

**ALBERTA
INFORMATION AND PRIVACY COMMISSIONER**

**Report on the Investigation into a Complaint about a Breach of Privacy, contrary to Part 2
of the *Freedom of Information and Protection of Privacy Act***

July 22, 2002

**Metis Settlement Transition Commission and Alberta Aboriginal Affairs and Northern
Development**

Investigation #2376, 2381-2389, 2394 – 2398, 2404, 2409 – 2414, 2416, 2421 and 2445

I. The Complaints

[para. 1] A series of complaint letters were received by the Office of the Information and Privacy Commissioner, dated from February 27, 2002, to May 6, 2002 from individuals from the Peavine Metis Settlements (the Complainants). The Complainants alleged that their privacy had been violated as a result of a report issued jointly by the Metis Settlement Transition Commission (the “Commission”) and Alberta Aboriginal Affairs and Northern Development (Aboriginal Affairs). The Complainants’ letters followed this standard format:

Complaint And Request For Review

Freedom of Information and Protection Of Privacy Act
R.S.A. 2000, Chapter F-25
ss.65,66

To: The Privacy Commissioner in and for the Province of Alberta

*I, _____ of the _____ of _____ in the
Province of Alberta, a resident or member of the Peavine Metis Settlement, HEREBY
MAKE A FORMAL COMPLAINT AND REQUEST FOR REVIEW under ss. 65, and 66
of the FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT.*

The basis for my complaint and request for review is as follows:

1. *My name and other personal information concerning me or sufficient to identify me was contained in a REPORT dated January 16, 2002 issued by EDWIN J. RYAN of the firm Pricewaterhouse Coopers, who was appointed by the Commissioner of the Metis Settlement Transition Commission to conduct a Preliminary Investigation into matters and affairs concerning the Peavine Metis Settlement and its subsidiary corporations and businesses.*
2. *The complete text of Report was released without my prior authorization or consent and without editing or deleting any of the information concerning me, to the public by Randy Hardy, the Commissioner of the Metis Settlement Transition Commission, and the Honourable Pearl Calahasen, Minister of Aboriginal Affairs, at or prior to a public meeting of February 12, 2002, held at Peavine Metis Settlement in the Province of Alberta.*
3. *I believe that the release to the public of the unedited text of the report containing information concerning me and without prior consent or authorization, is in contravention of the provisions of part 2 of the FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT.*

II. Background

As part of my investigation of the complaints, I directed the FOIP Coordinator of Aboriginal Affairs and Northern Development (“Aboriginal Affairs”) to prepare a chronology of events, with supporting documents.

I have reviewed the complete set of records relating to the chronology. A severed version of that chronology is attached to this Investigation Report. The Chronology I believe will give an accurate trail of events leading up to the complaints filed to this office. The essential facts are the following.

On April 3, 1998, the Honourable David Hancock, then Minister of Intergovernmental and Aboriginal Affairs, appointed Mr. Randall Hardy, who was then the Metis Settlements Transition Commissioner (the “Transition Commissioner”), as inspector of the Metis Settlements pursuant to section 171 of the *Metis Settlement Act*.

In November 2001, after receiving more than 80 concerns or allegations about aspects of the management, administration and operations of the Peavine Settlement, the Transition Commissioner decided to conduct another investigation of the Peavine Settlement. He appointed Mr. Edwin Ryan of PriceWaterhouseCoopers as principal investigator. The Minister of Aboriginal Affairs, the Honourable Pearl Calahasen (the “Minister”), was informed of the investigation, and supported the decision to investigate.

In November 2001, the principal investigator attended the Settlement and then prepared draft reports, which were subsequently circulated to the Transition Commissioner, to Aboriginal Affairs and to the Chairman of the Peavine Metis Settlement on December 21, 2001 and January 16, 2002. The final version of the report was dated January 30, 2002 (the "Report"). The Report stated that the purpose of the underlying investigation of the Settlement was as follows:

...to determine if any irregular, improper, or improvident actions have been taken, or are being taken by any member of the Settlement Council, a staff member, or a person appointed by the Settlement Council or any of its entities...

...However, the review was to attempt to address the public concerns as expressed to the Minister of Aboriginal Affairs and Northern Development and the Commissioner of The Metis Settlements Transition Commission.

The report was prepared for the Transition Commissioner and the Minister of Alberta Aboriginal Affairs

The Report stated that the scope of the investigation was limited to "a determination of facts sufficient to recommend further investigation or not."

On February 1, 2002, the Transition Commissioner sent 100 copies of the Report to the Settlement, for distribution to Settlement members in advance of a public meeting that was to be on February 5, 2002 at the Settlement.

On February 1, 2002, the Chair of the Settlement Council wrote to the Minister of Aboriginal Affairs and expressed concerns that the release of the Report by the Settlement could make the Settlement a party to any breach of the Act. The Chair suggested that an alternative would be for the Minister to release the Report at the commencement of the planned meeting. On February 4, 2002, the Minister of Aboriginal Affairs, the Honourable Pearl Calahasen, responded to the Chair's letter. She wrote:

...transparency is a critical component to good governance. It is my view, therefore, that the report should be made public. You should know that the Metis Settlement Transition Commission and my Department has reviewed the report in the context of the *Freedom of Information and Protection of Privacy Act (FOIPP)*. There were several changes recommended to comply with *FOIPP*, and these changes have been incorporated.

I understand that you received copies of the revised report, as did the Commissioner, and myself on February 1, 2002. The Commissioner has sent copies of the report to your Settlement so that members can review the report, if they wish, prior to the public meeting on February 5, 2002.

I trust this answers your question.

An article on the Report was published in the *Edmonton Journal* on February 7, 2002.

The public meeting at the Settlement which the Report was to be discussed was rescheduled to February 12, 2002.

The first complaints to this office were received on February 27, 2002.

On March 8, 2002, Commissioner Frank Work ordered an investigation of the first complaint. He appointed me to investigate that complaint, and all of the other complaints that were filed in relation to the Report. During my investigation, Aboriginal Affairs acknowledged that the Transition Commissioner had sent copies of the Report to the Peavine Settlement for distribution to Peavine Settlement members in advance of the February meeting. Aboriginal Affairs also acknowledged that this amounted to a disclosure of information for the purposes of the Act. The stated rationale for the disclosure was to promote transparency within Peavine Settlement and to serve the public interest.

