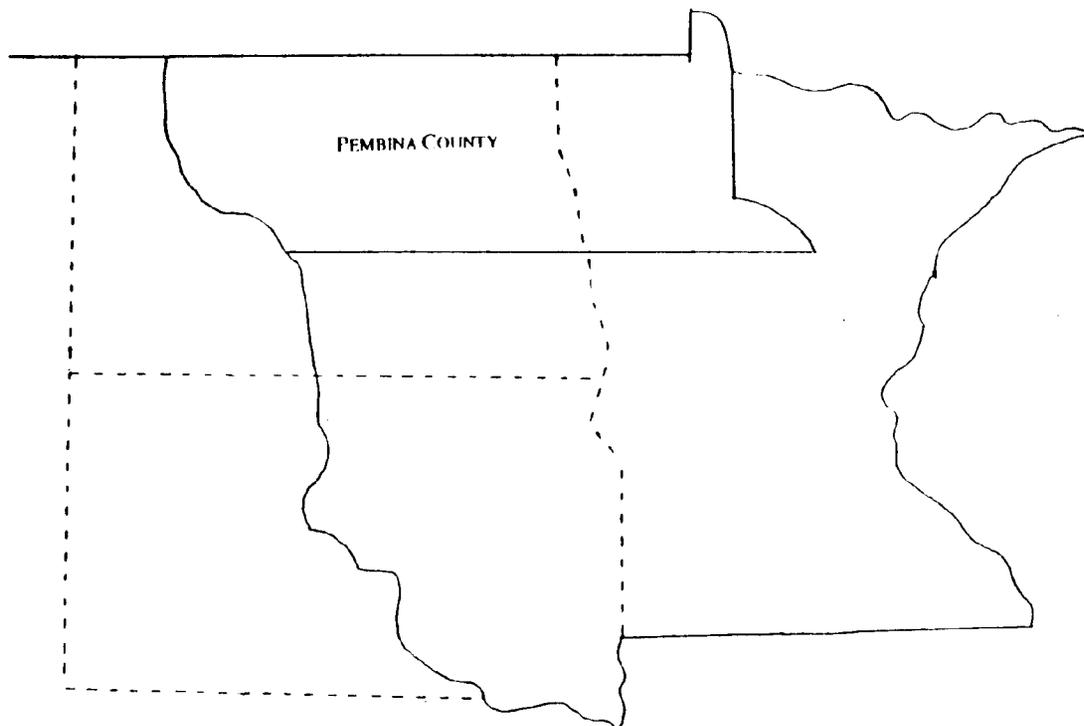


FIGURE 3: PEMBINA COUNTY, MINNESOTA TERRITORY, 1850

Source: William Thorndale and William Dollarhide, *Map Guide to the U.S. Federal Censuses, 1790-1920* (1987), 171.

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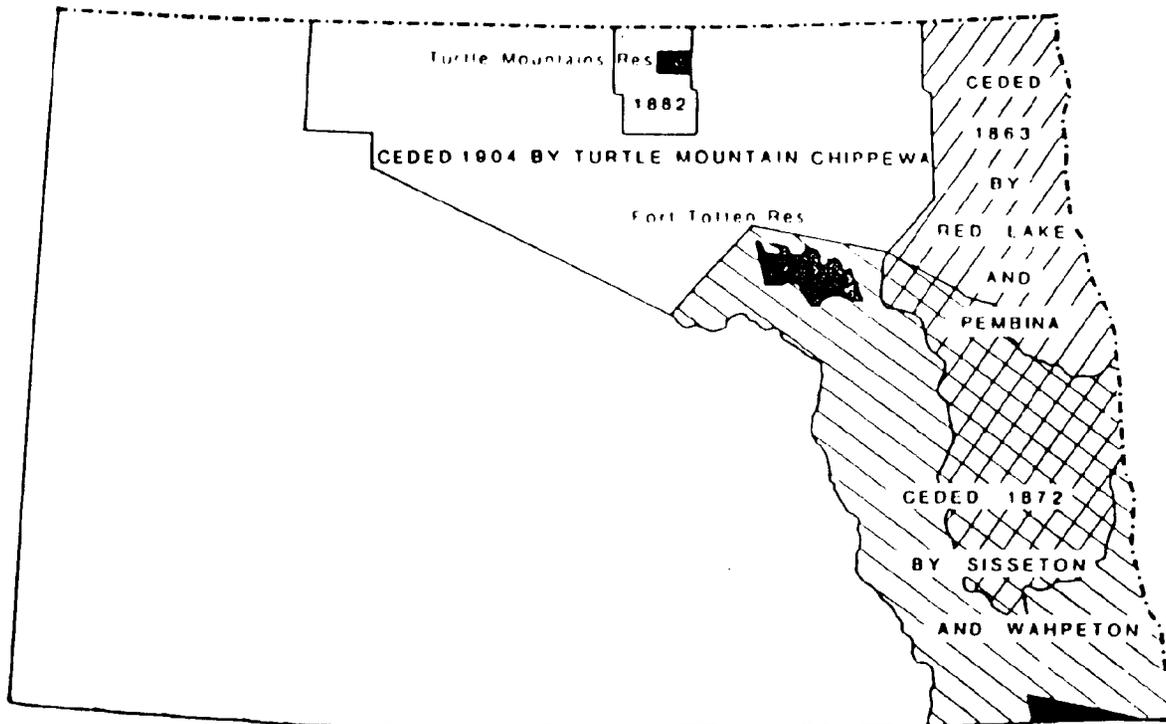


FIGURE 4: CHIPPEWA LAND CESSIONS AND THE TURTLE MOUNTAIN RESERVATION, NORTH DAKOTA

Source: Mary Jane Schneider, *North Dakota Indians* (1986), 94.

