

LANDS

TENURE AND VALUATIONS REPORT

A Band Council Resolution (BCR) is not a legal document but rather a record of a decision made by council at a duly convened meeting. Therefore, a BCR is not able to grant legal title to reserve land and is not recognized nor registered by Indigenous and Northern Affairs Canada (INAC) as legal tenure to reserve land. A Certificate of Possession or Certificate of Occupation granted through provisions of the *Indian Act* are the only form of ownership for which a band member is recognized by the courts of law to have.

A BCR may grant permissible uses to band members to occupy land for a certain period of time, and should only be used for band members who have their own livestock or machinery and provide a living for themselves through farming or ranching. A BCR does not authorize a band member to rent reserve land to non-band members. This practice is termed a “buckshee agreement” where an individual collects rent for themselves. Buckshee agreements cause revenues to be lost to the Band and are not enforceable, thus they are prohibited. Only the Band can rent lands through an INAC agreement, such as a permit or lease, to non-band members. Rent is collected by the department on behalf of the Band and deposited in the Band’s revenue trust account for **the use and benefit of all band membership**.

Our Band currently participates in the Reserve Land and Environment Management Program (RLEMP), and by way of BCR “2013-2014-10-04. A Chief and Council state the Band will participated in RLEMP at the operational level, maintain eligibility and comply with the rules and responsibilities outlined in the guidelines. This means the Band will comply with administering their land under the *Indian Act*. The act sets out rules for land use on reserve, how reserves can be created and defines the powers of Band Councils through the Indian Band Council Procedure Regulations. Therefore, Band Councils are obligated to comply with land tenure provisions under the Indian Act until a Band decided to opt into the First Nations Land Management Act land regime.

Since the 1990’s, several pieces of legislation have been passed allowing individual First Nations to opt out of particular sections of the Indian Act by taking on new or expanded law-making authorities through “sectoral legislative arrangements”. The following are several of the initiatives being undertaken by leadership on behalf of the membership of Mosquito:

- 1) First Nations Land Management Act (FNLMA) – enacted in 1999, it allows First Nations to opt out of 34 land-related sections of the Indian Act by creating their own Land Code laws related to land use and environmental stewardship. Fourteen Band originally

signed on and by 2013 there were over 35 Bands involved operating under their own Land Codes.

- 2) First Nations Fiscal Management Act (FNFMA) – enacted in 2006, it allows First Nations to participate in the taxing and borrowing regimes created under the act. In particular it established the First Nations Tax Commission, First Nations Financial Management Board and First Nations Finance Authority; these institutions assist First Nations in developing their own taxation laws, to work cooperatively to raise private capital for development, and provide investment services to them.
- 3) First Nation Oil and Gas Moneys Management Act (FNOGMMA) – enacted in 2006, it allows First Nations to develop their own financial code to assume control of their capital and revenue trust moneys held for them by the Crown, and assume management of oil and gas resources on their reserves.