Pursuant to a 1997 Order-In-Council (O.C. 123/97) the Metis Settlement Transition Commission (MTSC) was dissolved effective April 1, 2002, and its records were transferred to Aboriginal Affairs.

As all the Complaints involve the same Report, I have decided to prepare one investigation report setting out my findings.

III. Discussion

Aboriginal Affairs is a public body under section 1(1)(p)(i) of the Act. The Metis Settlement Transition Commission was also a public body under section 1(1)(p)(ii) of the Act and Schedule 1 of the FOIP Regulation.

All public bodies subject to the Act must comply with the personal privacy protections set out in Part 2 of the Act. It was on this basis that the Office of the Information and Privacy Commissioner accepted the Complaints.

A. Does the Report contain the Complainants' personal information?

Personal information is defined in section 1(1)(n) of the Act:

(n) "personal information" means recorded information about an identifiable individual, including

- (i) the individual's name, home or business address or home or business telephone number,
- (ii) the individual's race, national or ethnic origin, colour or religious or political beliefs or associations,
- (iii) the individual's age, sex, marital status or family status,

- (iv) an identifying number, symbol or other particular assigned to the individual,
- (v) the individual's fingerprints, blood type or inheritable characteristics,
- (vi) information about the individual's health and health care history, including information about a physical or mental disability,
- (vii) information about the individual's educational, financial, employment or criminal history, including criminal records where a pardon has been given,
- (viii) anyone else's opinions about the individual, and
- (ix) the individual's personal views or opinions, except if they are about someone else;

22 of the 25 complaints were filed by individuals who claimed their privacy had been violated under the Act; 1 complaint was filed by one individual on behalf of a recently deceased individual; and 2 complaints were filed on behalf of corporations or businesses. Only “individuals,” i.e. natural persons, can have “personal information” under the Act. The personal information of recently deceased persons is protected under the Act. However, corporations cannot have personal information under the Act.

Because privacy complaints can only be filed by individuals, I must dismiss the 2 complaints filed on behalf of corporations or businesses (Trax File Nos.2388 and 2381). Further, I reviewed the reports and did not find in it the personal information of one complainant. (Trax File No.2396). I dismiss this complaint also. There are 22 complaints left to assess.

After reviewing the Report, I am satisfied that it contains the personal information of the remaining 22 Complainants. In each case, the name of a Complainant is linked to other identifiable information about that person, such as: place of residence, membership status, family status, marital status, personal view, employment history, details of business relations, assets held, and other persons’ opinions about the individual.

B. Was the disclosure of the Complainants’ personal information in the Report permitted by the Act?

During the investigation, I invited Aboriginal Affairs to provide me with its written arguments explaining how the disclosure was permitted under Part 2 of the Act. It declined to do so. Therefore, I am proceeding on the basis that the disclosure was for the purpose of promoting transparency in the Metis Settlement regime and serving the public interest.

Section 40 of the Act sets out when a public body may disclose personal information. The potentially applicable provisions are section 40(1)(b) and (c):

40(1) A public body may disclose personal information only

- ...
- (b) if the disclosure would not be an unreasonable invasion of a third party's personal privacy under [section 17](#),

(c) for the purpose for which the information was collected or compiled or for a use consistent with that purpose,

The applicable provisions of section 17 are the following:

17(1) The head of a public body must refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy.

...
(4) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if

...
(d) the personal information relates to employment...history,

...
(g) the personal information consists of the third party's name when
(i) it appears with other personal information about the third party, or
(ii) the disclosure of the name itself would reveal personal information about the third party,

or

(h) the personal information indicates the third party's racial or ethnic origin or religious or political beliefs or associations.

(5) In determining under subsections (1) and (4) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body must consider all the relevant circumstances, including whether

(a) the disclosure is desirable for the purpose of subjecting the activities of the Government of Alberta or a public body to public scrutiny,

...
(e) the third party will be exposed unfairly to financial or other harm,

...
(g) the personal information is likely to be inaccurate or unreliable,

(h) the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant

i.) Was the disclosure of the Complainants' personal information permitted under section 40(1)(c)?

The Report indicated that the purpose of the investigation was to determine if any irregular actions had been taken, or were being taken, by any member of the Settlement

Council, a staff member, or a person appointed by the Settlement Council or any of its entities.

As I noted earlier, the scope of the investigation was to assemble enough facts to determine if a further investigation should be recommended, and to determine if there should changes in policy. In other words, the investigation and resulting Report were intended for internal use. Because the Report was intended for internal use, the principal investigator provided information that was potentially unreliable, but was careful to flag the unreliability of some of the information in the Report. He headed the Report “Private and Confidential” and wrote in his preliminary comments:

Restrictions and Qualifications

8. This report has been prepared by us on your behalf. We understand that it will be used by you to make certain policy and other decisions with respect to the Settlement. This report contains personal information that may not be suitable for distribution in its entirety to members of the community. **We would suggest that you seek advice from your legal counsel respecting the public release of any portion of this report.**

9. This report is based solely on the documents, data and other information provided to us during the assignment. Except as expressly noted, we did not audit or otherwise verify with third parties any underlying data...

It is my opinion that the Complainants’ personal information was not collected for the purpose of public disclosure in a raw and unreliable state. As well, it is my opinion that the public disclosure of the Complainants’ personal information in that state was not consistent with the purpose for which the information was originally collected. Consequently, section 40(1)(c) does not apply to justify the disclosure of the Complainants’ personal information.

ii.) Was the disclosure of the Complainants’ personal information permitted under section 40(1)(b)?

Section 40(1)(b) permits the disclosure of personal information if the disclosure would not be an unreasonable invasion of a third party's personal privacy under section 17.

Because the names of each Complainant appeared linked to other personal information about that person, it is my opinion that section 17(4)(g)(i) applies to each Complaint. This gives rise to the presumption that disclosure of each Complainants’ personal information is an unreasonable invasion of that Complainant’s personal privacy. This presumption can only be overcome if all of the relevant circumstances are sufficiently strong and compelling to outweigh the privacy invasion.

After carefully considering all of the relevant circumstances, including those under section 17(5)(a), it is my opinion that, in each case, the disclosure of the personal

information from an interim report, intended for internal use by the public body, of each of the remaining 22 Complainants' constitutes an unreasonable invasion of that Complainant's personal privacy, and is not permitted under the Act. I further believe that section 17(g) and (h) were not given due consideration when the Complainants' names were released.