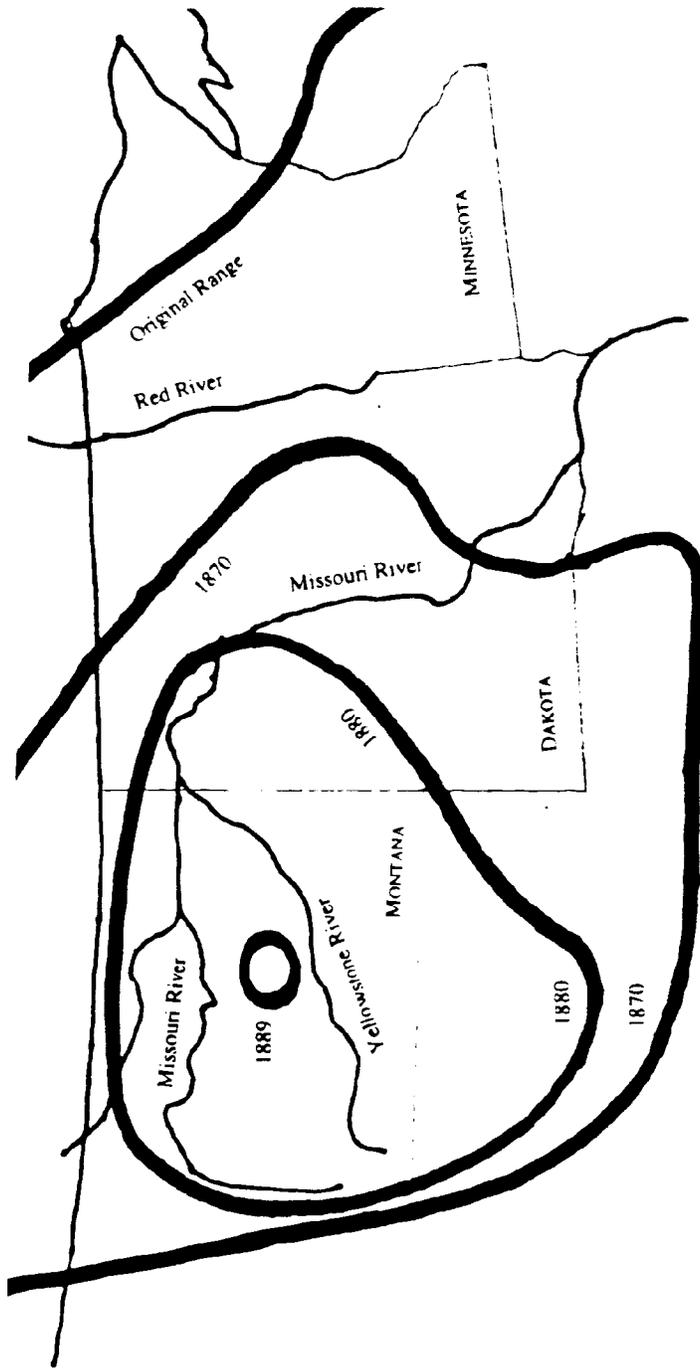


FIGURE 5: BUFFALO RANGE, 1800 - 1889

Source: William T. Hornaday. "The Extinction of the American Bison," Smithsonian Institution, *Annual Report*, 1887 (1889), map.

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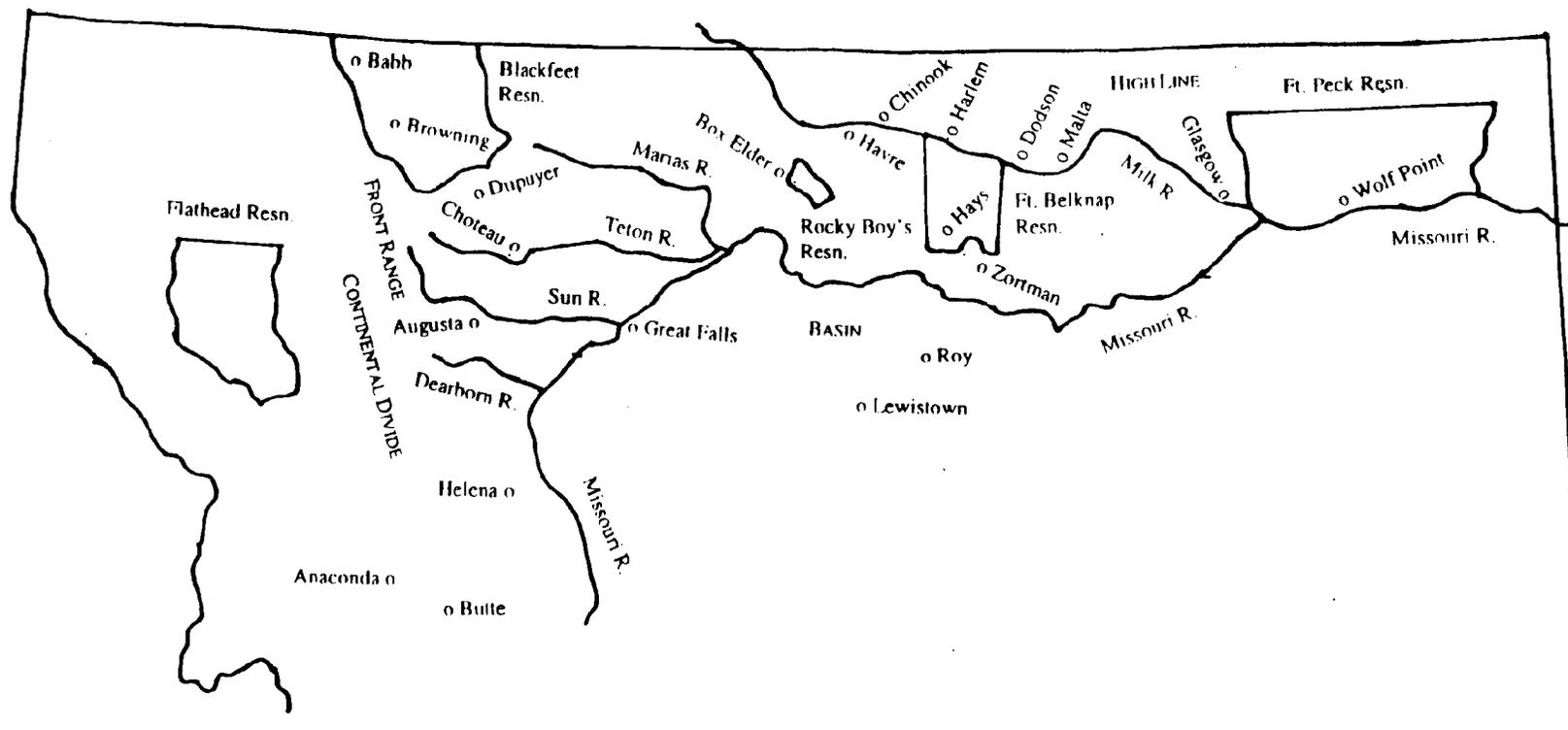


FIGURE 6: AREA MAP OF MONTANA

Source: Branch of Acknowledgment and Research

100 mi.

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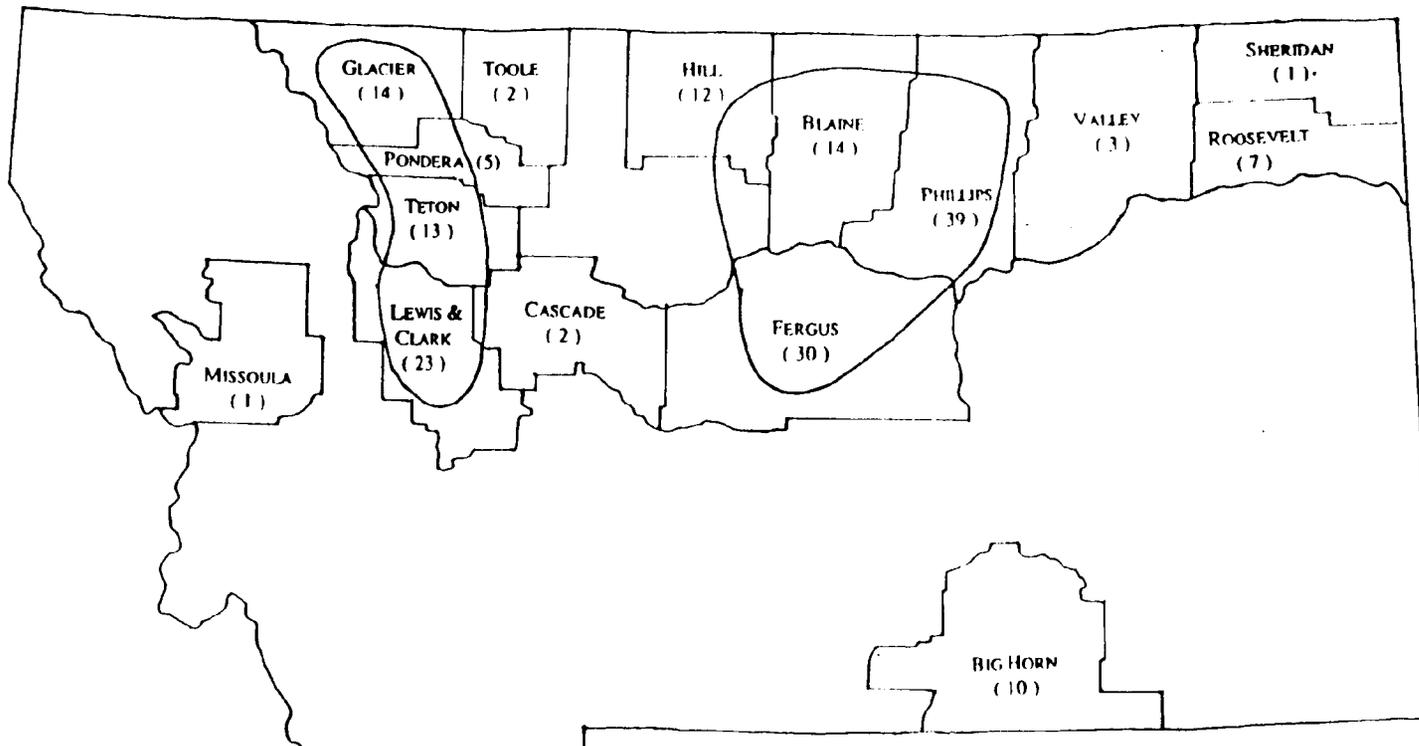


FIGURE 7: NUMBER OF HOUSEHOLDS CONTAINING ANCESTORS OF THE PETITIONER'S MEMBERS, 1920

Source: Petition Document: 1995 Exhibit 31; William Thorndale and William Dollarhide, *Map Guide to the U.S. Federal Censuses, 1790-1920* (1987), 205.

**Little Shell (MT): Proposed Finding - Sources Cited**

**MITPB**

*See:* Montana Inter-Tribal Policy Board

**MLI**

*See:* Montana Landless Indians

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- 1/25/1905 Acting Commissioner of Indian Affairs C. F. Larrabee to Superintendent Charles L. Davis, Jan. 25, 1905. File: Turtle Mountain Enrollments, box 182, Turtle Mountain Agency, RG 75, National Archives, Kansas City, MO. BAR Historian's files: National Archives.
- 2/1/1905 Superintendent [Charles L. Davis] to Commissioner of Indian Affairs, Feb. 1, 1905. Letters Sent, vol.2:347-348, box 6, Fort Totten Agency, RG 75, National Archives, Kansas City, MO. BAR Historian's files: National Archives.
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- 2/18/1905 Superintendent [Charles L.] Davis to Commissioner of Indian Affairs (telegram), Feb. 18, 1905. Letter Received 1905 - #13867, Special Case 110 (Entry 102), RG 75, National Archives. NARF files.
- 2/24/1905 Superintendent Charles L. Davis to Commissioner of Indian Affairs, Feb. 24, 1905. Letters Sent, vol.2:384-392, box 6, Fort Totten Agency, RG 75, National Archives, Kansas City, MO. BAR Historian's files: National Archives.