Summary and Recommendations

Summary:

Based on the above and the attached chronology of events, the Metis Settlements Transition Commissioner who was appointed under section 171 of the Metis Settlement Act by the public body violated part 2 of the FOIP Act when it disclosed the Report containing the personal information of the remaining 22 complainants

In the future I would advise any Commission or agency appointed by the public body to review in advance any report that is considered for public release to determine if there are any FOIP implications to its release. The review should be done in consultation with the public body, as the public body is ultimately responsible for the release of such records.

Recommendations:

The complaints filed with this office have provided the Public Body with an opportunity to review its practices and procedures.

These are my recommendations:

1. That the Public Body conduct an internal review of their file management system and advise the Commissioners office once the review is complete.
2. That the head of the Public Body or designate monitor records considered for public release from its appointed delegates and consultants to insure the release is compliant with the FOIP Act.
3. That all records management staff of the Public Body receive further FOIP training to ensure proper record management practices.

The Public Body is to put the above recommendations in process as soon as this report is issued.

The cooperation of representatives from the Public Body during this investigation was greatly appreciated.

Frank Borsato
Portfolio Officer

Chronology 1998 - 2002

A. 1998 File Review

April 3, 1998 "Appointment of Inspector"

Letter: Honourable D. Hancock to R. Hardy (2 pages) Appointing R. Hardy as inspector pursuant to section 171 of the *Metis Settlement Act* and directing him to provide "...monthly updates on the assessments of financial and administrative capacities of each Settlement and the General Council..."

The appointment document allows the inspector to inspect at his discretion any, or all, of:

- the eight Metis Settlements;
- the Metis Settlements General Council; and
- any entity that is directly or indirectly controlled by a Settlement council, the Metis Settlements General Council, or persons who are employees or officials of a Settlement or the Metis Settlements General Council.

The inspections must be confined to:

- the financial or administrative condition of the entity inspected; and
- matters connected with the management, administration or operation of the entity inspected.

April 9, 1998 "Update – Metis Settlements"

Memo: R. Hardy to Honourable D. Hancock (3 pages) Providing an update on i) Settlement Financial and Management Assessments – noting that Elizabeth and Paddle Prairie assessments have started and that Peavine and Buffalo Lake have been advised that their assessments will start soon (hopefully by months end).

September 9, 1998 "Key Issues and Recommendations – Peavine Review"

Letter from R. Hardy to Honourable D. Hancock (6 pages) Notes Coopers and Lybrand initial report dated June 15, 1998 which generated a request by R. Hardy to undertake follow-up investigations which has identified: "...poor financial management and gaps in the framework and implementation of bylaws, policies and resolutions, high level needs for improved internal controls...serious shortcomings in the area of responsible and

accountable leadership...will require strong action if credibility is to be preserved in the move towards local self-government in Peavine..."

Specifically, the consultant identified:

1. Failure to post council minutes and other documents (only 83 of 211 council meetings could be located) required under section 44 of the *Metis Settlements Act*,
2. Failure to provide access to all policies and resolutions approved by council – required under section 45 of the *Metis Settlements Act*,
3. Failure to provide Councilor's disclosure statements for the May 1998 election,
4. March 31, 1998 audit not completed – required under section 5 of the *Metis Settlements Act*,
5. \$80,000 in over spending on council expenses (1997/98),
6. Council remuneration well in excess of that paid on other Settlements or the largest of rural municipalities.
7. Questionable hotel, travel and mileage claims "...the appearance of deliberate deception..."
8. No collection bylaws for accounts receivable expenditures, and
9. No minutes for meeting held by the Settlement's two subsidiary corporations, Peavine Lumber Ltd. and Peavine Enterprises, for the fiscal year.

Concluding observations:

"...I find even greater cause for concern in the fact that, for an extended period of time, the position of administrator had been occupied by an individual _____ . This alliance has contributed to an unhealthy concentration of family power and abuse of privileges such as travel allowances..."

"...any one of a number of issues contained in the Peavine review could serve as adequate grounds for censuring the council..."

"...After our meeting with the involved Members...it is still my conviction that the situation in Peavine cannot be resolved if the existing councilors are allowed to retain their positions – regardless of whether or not a comptroller is appointed with full powers. Unless the current players are removed and cannot return to power for at least the three-year period stipulated in the Act, the role of comptroller will be undermined while the councilors "wait out" the tenure of the comptroller..."

September 10, 1998 "Actions I Have Decided to Take"

Letter: Honourable D. Hancock to Frank Gauchier Chairperson, Peavine Settlement Council (2 pages with 4 pages of attachments)

Concerns expressed by Minister to Chairperson, copy of report attached "...which will not be released publicly until you have had an opportunity to respond to it..."

"...report raised serious concerns...indicates that there are significant deficiencies in the administrative systems on the Settlement and in the overall management of the Settlement...I am particularly concerned...that the level of remuneration for councilors is not supported by the appropriate approvals..."

"...I have decided to exercise my authority under section 178 of the *Metis Settlements Act* and appoint a comptroller to supervise the affairs of the Settlement..."

"...A copy of my letter appointing Pricewaterhouse Coopers Inc. as comptroller is attached..."

"...I have also decided to appoint Mr. Robert J. Blanch, of Pricewaterhouse Coopers Inc. as an investigator pursuant to section 171 of the *Metis Settlements Act* to investigate further the Peavine Metis Settlement and all corporations, trust funds, development funds or other legal entities legally or beneficially owned by the Peavine Metis Settlement. A copy of this appointment is also attached..."

"...this investigation will look into the issues raised in the preliminary report and any other matters which may be discovered during the course of the investigation..."

"...also be advised that Randy Hardy, Commissioner, Metis Settlements Transition Commission has issued directives regarding the operation of the Settlement's accounts, pursuant to his authority under section 13 of the *Metis Settlements Accord Implementation Act*..."

report of the investigation to be completed in three weeks...once completed..."I will then be deciding what further action will be taken..."

"...I am deeply concerned by the results in the preliminary report..."

"...I remain firmly committed to the principle...that Settlements manage their own affairs and that Settlement Councils have an obligation to manage Settlement affairs in an open and accountable manner..."

Attachment "A"

- September 10, 1998 – Letter: Honourable D. Hancock to Alan Martin (Pricewaterhouse Coopers) appointing Pricewaterhouse Coopers as Peavine Metis Settlement comptroller effective immediately.