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- 3/16/ 1905a Acting Commissioner of Indian Affairs C.F. Larrabee to Superintendent Charles L. Davis, Mar. 16, 1905. File: Turtle Mountain Enrollments, box 182, Turtle Mountain Agency, RG 75, National Archives, Kansas City, MO. BAR Historian's files: National Archives.
- 3/16/ 1905b Superintendent [Charles L. Davis] to Commissioner of Indian Affairs, Mar. 16, 1905. Letters Sent, vol.2:450, box 6, Fort Totten Agency, RG 75, National Archives, Kansas City, MO. BAR Historian's files: National Archives.
- 3/27/ 1905 Superintendent [Charles L. Davis] to Commissioner of Indian Affairs, Mar. 27, 1905. Letters Sent, vol.2:471-473, box 6, Fort Totten Agency, RG 75, National Archives, Kansas City, MO. BAR Historian's files: National Archives.
- 4/ 6 / 1905 Superintendent Charles L. Davis to Turtle Mountain Band, Apr. 6, 1905. Letters Sent, vol.2:487-490, box 6, Fort Totten Agency, RG 75, National Archives, Kansas City, MO. BAR Historian's files: National Archives.
- 4/22/ 1905 Superintendent Charles L. Davis to Commissioner of Indian Affairs, Apr. 22, 1905. Letters Sent, vol.3:12-13, box 6, Fort Totten Agency, RG 75, National Archives, Kansas City, MO. BAR Historian's files: National Archives.
- 8/17/ 1905 Annual report, by Superintendent Charles L. Davis, Aug. 17, 1905. *Annual Report of the Commissioner of Indian Affairs 1905*, pt.1:278-282. BAR Historian's files: Commissioner.
- 8/19/ 1905 Commissioner of Indian Affairs F.E. Leupp to Superintendent Charles L. Davis, Aug. 19, 1905. File: Turtle Mountain Enrollments, box 182, Turtle Mountain Agency, RG 75, National Archives, Kansas City, MO. BAR Historian's files: National Archives.
- 9/22/ 1905 Acting Commissioner of Indian Affairs C.F. Larrabee to Secretary of the Interior, Sept. 22, 1905. File: Turtle Mountain Enrollments, box 182, Turtle Mountain Agency, RG 75, National Archives, Kansas City, MO. BAR Historian's files: National Archives.
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- 9/30/ 1905 Commissioner of Indian Affairs Francis E. Leupp to Secretary of the Interior, Sept. 30, 1905. *Annual Report of the Commissioner of Indian Affairs 1905*, pt.1:144-145. Excerpt in BAR Historian's files: Commissioner.
- 10/13/ 1905 Acting Commissioner of Indian Affairs C.F. Larrabee to Charles L. Davis, Oct. 13, 1905. File: Turtle Mountain Enrollments, box 182, Turtle Mountain Agency, RG 75, National Archives, Kansas City, MO. BAR Historian's files: National Archives.

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- 10/31/ 1905 Superintendent Charles L. Davis to Commissioner of Indian Affairs, Oct. 31, 1905. Letter Received 1905 - #88931, Special Case 110 (Entry 102), RG 75, National Archives. Petition Document: 905-10.
- 12/19/ 1905 Superintendent [Charles L. Davis] to Commissioner of Indian Affairs, Dec. 19, 1905. Letters Sent, vol.4:124-125, box 7, Fort Totten Agency, RG 75, National Archives, Kansas City, MO. BAR Historian's files: National Archives.
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- 1906a Family history books. Turtle Mountain Agency. Excerpts in BAR Genealogist's files: #32-33.
- 1906b Family data cards. Box 85, Turtle Mountain Agency, RG 75, National Archives, Kansas City, MO. BAR Genealogist's files: #26.
- 3/26/ 1906 Superintendent Charles L. Davis to Commissioner of Indian Affairs, Mar. 26, 1906. Letters Sent, vol.4:420-422, box 7, Fort Totten Agency, RG 75, National Archives, Kansas City, MO. BAR Historian's files: National Archives.
- 6/21/ 1906 Minutes of Meeting [by Superintendent Charles L. Davis], June 21, 1906. File: Turtle Mountain Enrollments, box 182, Turtle Mountain Agency, RG 75, National Archives, Kansas City, MO. BAR Historian's files: National Archives.
- 6/29/ 1906 Minutes of Meeting of the Council [by Special Agent Edgar A. Allen], June 26-29, 1906. Letter Received 1907 - #32382, Special Case 110 (Entry 102), RG 75, National Archives. NARF files.
- 8/27/ 1906 Annual Report, by Superintendent Charles L. Davis, Aug. 27, 1906. *Annual Report of the Commissioner of Indian Affairs* 1906, pp.292-295. Petition Document: 906-2. BAR Historian's files: Commissioner.
- 9/ 8 / 1906 Superintendent Charles L. Davis to [Farmer-in-charge] E. E. Jones, Sept. 8, 1906. Folder: Charles Davis correspondence, box 251, Turtle Mountain Agency, RG 75, National Archives, Kansas City, MO. BAR Historian's files: National Archives.
- 9/13/ 1906 Superintendent [Charles L. Davis] to Commissioner of Indian Affairs, Sept. 13, 1906 [excerpt]. Letter Sent, vol.5:261-265, box 7, Fort Totten Agency, RG 75, National Archives, Kansas City, MO. BAR Historian's files: National Archives.
- 9/30/ 1906 Commissioner of Indian Affairs Francis E. Leupp to Secretary of the Interior, Sept. 30, 1906. *Annual Report of the Commissioner of Indian Affairs* 1906, pp.153-155. Petition Document: 906-1. Excerpt in BAR Historian's files: Commissioner.

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- 12/20/ 1906 Acting Commissioner of Indian Affairs C.F. Larrabee to Secretary of the Interior, Dec. 20, 1906 [Allen report]. Folder: Report on Enrollment Applications, box 190, Turtle Mountain Agency, RG 75, National Archives, Kansas City, MO. Copy in BAR Genealogist's files: #15. Excerpt in BAR Historian's files: National Archives.
- 2/ 4 / 1907 Acting Commissioner of Indian Affairs C.F. Larrabee to Special Indian Agent E.A. Allen. Feb. 4, 1907. Box 190, Turtle Mountain Agency, RG 75, National Archives, Kansas City, MO. BAR Genealogist's files: #17.
- 9/30/ 1907 Commissioner of Indian Affairs Francis E. Leupp to Secretary of the Interior, Sept. 30, 1907. *Annual Report of the Commissioner of Indian Affairs* 1907, pp.63-64. Excerpt in BAR Historian's files: Commissioner.
- 4/20/ 1909 Allotting Clerk Thralls W. Wheat to Commissioner of Indian Affairs, Apr. 20, 1909 (copy). SC 903, Montana Historical Society, Helena, MT. Petition Document: 1995 Exhibit 19. BAR Historian's files: Montana H.S.
- 4/29/ 1909 Superintendent, Ft. Totten Indian Industrial School to Commissioner of Indian Affairs, Apr. 29, 1909 (unsigned). Box 190, Turtle Mountain Agency, RG 75, National Archives, Kansas City, MO. BAR Genealogist's files: #17.
- 5/ 7 / 1910 Commissioner of Indian Affairs R.G. Valentine to Kanick *et al.*, May 7, 1910. Petition Document: 910-1, and 1987 Exhibit 54.
- 11/ 1 / 1910 Annual Report, by Commissioner of Indian Affairs Robert G. Valentine, Nov. 1, 1910. *Annual Report of the Commissioner of Indian Affairs* 1910, p.33. Petition Document: 1995 Exhibit 24.
- 9/ 4 / 1912 Assistant Commissioner of Indian Affairs C.F. Hauke to Secretary of the Interior, Sept. 4, 1912. Petition Document: 912-33.
- 11/10/ 1913 List of Competent allottees on the Turtle M't [sic] Reservation in North Dakota, Nov. 10, 1913. Box 150, Turtle Mountain Agency, RG 75, National Archives, Kansas City, MO. BAR Genealogist's files: #24.
- 9/21/ 1914 Commissioner of Indian Affairs Cato Sells to Secretary of the Interior, Sept. 21, 1914. *Annual Report of the Commissioner of Indian Affairs* 1914, pp.46, 166. Petition Document: 914-1. Excerpt in BAR Historian's files: Commissioner.
- 10/15/ 1917 Annual Report, by Commissioner of Indian Affairs Cato Sells, Oct. 15, 1917. *Annual Report of the Commissioner of Indian Affairs* 1917, pp.64-65. Petition Document: 917-1.
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- 4/16/ 1928 Commissioner of Indian Affairs [Charles Burke] to Senator Burton K. Wheeler, Apr. 16, 1928. Petition Document: 1995 Exhibit 37.
- 12/14/ 1931 Assistant Commissioner of Indian Affairs J. Henry Scattergood to Joseph H. Dussome, Dec. 14, 1931. Petition Document: 1995 Exhibit 41 [attached to Exhibit 40].
- 1/12/ 1933 Commissioner of Indian Affairs C.J. Rhoads to Charles C. Moore, Commissioner of the General Land Office, Jan. 12, 1933. Petition Document: 1995 Exhibit 43.
- 10/18/ 1933 Statement and testimony by Superintendent Earl Wooldridge at hearings at Rocky Boy Agency, Oct. 18, 1933. *In U.S. Senate, Survey of Conditions of the Indians in the United States*, 31:16649-68, at 16654-55. Washington, D.C.: GPO, 1934. Excerpt in BAR Historian's files: Congress.
- 7/10/ 1934 Minutes of Meeting to Discuss Provisions Made for Landless Indians, July 10, 1934. Petition Document: 934-3, and 1995 Exhibit 48.
- 1/14/ 1935 Assistant Commissioner of Indian Affairs William Zimmerman, Jr., to Edna Pocha, Jan. 14, 1935. Petition Document: 1995 Exhibit 51.
- 1/22/ 1935 Superintendent Earl Wooldridge to Commissioner of Indian Affairs, Jan. 22, 1935. Petition Document: 1995 Exhibit 52.
- 2/ 4 / 1935 Superintendent Earl Wooldridge to Commissioner of Indian Affairs, Feb. 4, 1935. Petition Document: 935-21.
- 2/12/ 1935 Chief of Land Division J.H. Stewart to Superintendent Jasper W. Elliott, Feb. 12, 1935. Petition Document: 935-20, and 1995 Exhibit 57.
- 2/28/ 1935 Commissioner of Indian Affairs John Collier to Representative Roy E. Ayers, Feb. 28, 1935. Petition Document: Franklin 1994 encl. 17.
- 3/ 2 / 1935 Chief of Land Division J.H. Stewart to Joseph H. Dussome, Mar. 2, 1935. Petition Document: 935-44.
- 3/12/ 1935 Assistant Commissioner of Indian Affairs William Zimmerman, Jr., to Superintendent Earl Wooldridge, Mar. 12, 1935. Petition Document: 935-40, and 1995 Exhibit 58.
- 3/25/ 1935 Memorandum, by Charles E. Roblin, Mar. 25, 1935. Petition Document: 935-41.
- 5/31/ 1935 Superintendent Earl Wooldridge to Commissioner of Indian Affairs, May 31, 1935 (copy). Petition Document: 1995 Exhibit 62.
- 6/10/ 1935 Assistant Commissioner of Indian Affairs William Zimmerman, Jr., to Superintendent Earl Wooldridge, June 10, 1935. Petition Document: 3000-7-87.

**Little Shell (MT): Proposed Finding - Sources Cited**

U.S. Bureau of Indian Affairs [BLA] (cont.)