Attachment "B"

- September 10, 1998 – Appointment Of Investigator document appointing Robert J. Blanch of Pricewaterhouse Coopers Inc. as investigator.

Attachment "C"

- September 10, 1998 – open letter – Honourable D. Hancock to all financial institutions re: any/all Peavine Accounts.

Attachment "D"

- Excerpt of section 175, *Metis Settlements Act*.

October 15, 1998 "Draft Peavine Metis Settlement Review" Excerpt

Letter with draft report: Ed Ryan, Pricewaterhouse Coopers to Honourable D. Hancock, cc'd: Pieter de Vos(representative for the Metis settlement Transition Commission), Cameron Henry (Intergovernmental and Aboriginal Affairs).

Identifies numerous activities undertaken, findings and suggested/recommended courses of action...this file is incomplete as it does not contain the referenced Peavine Metis Settlement Council "Action Plan."

October 26, 1998 "Peavine Council Requests for Additional Time"

Letter from Frank Gauchier, Chairman to Honourable D. Hancock, cc'd members of Peavine Council.

"...requesting more time to complete the investigation...we have additional information, which will help make the picture more complete..."

"...We would also like to request that our council members be provided with a copy of the draft to the final report before it is presented to you. As we would like to ensure that our council's position is well represented in the final report to you before you make your decision..."

October 22, 1998 "Draft - for Discussion – Peavine Settlement Findings" (17-page report/letter)

Letter/report – Ed Ryan to Pieter de Vos. Summary report containing a detailed description of Comptroller/Investigator Appointment related activities.

"...The staff were understandably curious to the circumstances which preceeded our comptrollership..."

RE: Council Compensation

"...We sought advice from our legal counsel about changing the remuneration structure of Council – we were advised by legal counsel that Council was being paid under the rules and regulations of the day (on or about March 11/98)...any changes in that remuneration structure could not be effected pursuant to our appointments..."

"...We found certain members of Council to be defensive of their compensation package while some Councilors were silent on this issue..."

"...It was also argued that their remuneration may be more than Councilors at other Settlements but they were worth it..."

"In our opinion, they did not provide a satisfactory explanation and did not offer to vary their allowances..."

RE: Gravel Pit

"...in late August 1998, on behalf of the Settlement, the Chairman of the Council entered into a \$377,000 contract to have a third party crush 150,000 tonnes of gravel on the Settlement...the contract was signed without budgeted funds being in place to pay the third party and with no end user customer identified...There was no budget by-law amendment prepared. The Chairman advised us that he thought there was some record of

discussion regarding the gravel in Council minutes...we were unable to locate these particular minutes..."

"...the gravel pit was licensed pursuant to the provisions of the *Environmental Protection and Enhancement Act* approximately three years ago..."

"...on November 2, 1998 a public meeting was held...to seek the approval of the establishment of a gravel business for the Settlement...The community members present at the meeting disagreed with selling Settlement gravel and reinvesting profits into the community...There was a consensus among community members who attended the meeting that gravel be kept for use by the Settlement for local roads, and for members of the community for personal use at no expense. This was a motion from the floor of a public meeting and we understand there is no legal obligation for Council to abide by this motion..."

RE: Volvo Loader

"...in February 1998, Peavine Enterprises Ltd. entered into a rental purchase agreement on a... Wheel Loader...valued at \$219,800 with rental payments of \$7,500 per month..."

on August 27, 1998, the President of Enterprises struck a verbal agreement...to purchase the loader for \$187,536...the vendor was to supply financing at prime plus 2%"

"...A public meeting was held on November 2, 1998 and members of the community endorsed the purchase of the loader..."

RE: Loans to Community Members

"...during a three-week period in July 1998, Enterprises loaned a total of \$145,000 to nine members of the community...We found no evidence of a risk analysis performed on these loans, nor found any evidence that security was registered against any equipment..."

"...our analysis also showed that advances and invoices...and payment of \$57,156 for a weigh scale for the sawmill which had apparently never been used..."

RE: Idle Assets

"...a new weigh scale which to this date has not been used ...\$57,156."

"...approximately \$30,000 worth of logs..."

"...inventory of cut lumber at the mill...to be worth in the neighborhood of \$110,000..."

"...a quantity of logs in the bush...insured at present for \$166,000...cut during the winter of 1995/96 and have been sitting since that time...their value has diminished substantially and they may in fact be worth nothing at this point..."

"...an older D6 Cat which has been sitting idle at the sawmill for at least two years..."

RE: Concerns Raised by Community Members and Others

"...we made ourselves available to members of the community in order to identify issues which may need to be addressed..."

"...Some issues were able to be resolved as being unfounded or so sketchy that investigation would be futile..."

Following is a list of several issues:

1. Cat purchase without budget approval;
2. That a _____ stole \$150,000 in cash, lumber and two new trucks (unfounded);
3. That the former _____ traveled to Edmonton on numerous occasions in the same vehicle and both claimed mileage expenses (this allegation was accurate);
4. That Administrative staff failed to deduct outstanding accounts receivable from relative's pay cheques while routinely deducting others (appropriate procedures appear to be in place);
5. Free access for some to the Settlement Cat (not accurate);
6. Gravel sold to unknown parties without funds forwarded to the Settlement (insufficient evidence);
7. 67 lifts of lumber shipped to Barrhead with no funds to Peavine (insufficient evidence);
8. Sawdust sold with no funds to Peavine (insufficient evidence);
9. Inappropriate performance by Environmental Monitors (brought to the attention of the Enterprises Board);
10. Sale of access rights and allocation of proceeds to offset community building construction costs (proper actions);
11. Unauthorized sale of Settlement lumber (insufficient evidence); and
12. Inappropriate expense account submissions (Council made aware of section 25(1) of the *Metis Settlements Act* and section 123 of the Criminal Code).

"...on October 7, 1998, Council asked us to recommend a two-week extension to the Minister to enable them to review our preliminary report in more detail...We responded that we...would be proceeding on the basis that they had already had our report in their possession for a full month and that an extension would not be anticipated..."

"...If the action plan is fully implemented, we feel that the Settlement could operate in a reasonably efficient manner. History, however, has shown that the Council of the day has at times chosen to adopt the position that rules, regulations, guidelines and other plans do not necessarily apply to them, unless they are placed in a position where they have no alternative but to comply..."