- 9/16/ 1935 Commissioner of Indian Affairs to Superintendent Earl Wooldridge, Sept. 16, 1935. Petition Document: 1995 Exhibit 64.
- 12/23/ 1935 Commissioner of Indian Affairs John Collier to Secretary of the Interior, Dec. 23, 1935. Petition Document: 935-11, 936-13, and 1995 Exhibit 66.
- 1/15/ 1936 Assistant Commissioner of Indian Affairs William Zimmerman, Jr., to Secretary of the Interior, Jan. 15, 1936. Petition Document: 3000-7-88, and 1995 Exhibit 67.
- 3/ 7 / 1936 Enrollment under the Indian Reorganization Act, Circular No. 3134, Mar. 7, 1936. Petition Document: 1995 Exhibit 69.
- 6/12/ 1936 Assistant Commissioner of Indian Affairs William Zimmerman, Jr., to Dan Sangrey *et al.*, June 12, 1936. Petition Document: 3000-7-89.
- 7/ 2 / 1936 Memorandum: Enrollment at Rocky Boy's Agency, July 2, 1936 (copy). Petition Document: 1995 Exhibit 71.
- 7/ 6 / 1936 Memorandum to the Commissioner [of Indian Affairs], by Committee on Enrollment, July 6, 1936. Petition Document: 1995 Exhibit 72, and Franklin 1994 encl. 31.
- 9/22/ 1936 Memorandum: Registration as an "Indian" in accordance with Section 19, by Commissioner of Indian Affairs John Collier, Sept. 22, 1936 (copy). Petition Document: 1995 Exhibit 73.
- 11/10/ 1936 Memorandum to the Commissioner [of Indian Affairs]: Enrollment of Landless Montana Indians, by Allan G. Harper, Nov. 10, 1936. Petition Document: 1995 Exhibit 74.
- 12/10/ 1936a Report of Enrollment Committee, by C.E. Faris, Dec. 10, 1936. Petition Document: 1995 Exhibit 75.
- 12/10/ 1936b Superintendent Wooldridge *et al.* to Commissioner of Indian Affairs, Dec. 10, 1936. Petition Document: 3000-7-93.
- ca. 1937 Commissioner [of Indian Affairs] to J.H. Dussome, n.d. [ca. 1937]. Petition Document: 1987 Exhibit 50.
- 1937 Roe Cloud Roll application files. NARF files.
- 3/ 3 / 1937 [Assistant to the] Commissioner of Indian Affairs to J.H. Dussome, Mar. 3, 1937. Petition Document: 1987 Exhibit 50.
- 3/ 6 / 1937 Commissioner of Indian Affairs John Collier to Superintendent Earl Wooldridge, Mar. 6, 1937 (copy). Petition Document: 3000-7-96.

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- 3/8/1937 Memorandum to the Commissioner [of Indian Affairs], by Allan G. Harper, Mar. 8, 1937. Petition Document: 937-1, 937-9, and 1995 Exhibit 77.
- 3/12/1937 Assistant to the Commissioner of Indian Affairs F.H. Daiker to Oscar H. Lipps, Mar. 12, 1937. Petition Document: 1987 Exhibit 50.
- 3/18/1937 Superintendent J.E. Balmer to Fred A. Baker, Mar. 18, 1937. Petition Document: 1984 Appendix E. (Note: 1995 Exhibit 79 includes the letter but not the table).
- 3/25/1937 Superintendent Earl Wooldridge *et al.* to Commissioner of Indian Affairs, Mar. 25, 1937. Petition Document: 3000-7-97.
- 4/6/1937 Assistant to the Commissioner F.H. Daiker to Oscar H. Lipps, Apr. 6, 1937 (copy). Petition Document: 1987 Exhibit 50.
- 4/13/1937 Assistant to the Commissioner F.H. Daiker to O.H. Lipps, Apr. 13, 1937 (copy of telegram). Petition Document: 1987 Exhibit 50.
- 4/14/1937 [Field Representative O.H.] Lipps to [Assistant to the Commissioner F.H.] Daiker, Apr. 14, 1937 (telegram). Petition Document: 1987 Exhibit 50, and Franklin 1994 encl. 35.
- 5/3/1937 Assistant Commissioner of Indian Affairs William Zimmerman, [Jr.], to Joseph Dussome, May 3, 1937. Petition Document: 1995 Exhibit 83.
- 5/5/1937 Field Representative O.H. Lipps to Assistant to the Commissioner Fred H. Daiker, May 5, 1937. Petition Document: 3000-7-99, and 1995 Exhibit 84.
- 5/27/1937 Superintendent Earl Wooldridge to Commissioner of Indian Affairs (Attention: Mr. Daiker), May 27, 1937. Petition Document: 1995 Exhibit 85, and Franklin 1994 encl. 44. BAR Genealogist's files: #60.
- 6/4/1937 Superintendent Earl Wooldridge to Commissioner of Indian Affairs, June 4, 1937. Petition Document: 1995 Exhibit 86.
- 6/11/1937 Superintendent Earl Wooldridge to Commissioner of Indian Affairs, June 11, 1937. Petition Document: 1995 Exhibit 87.
- 6/15/1937 Superintendent Earl Wooldridge to Commissioner of Indian Affairs, June 15, 1937. Petition Document: 1995 Exhibit 89.
- 7/20/1937 Memorandum to Land Division, by Assistant to the Commissioner of Indian Affairs F.H. Daiker, July 20, 1937. Petition Document: 3000-7-100.
- 8/2/1937 Memorandum to Mr. Stewart, by D'Arcy McNickle, Aug. 2, 1937. Petition Document: 3000-7-102.