"...we do not believe Council has shown that they acknowledge the seriousness of the investigation and comptrollership process underway...the issues in this report, when viewed individually, may not warrant strong action,...however, when taken collectively

and successively over the past eight weeks, the issues cause us considerable concern that the current Council is not willing to acknowledge the need for the accountability processes as outlined in the Act, nor can they be relied upon to obtain and listen to outside advice on business decisions when arranged..."

"...Council have taken action without our knowledge and we have had to curtail their activities in order to minimize possible exposure for the Settlement...We have not witnessed a demonstration of the strength in leadership necessary for continued governance of this community..."

(p. 17) two options identified

- i) 176(1)(a) and dismiss the settlement council; and
- ii) continued operation pursuant to Ministerial Order either under the continued administration of a comptroller or a Commission appointed monitor.

* "...In our opinion, there is ample justification to dismiss the Council based on their actions as detailed in this report..."

November 10, 1998 "Peavine Settlement – Comptroller and Investigator Appointments"

Letter from Ed Ryan to Randy Hardy with 17-page report which is identical to that referenced above except for:

- date change;
- recipient change (Pieter de Vos now Randy Hardy); and
- no longer a draft for discussion!

October ,1998 "Peavine Financial Management Review Report: Corrective Action Plan" – prepared by Pricewaterhouse Coopers

14-page report in landscape format identifying: a) Issues (218), b) Recommendation/Action items (178), and c) a Notes column which indicated whether the Issue was level 1 – operating outside the law – must be corrected immediately (56) or level 2 – serious deficiency – to be addressed as soon as possible (121).

October 27, 1998 "Peavine Financial Management Review Report Recommended Corrective Action Plan" (updated to incorporate final findings: Oct 27/98)

20-page report in landscape format identifying: a) all of the above noted material with additional information updates.

December 9, 1998 "Peavine Metis Settlement: Final Report of the Comptroller and Recommendations" Attachment

Letter (4 pages) with 6 attached Appendices (missing) from R. Hardy to Honourable D. Hancock.

Highlighted appointments, activities and reports provided to date

Noted that "...Pricewaterhouse Coopers is unequivocal in their recommendation that the members of the Settlement Council be dismissed..."

"...that the Council...is not willing to acknowledge the need for accountability processes outlined in the Act..."

Noted that "...My own view is that, in all its phases, the Peavine review has identified serious shortcomings in the area of responsible and accountable leadership...I have since met with the Peavine Council and with individual councilors on a number of occasions and have had my view reinforced...The councilors simply do not accept, let alone acknowledge, that any of their actions were wrong and they have treated the presence of the comptroller as a mere inconvenience..."

"...Having said that, however, I no longer believe that it would be in the long-term best interest of this Settlement (and perhaps other Settlements) for the Councilors to be dismissed at this stage..."

"...What I would recommend is the following:

- "...revokes the appointment of Pricewaterhouse Coopers Inc. as comptroller..."
- "...reinstate the authority of the Peavine Council to govern – subject to directions issued both in the form of a Ministerial Order and as a set of Commissioner's Directives..."
- "...that...the directives address Councilor compensation, the corrective action plan, monitoring of Settlement activities, budget process and verification of expenditures..."
- "...That the Peavine Council be informed that failure to adhere...may result in a decision to dismiss the council or individual Councilors..."
- "...That the directives stay in place until the Minister and the Commissioner are satisfied that they are no longer required..."
- "...That, in accordance with section 235 of the *Metis Settlements Act*, the Minister delegates to the Commissioner the powers and duties of the Minister under section 176 in respect to the Peavine Metis Settlement – in so far as these powers relate to action to be taken for violation of the Minister's Directives..."
- "...That the Ministerial Order clearly spells out that all transactions made by the Settlement and by any Settlement owned corporations shall be handled strictly in accordance with the requirements of the Act – so as to remove any ambiguity or alleged confusion regarding the applicability of the Act..."

"...The issues involved here, and the action we take, are important and will have lasting impact on the Settlements."

B. 1999 File Review

February 24, 1999 "Course of Action...with Attached Ministerial Order"

Letter: Honourable D. Hancock to R. Hardy cc'd to Ken Noskey (MSGC), Peavine Settlement Council, with Ministerial Order (dated February 24, 1999) attachment.

- "...I have decided not to dismiss the Settlement Council, at this time...I want to establish...strict guidelines in the form of directives to the Council..."
- "Please prepare and implement, in accordance with Section 13 of the *Metis Settlements Accord Implementation Act*, specific directives to supplement my direction contained in the enclosed Ministerial Order..."
- "...I will expect the Transition Commission to closely monitor adherence to the directives...please provide me with regular reports on the Council's adherence..."
- Ministerial Order dated February 24, 1999 states that

"...I find that the affairs of the Peavine Metis Settlement are presently being managed in a irregular, improper and improvident manner..."

"...I hereby direct, pursuant to Section 176 of the *Metis Settlements Act*: The Settlement Council of the Peavine Metis Settlement must...

1. ...take all steps...to ensure the business affairs...are carried out in accordance with the provisions of the *Metis Settlement Act*...
2. ...take all steps necessary to ensure that the affairs of all the corporations, societies, trust funds and other entities...are operated in accordance with generally accepted accounting principles...only engage in activities...that have been validly disclosed to and approved in advance by resolution of the Peavine Settlement Council...
3. ...follow the directives of the Metis Settlement Commissioner concerning...limits to compensation...developing and following a Corrective Action Plan...providing and cooperating with a Monitor appointed by and reporting to the Commissioner, and...following processes for budgeting for, justifying and verifying all substantial non-routine expenditures..."

February 24, 1999 "PWC Review Report: Final Document"

Letter from Randy Hardy to Melvin Gauchier, Councilor, Peavine Metis Settlement
cc'd: Honourable D. Hancock, Cliff Supernault, Cameron Henry

"acknowledging the Metis Settlements Transition Commission (MSTC) oversight in not having provided the final version of the Pricewaterhouse Coopers (PWC) report to the Peavine Metis Settlement Council...apologizing for the oversight and enclosing "...a copy for each Councilor and the administrator..."

"...I strongly recommend that Council make the necessary arrangements to review this document and your intended action plan with your members at a public meeting..."

"If you would like me or another representative of the Commission to attend the meeting, I would be happy to arrange for it..."

March 3, 1999 "Final Report – Assessment of Peavine Metis Settlement Review"

Letter from Darlene Carifelle, Vice-Chairperson, Peavine Metis Settlement to Randy Hardy cc'd: Honourable D. Hancock, Honourable P. Calahasen, Ed Ryan (PWC)

Two-page letter with six page attachment

Letter raises concerns over the actual completion date of the report i.e., Nov. 18, 1998, Nov. 24, 1998, Feb. 17, 1999 (?) as various dates are contained within the report/transmittal correspondence

Concerns also expressed over the response deadline of March 31, 1999 given that "...the report was only received on February 26, 1999, therefore an earlier response was not possible..."

Noted that the Settlement's response to the final report would be forwarded to R. Hardy, Honourable D. Hancock, Honourable P. Calahasen and Pricewaterhouse Coopers.

The six-page attachment identified the following concerns of "...The Members and Staff and Council of the Peavine Metis Settlement..."

"...that the Peavine Council's response to the initial drafts which was tabled with the Transition Commission on January 28th were not included within the Final Report...the Settlement had attempted to address many of the initial issues by tabling its updated business plan and action plan on January 28th and yet none of the proposals set out therein were incorporated within the Final Report..."

"...an identification of the problems and weaknesses...would lead the outside observer to a conclusion that there are no positive elements to the governance at Peavine...the terms of reference which we understand were given to Pricewaterhouse Coopers contemplated consultation with a number of parties including outside consultants...We do not believe that this occurred..."

"...By-Laws being passed by Council when in fact By-Laws are passed by the community...It is not within the purview of Pricewaterhouse Coopers to determine what is the appropriate will of the community..."

"...considerable focus is placed upon the remuneration of the Councilors... misleading information which is subsequently rectified later in the Report...the Report states that remuneration should be based on entities with similar degree of oil/gas activity/natural resource activity and they make reference to the Town of High Prairie...other Aboriginal communities with similar degree of activity would have been a more objective benchmark...remuneration of the Councilors is a matter of public record as evidenced in the budget bylaw which is prepared for, and ratified by, the members of the community..."

"...substantial time and effort was expended in order to seemingly attribute the same legal responsibilities of subsidiary corporations as the Settlement is responsible for under the *Metis Settlements Act*. This is legally an error...financial accountability is dealt with through the Business Activities Policy and the Budget By-Law. The accountability of the Corporation to the Shareholders is clearly governed by the *Alberta Business Corporations Act*..."

"...the responsibilities that are placed upon the Council in respect to Section 44(2)...of the *Metis Settlements Act*...This lack of understanding leads the reader to believe that the Council is unwilling to post the Minutes when in fact that is simply not the case...Council does post the Minutes and the authors of the report were aware of this..."

"...numerous examples...wherein problems are related to the reader and then the Report goes on to note that the action plan or business plan has dealt with it..."

"...numerous examples that refer to things happening as if they were happening at the time that the Report was prepared...it is confusing to the reader as to whether or not these were matters which were occurring in March of 1998 and not having been rectified by February of 1999...at best, confusing..."

"...the Report also states that it is "unclear how Council has evaluated oil and gas opportunities..." notice was made to Pricewaterhouse Coopers through meetings with Mr. Ed Ryan in January of 1999 that Sproule Associates would be retained...to make necessary objective analysis...This proactive activity on the part of Council was not recognized in the Final Report..."

"...the Peavine Council does not believe that the contents of the report should be made public where individual members have been referred to and if it is, then Council will take the position that the Metis Settlements Transition Commission will bear the responsibility for any legal action which may be taken..."

March 5, 1999 "Peavine Metis Settlement: Commissioner's Directive for Effective Self-Governance"

Two-page letter from Randy Hardy to Frank Gauchier, Chairperson, Peavine Metis Settlement with four-page attachment titled "Commissioner's Directive" signed by Randy Hardy and dated March 5, 1999.

Entire package copied to the Acting Administrator.

"...further to the Ministerial Order issued on February 24, 1999...I am providing you with the enclosed Commissioner's Directive..."

"...I will be meeting with your Council at 1:00 p.m. on Tuesday, March 9, 1999 to review the Commissioner's Directive in detail and answer any questions you may have..."

"...Much has been said about the Financial Management Review...Fact of the matter is that the report identified a number of serious problems and...I think that the time has come to settle down, end the attempts to deflect attention from the real issues, and get on with the job of correcting what needs to be corrected..."

"...I still believe...that your Council has the best interest of your members at heart and it is in that spirit that I intend to pursue the steps we are taking here to set straight whatever needs to be corrected..."

"...success or otherwise will depend entirely upon your Council and administration..."

The four-page Commissioner's Directive contained 58 Specific items relating to subject areas such as:

1. Councilor Compensation – 18 items
2. Expenses Payable to Councilors – 3 items
3. Corrective Action Plan – 10 items
4. Monitoring Settlement Activities – 6 items

5. Qualified Administrator – 3 items
6. Budget Process/Verification of Settlement Expenditures – 18 items

March 29, 1999 "Action Plan Update"

One-page covering letter from Darlene Carifelle to Randy Hardy with six-page Action Plan attachment.

The Action Plan Update identified 42 activities undertaken and/or underway to address the 95 actions recommended in 23 issue areas by Pricewaterhouse Coopers. In 3 issues areas (Meeting Minutes, Monthly Financial Reporting and the Gravel Pit Operations) the Council response either questioned the Pricewaterhouse Coopers suggested action or provided no activity/response.

April 6, 1999 "Rescheduling of April 12, 1999 General Meeting"

Two-page letter from Darlene Carifell, Vice-Chairperson, Peavine Metis Settlement to Randy Hardy, cc'd to Honourable D. Hancock and Gerry Peardon (Peavine Metis Settlement Monitor).

Advising of the need to postpone the previously scheduled April 12, 1999 meeting and reschedule "...it to April 26, 27 but not later than May 3..."

"...We wish to present the Pricewaterhouse Coopers Report and the Settlement Council Assessment together to our members...we previously felt that there would be ample time to develop an assessment by April 12, 1999. However, we did not take the huge time commitment of the annual budget process and other Settlement priorities into consideration..."

April 7, 1999 "Rescheduling of April 12, 1999 General Meeting"

One-page letter from R. Hardy to Darlene Carifelle cc'd: Honourable D. Hancock, Gerry Peardon (Metis Settlement Transition Commission)

Acknowledging April 6, 1999 letter regarding the rescheduling of the April 12 General Meeting and advising that "...April 27, 1999 is the only date both parties (Pricewaterhouse Coopers and Metis Settlements Transition Commission) will be available..."