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- 11/ 9 / 1937 Commissioner of Indian Affairs John Collier to Chairman, Rocky Boy Council, Nov. 9, 1937. Petition Document: 3000-7-103.
- 11/30/ 1937 Memorandum to Commissioner Collier, by Assistant to the Commissioner F.H. Daiker, Nov. 30, 1937. Petition Document: 3000-7-105.
- 1938 Landless Cree Indians, 1938, compiled by Dr. Henry Roe Cloud ["Roe Cloud Roll"] (photostat, acquired by the Library of Congress, Legislative Reference Service, Jan. 27, 1956). Petition Document: 3000-8-85. (See also: BIA 1945 [40 pp.], BIA 9/27/1949 [5 pp.], BIA 1987.)
- 1/19/ 1938 Supervisor of Indian Education Henry Roe Cloud to Commissioner of Indian Affairs, Jan. 19, 1938. Petition Document: 938-82.
- 2/16/ 1938 Memorandum to the Commissioner of Indian Affairs, by Henry Roe Cloud, Feb. 16, 1938. Petition Document: 3000-7-110.
- 4/25/ 1938 Assistant to the Commissioner John Herrick [to Joseph Dussome], Apr. 25, 1938. Roe Cloud Roll application files. NARF files.
- 4/29/ 1938 Commissioner of Indian Affairs John Collier to Henry Roe Cloud, Apr. 29, 1938. Petition Document: 3000-1-38, and 1995 Exhibit 92.
- 7/23/ 1938 Supervisor of Indian Education Henry Roe Cloud to Commissioner of Indian Affairs, July 23, 1938. Petition Document: 3000-1-40, and 1995 Exhibit 94.
- 9/28/ 1938 Assistant to the Commissioner of Indian Affairs Fred H. Daiker to Henry Roe Cloud, Sept. 28, 1938. Petition Document: 3000-1-41, and 1995 Exhibit 95.
- 10/10/ 1938 The final report of Henry Roe Cloud . . . on the educational campaign among the Rocky Boy Band . . . for the adoption into the Band of a limited number of non-ward, landless Indians, Oct. 10, 1938. Petition Document: 3000-1-42, and 1995 Exhibit 97.
- 2/ 9 / 1939 Commissioner of Indian Affairs John Collier to Superintendent E.E. McNeilly, Feb. 9, 1939. Petition Document: 3000-1-44, and 1995 Exhibit 104.
- 3/ 6 / 1939 Henry Roe Cloud to Commissioner of Indian Affairs, Mar. 6, 1939. [Roll and applications for enrollment of the Pacific Coast Indians, 2 parts.] File 805-1939-Hoopa Valley-053, Central Classified Files 1907-1939 (Entry 121), RG 75, National Archives.
- 3/18/ 1939 Ballot for Adoption Election, Mar. 18, 1939. Petition Document: 3000-8-11, and 1984 Appendix A.
- 3/21/ 1939 Commissioner of Indian Affairs John Collier to Superintendent E.E. McNeilly, Mar. 21, 1939. Petition Document: 3000-1-45, and 1995 Exhibit 105.

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- 8/31/1939 Acting Commissioner of Indian Affairs John Herrick to Emmett C. Angland, Aug. 31, 1939. Petition Document: 3000-8-138 encl. (Reprint in Petition Document: 3000-1-8.)
- 2/12/1940a Assistant Commissioner of Indian Affairs William Zimmerman, Jr., to Senator James E. Murray, Feb. 12, 1940. Petition Document: 2000-9.1, and 3000-8-140.
- 2/12/1940b Assistant Commissioner of Indian Affairs William Zimmerman, Jr., to [Rose Gray], Feb. 12, 1940. Roe Cloud Roll application files. NARF files.
- 3/7/1940 Superintendent E.E. McNeilly to Commissioner of Indian Affairs, Mar. 7, 1940. Petition Document: 3000-1-50, and 1995 Exhibit 111.
- 3/18/1940 Minutes of the March 6, 1940, Rocky Boy's Business Committee, Mar. 18, 1940. Petition Document: 1995 Exhibit 113.
- 4/6/1940 Minutes of a meeting at Rocky Boy, Apr. 6, 1940. Petition Document: 1989 Exhibit HAC#2-41.
- 5/2/1940 Minutes of a meeting of April 27, 1940, at Rocky Boy's Agency, May 2, 1940. Petition Document: 940-50, and 1995 Exhibit 116.
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- 12/9/1940 Memorandum for Mr. Jennings, by D'Arcy McNickle, Dec. 9, 1940. Petition Document: 940-53, 1995 Exhibit 123, and Franklin 1994 encl. 75 and 76.
- 12/13/1940 Memorandum: Landless Indians of Montana, by J.C. McCaskill, Dec. 13, 1940. Petition Document: 1995 Exhibit 124.
- 4/11/1941 Assistant Commissioner of Indian Affairs William Zimmerman, Jr., to Senator James E. Murray, [Apr. 11, 1941]. Petition Document: 1995 Exhibit 136.
- 4/23/1941 Landless Unenrolled Indians in the State of Montana, by J.C. McCaskill, Apr. 23, 1941. Petition Document: 941-2, and 1995 Exhibit 138.
- 10/4/1941 [Allan Harper] for the Commissioner [of Indian Affairs] to J.H. Dussome, Oct. 4, 1941. Petition Document: 3000-1-12, 1989 Exhibit HAC#1-1 and ISR#3-5, and 1995 Exhibit 155.
- 12/1/1941 The Evolution of the Turtle Mountain Chippewa Roll, by John H. Holst, Dec. 1, 1941. Manuscript. Department of the Interior Library, Washington, D.C. BAR Historian's files: Department of the Interior.

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- 2/23/ 1942 Landless Unenrolled Indians in the State of Montana, by Acting Chief of Planning and Development Branch [J.C. McCaskill], Feb. 23, 1942. Petition Document: 1995 Exhibit 171.
- 1945 Roll of Landless Indians of Montana ["Roe Cloud Roll"], n.d. [marked as received at Rocky Boy's Agency, 1945]. Petition Document: 3000-5-47, and 1995 Exhibit 175 (incomplete).
- 5/28/ 1947 Superintendent James D. Crawford to Commissioner of Indian Affairs, May 28, 1947. Petition Document: 947-6.
- 2/21/ 1949 Assistant Commissioner of Indian Affairs William Zimmerman, Jr., to Representative Mike Mansfield, Feb. 21, 1949. Petition Document: 3000-2-5, 3000-2-6a, 1989 HAC#1-08, 1995 Exhibit 184, and Franklin 1994 encl. 103.
- 6/21/ 1949 Regional Director Paul L. Fickinger to Attorney General of Montana Arnold H. Olsen, June 21, 1949. Petition Document: 3000-1-13, 3000-2-8, and 1995 Exhibit 190.
- 9/27/ 1949 Roe Cloud Roll, n.d. [attached to T.W. Wheat, for the Commissioner of Indian Affairs, to Superintendent J.W. Wellington, Sept. 27, 1949]. Petition Document: 1984 Appendix E.
- 1/23/ 1950 Regional Director Paul L. Fickinger to [Joseph Dussome], Jan. 23, 1950. Petition Document: 3000-1-15, and 1995 Exhibit 192.
- 6/15/ 1950 Acting Commissioner of Indian Affairs H. Rex Lee to Representative Mike Mansfield, June 15, 1950. Petition Document: 3000-1-64, and 1995 Exhibit 111.
- 4/16/ 1953 Superintendent J.W. Wellington to Acting Solicitor W.H. Flannery, Apr. 16, 1953 (copy). *In* Petition Document: 1995 Exhibit 206.
- 11/15/ 1956 Acting Commissioner of Indian Affairs W. Barton Greenwood to Area Director Percy F. Melis, Nov. 15, 1956 (copy). Petition Document: 1995 Exhibit 247.
- 4/ 1 / 1965 Area Director Martin N.B. Holm to Albert C. Guardipee, Apr. 1, 1965. Petition Document: 965-3.
- 9/13/ 1967 Superintendent W.A. Mehojah, Sr. to Area Director Martin N.B. Holm, Sept. 13, 1967. Petition Document: 3000-1-84, and 1995 Exhibit 269.
- 5/27/ 1969 Tribal Operations Officer Jacob Ahtone to George St. Clair, May 27, 1969. Petition Document: 969-3.
- 4/23/ 1970 Acting Associate Commissioner [of Indian Affairs] William Benham to Senator Lee Metcalf, Apr. 23, 1970. BAR administrative files.