"...I strongly urge you to schedule the meeting for this date. If so, please ensure that adequate public notice is given to the Settlement members as soon as possible..."

"...I will confirm the details when I meet with you on Monday, April 12, 1999.

April 8, 1999 "Peavine Metis Settlement: Amended Commissioner's Directive"

Two-page letter from R. Hardy to Darlene Carifelle, Acting Chairperson, Peavine Metis Settlement, cc'd to Sherry Cunningham, Acting Administrator, Peavine Metis Settlement.

Letter noted two recent meetings by the Commissioner "...with Council and various members of the community..."

"...one of the items that gave rise to the action taken...concerned the very high compensation and travel allowances claimed by members of your Council in the course of their duties as elected representatives...I indicated as far back as November 1998 that the level of compensation and expenses approved by members in the budget would be acceptable provided such approval was based on full disclosure...if the Peavine membership gave its informed consent, I would not stand in the way of a local majority decision at a properly constituted budget bylaw approval meeting..."

"...On March 29, 1999, I attended a Budget Committee meeting, followed by a General Meeting set for approval of the 1999-2000 settlement budget. At both those meetings, compensation and expense levels for Councilors were discussed in detail and I am satisfied that members were fully informed on the issue when they cast their votes...The final vote for budget approval was 28 for and 21 against..."

"...Although I do not agree with the levels of compensation and expense allowance, it would be inappropriate for me to disregard the expressed wishes of the Peavine membership...I am therefore prepared to amend the Commissioner's Directive issued on March 1, 1999..."

"...In doing so, I want to express my personal opposition to the level of compensation paid for a public service..."

"...The Settlement may face some resistance from the government, the municipal district and perhaps, even industry, in any future efforts to get funding for programming and special projects. The impression being created, unfortunately, is that the Peavine Metis Settlement has no shortage of money..."

May 11, 1999 "Peavine Metis Settlement Business and Corrective Plans"

Two-page letter from Honourable D. Hancock to Randy Hardy

"...I am pleased to hear that the situation on the Settlement is slowly improving...As I indicated at our April 27th meeting...I was very concerned that the Peavine budget by-law provided for a level of Councilor remuneration and expenses exceeding that established in your directive...the Council continues to have difficulties accepting the review process and its results. I would appreciate receiving your views on the Settlements assessment of the review and what can be done to help Council understand the importance of responding to the conclusions. Please continue to closely monitor the situation on Peavine and provide me with regular updates...I will be interested in hearing the results of the public meeting...to review the assessments. "

July 9, 1999 "Corrective Action Plan – June 1999"

One-page letter with ten-page attachment from Sherry Cunningham, Acting Administrator to Randy Hardy (fax sheet dated July 12, 1999) - cc'd: Gerry Peardon, Monitor.

Largely a repeat of the March 1999 version with changes noted as follows:

- i) Business Plan - coordinator hired on January 4, 1999
vacated position on

- March 31/99
- ii) Organization - position offered on an interim basis to a member.
- administrator hired November 4/98, position reposted April 2/99, new candidate to resume position on July 5/99.
 - iii) 14/99, By-Laws - contributors by-law to be presented to the public on April however, the meeting was cancelled due to low attendance.
 - iv) 21/99 Housing - committee established, applications reviewed, on June Council passed a motion to accept the Committee's recommendation on housing applicants.
 - v) Cash Flow - interviews held on June 28th to fill Money Manager position
 - vi) Financial Results - Workshop held on April 23/99 on reading and understanding reports
 - vii) Fixed Assets - Public Works Coordinator hired.

August 31, 1999 "Monitor of Commissioner's Directives"

One-page letter with one-page attachment from R. Hardy to Chairperson and Councilors – Peavine Metis Settlement Council cc'd: Gerry Peardon, Honourable Pearl Calahasen, Honourable Shirley McClellan, Ron Hicks(Deputy Minister)

"...purpose of this letter is to clarify any possible misunderstanding...with the status of the monitor put in place to report to me as Commissioner...on March 5, 1999..."

"...For the time being, the Directive remains in force. Gerry Peardon, who had originally been appointed as Monitor, is now acting as administrator for the Peavine Metis Settlement and will, in addition to his administrative duties, remain the assigned Monitor...he will continue to report to me on implementation..."

Attachments (Appendix A) was titled "Proposed Memorandum of Agreement between Peavine Metis Settlement and Gerry Peardon" which contained clauses relating to the Contractors responsibility to train Settlement staff in administration duties, various termination conditions.

of specific note "...The Settlement may not terminate this Agreement prior to July 31, 2000, without first obtaining the prior written agreement of the Commissioner of the Metis Settlements Transition Commission..."

September 24, 1999 "Peavine Metis Settlement: Monitoring and Administrative Report – September 7, 1999 to September 24, 1999"

Two-page document signed by Gerry Peardon but not addressed to anyone in particular

Issues identified within this document are significant:

"...This report covers a period during which a legal challenge to the Peavine Settlement Election (May '99) continued to disrupt the work of the Council. The court imposed a voting restriction on _____ and _____ pending a determination of the election challenge has created a situation on Council that requires the other three Councilors to agree on every motion, even an agreement on each Agenda is somewhat difficult..."

"...New housing land created a need for land decisions which caused some problems, but were overcome by selections of land that could be dealt with..."

"...Oil and Gas participation decisions are being made but there is the potential for this to run into difficulty as well..."

"...The Indian Registry search Council Resolution prevents Administration from assisting some members who decline to sign the necessary search letter of authorization... The same holds true for members wishing to be employed or have contract work with Enterprises..."

"...Inability to agree to issue "logging permits" has created a loss of work for some members... Oil field petroleum products trucking assignments have also been somewhat restricted..."

"...Legal expenses are escalating due to the complex nature of the election challenge. The membership are not likely fully informed. Legal Counsel is hard pressed to have strategy meetings with all of Council because of differences on Council and between family groups. This is further frustrated by the fact that new legal actions are being launched against each entity, each board, Settlement Council and individual members of Council..."

"...To further frustrate the matter the "Appeal" of the voting restriction order while it may appear successful in restoring the right to vote to ___ and ___, in practice it has set up the situation that restricts _____ and ___ from being involved in any way in discussions or voting concerning a specified list of members (specific members are those whose membership has been questioned). Two Council members cannot decide alone and three members cannot discuss or vote on any subject pertaining to this list of members..."