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- ca. 1971 Area Director to George St. Clair, n.d. [ca. 1971]. Petition Document: 971-1.
- 6/21/1971 Commissioner of Indian Affairs Louis R. Bruce to Legislative Counsel, June 21, 1971. Petition Document: 971-62.
- 9/17/1971 Memorandum: Preparation of roll for distribution of a judgment awarded the Pembina Band of Chippewa Indians, by Acting Deputy Commissioner of Indian Affairs Harold D. Cox, Sept. 17, 1971. BIA Aberdeen Area Office. BAR Genealogist's files: #46.
- 12/6/1971 Memorandum: Pembina Judgment Fund Roll, by Deputy Commissioner of Indian Affairs John O. [Crew], Dec. 6, 1971. BIA Aberdeen Area Office. BAR Genealogist's files: #46.
- 12/7/1971 Memorandum: Minnesota Chippewa Tribal Roll suggested as approved roll for establishing Pembina ancestry, by Acting Superintendent, Minnesota Agency, Dec. 7, 1971. BIA Aberdeen Area Office. BAR Genealogist's files: #46.
- 12/9/1971 Memorandum: Minnesota Chippewa Tribal Roll suggested as approved roll for establishing Pembina ancestry, by Area Director Raymond Lightfoot, Dec. 9, 1971. BIA Aberdeen Area Office. BAR Genealogist's files: #46.
- 12/14/1971 Memorandum: Pembina Judgment Fund Roll, by Superintendent, Minnesota Agency, Dec. 14, 1971. BIA Aberdeen Area Office. BAR Genealogist's files: #46.
- 1/27/1972 Memorandum: Copies of rolls and Archives files [Pembina Judgment Award], by Acting Chief, Division of Tribal Operations Robert Pennington, Jan. 27, 1972. BIA Aberdeen Area Office. BAR Genealogist's files: #46.
- 5/25/1972 Memorandum: Request that Minnesota Chippewa Tribal Roll be approved for use in establishing Pembina ancestry, by Area Director W.D. Babby, May 25, 1972. BIA Aberdeen Area Office. BAR Genealogist's files: #46.
- 9/25/1972 Memorandum: Use of Minnesota Chippewa Roll to establish Pembina ancestry, by Deputy Commissioner of Indian Affairs, Sept. 25, 1972. BIA Aberdeen Area Office. BAR Genealogist's files: #46.
- 2/11/1974 Memorandum: Pembina Judgment, by Acting Director, Office of Indian Services John Geary, Feb. 11, 1974. BIA Aberdeen Area Office. BAR Genealogist's files: #46.
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- 8/19/ 1980 Results of Research Report in 1905 Pembina Chippewa award in Dockets 113, 246, 191 and 221 and Draft Proposal for Use and Distribution of Funds, by Commissioner of Indian Affairs, Aug. 19, 1980. Petition Document: 3000-1-113a. BAR Historian's files: Department of the Interior.
- 11/12/ 1980 Memorandum: Historical documents for identification of Pembina ancestors, by Acting Deputy Commissioner of Indian Affairs Theodore Krenzke, Nov. 12, 1980. BIA Aberdeen Area Office. BAR Genealogist's files: #46.
- 3/ 5 / 1981 Memorandum: Historical Documents for Identification of Pembina ancestors, by Commissioner of Indian Affairs (signed by Theodore Krenzke), Mar. 5, 1981. BIA Aberdeen Area Office. BAR Genealogist's files: #46.
- 2/ 9 / 1982 Memorandum: Pembina Judgment Award, by Director, Office of Indian Services Theodore C. Krenzke, Feb. 9, 1982. BIA Aberdeen Area Office. BAR Genealogist's files: #46.
- 1/27/ 1983 Chief, Division of Tribal Government Services Patrick A. Hayes to Ralph Doney, Jan. 27, 1983. BAR administrative files.
- 4/ 8 / 1985 Deputy Director, Office of Indian Services Hazel E. Elbert to Donald F. Bishop, Apr. 8, 1985. BAR administrative files.
- 1987 Basic Membership Roll of the Landless Indians of Montana, 1937 Census Taken by Dr. Henry Roe Cloud [as updated by the BIA, ca. 1987 or 1989]. Petition Document: Franklin 1995 Appendix A item 2.
- 7/19/ 1990 Chief, Division of Tribal Government Services Carol A. Bacon to Debbie Swanson, July 19, 1990. BAR administrative files.
- 10/26/ 1992 Acting Realty Officer, Turtle Mountain Agency to Little Shell Tribe of Chippewa Indians, Oct. 26, 1992. Petition Document: 1995 Exhibit 337[c].
- 3/24/ 1994 Printout of Little Shell members on the judgment roll, by Turtle Mountain Agency, Mar. 24, 1994. Petition Document: 1995 Exhibit 348.
- 3/23/ 1995 Acting Director, Office of Tribal Services Joann Sebastian Morris to Debbie Swanson, Mar. 23, 1995. BAR administrative files.
- 3/14/ 1997 Director, Office of Tribal Services Deborah J. Maddox to John Gilbert, Mar. 14, 1997. BAR administrative files.
- 3/13/ 1998 Director, Office of Tribal Services Deborah J. Maddox to John Gilbert, Mar. 13, 1998. BAR administrative files.

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