"...the processes underway at present represent a very real threat to long-term compatibility..."

October 6, 1999 "Peavine Council and Commissioner's Directives"

One-page letter from Honourable P. Calahasen (Associate Minister) to Randy Hardy cc'd: Honourable S. McClellan (Minister of International and Intergovernmental Relations)

Letter references R. Hardy's August 31, 1999 letter to the Peavine Chairperson and Councilors regarding the Commissioner's Directives.

"...I agree that the directives and the monitoring should remain in force until there is an appropriate level of stability on Council and within the Community..."

"...It is important that clear benchmarks be established to determine when the directives, in whole or part, can be lifted... Please continue working with the Settlement Council and administration to support the necessary actions to remove the directives as soon as possible..."

October 6, 1999 "Councilor Compensation and Expenses"

One-page letter from Terry Gauchier, Chairman, Peavine Metis Settlement to Randy Hardy

Referenced R. Hardy's letter of April 8, 1999 to Honourable D. Hancock within which

"...you indicated that you were prepared to amend the Commissioner's Directive of March 1, 1999...Amend, meaning to remove the limits for Councilor compensation and expenses. This would allow the Council to proceed in accordance to the approved budget limit items of \$62,000 for compensation and \$30,000 for expenses for the fiscal year of 1999-2000..."

"...As of this date we have not received the notice of amendments. Can you please forward a copy of the amendment to the Peavine Settlement office, in order for us to make the necessary adjustments before we exhaust the allowable limits placed by the directive..."

October 12, 1999 "Peavine Metis Settlement: Amended Commissioner's Directive"

Two-page letter with four-page attachment

Letter from Randy Hardy to Terry Gauchier, cc'd to Honourable Shirley McClellan, Honourable Pearl Calahasen. R. Hicks, Dennis Cunningham, all Councilors - Peavine Metis Settlement

"...I refer to your letter of October 6, 1999 in which you request an amendment to the Commissioner's Directive issued on March 5, 1999..."

"...A copy of the Amended Commissioner's Directive, signed today is enclosed..."
(note: dated October 12, 1999)

"...As you know, it has been my position all along...if the Peavine membership gave its informed consent, I would not stand in the way of a local majority decision at a properly constituted budget bylaw approval meeting..."

"On March 29, 1999 I attended a Budget Committee meeting, followed by a General Meeting...At both those meetings, compensation and expense levels for Councilors were discussed in detail and I am satisfied that members were fully informed on the issue when they cast their votes...The final amounts budgeted per Councilor for compensation and expenses...amounts to \$62,000.00 and \$30,000.00, respectively. The final vote for budget approval was 28 for and 21 against..."

"...Although I do not agree with the levels of compensation and expense allowance, it would be inappropriate for me to disregard the expressed wishes of the Peavine membership..."

"...It is for this reason, only, that I am prepared ...to remove the \$50,000 limit on Councilor compensation and the \$15,000 limit on Councilor expenses..."

"...In doing so I want to express, once again, my personal opposition to the level of compensation paid for a public service. Councilors and community members should be aware that this issue has raised questions...from the government, the municipal district,

and perhaps even industry, in any future efforts to get funding for programming and special projects..."

"...The impression being created, unfortunately, is that the Peavine Metis Settlement has no shortage of money..."

"...I would appreciate it if you would arrange to have this letter brought to the attention of the general membership by posting it on a public place and by giving it wide local circulation..."

October 12, 1999 "Peavine Local Government Issues Report"

Faxed package consisting of:

- Two-page letter from _____ to Randy Hardy, no cc's,
- Nine-page "Local Government Issues Report," and
- mental Report on Peavine Staffing."

Two-page letter:

"...enclosed herewith is a report on my experience with Peavine Metis Settlement...some current issues that will have an impact on the day to day operations of the Settlement over the next several months..."

"...Settlement Election Challenge...due to the nature of the deep division between certain groups in the Membership this challenge...may result in a lengthy and expensive legal process...The Membership have not been informed nor consulted on the implications of the legal challenge underway. A legal challenge has to be conducted with a certain amount of confidentiality and this complicates the process of informing, consulting and seeking direction from the Membership at large..."

"...Divisions in Council...the election challenge also has a legal and functional affect on Council decision-making ability...In addition long standing disagreements are effecting the ability for Council to give careful consideration on most issues coming before this body..."

"...Settlement Owned Entities...The division on Council and the structure of the Boards of the Settlement owned entities (Peavine Enterprises and Peavine (sawmill) Lumber) along with a lack of dedicated management leaves these two entities in a vulnerable situation...exposed to financial and legal risk..."

"...Conduct of Legal Actions...The Settlement has launched (in addition to the Election Challenge) a number of legal actions that need careful attention to detail and certainly to the strategy behind the actions...These actions are detailed and time consuming...and impact on the time available for other matters..."

"...Budget Amendment...will be needed to provide funds for the actions...as well as for an important Oil and Gas field development issue...The division on Council and the legal barriers...may cause delays in obtaining the necessary authorities for these purposes..."

"...the number and complexity of issues straining that ability and placing stress on everyone is making the job very difficult..."

Nine-page report "Local Government Issues Report"

Issues:

"...The peaceful and organized Governance of Peavine Metis Settlement is hampered by long-standing differences between some major family groupings within the Membership. The competition for influence over Settlement affairs and resources creates an atmosphere of distrust and prevents fair and equitable decision-making. Members outside of these major groups may not be included in the debate due to lack of voting power...The challenge is to identify the major differences, ensure that no groups are left out in the debate process and identify solutions that everyone can live with..."

"...The structure of some policies (medical travel) makes them difficult to apply in a fair and equitable way..."

"...Voting by show of hands at public meetings creates an opportunity for certain forces within the membership to intimidate others who are less vocal or self-confident in a public forum..."

"...Council involved in the role of Administration tends to cause confusion with operating Staff and Membership. Individual Council member reporting to avoid cost of all Council attending all meetings together..."

"...The size, shape and description of the Peavine Metis Settlement dictates that individual Members cannot rely upon the Settlement to provide jobs for everyone, self-reliance in necessary..."

"...The financial budgets of the Settlement are presently developed on a yearly basis. It would be desirable to have a three or five year rolling financial plan to ensure that resources are available to take care of future needs...A more detailed and longer view of the annual local government budget will also help to identify the needs for the senior governments contributions..."

December 14, 1999 "Peavine Metis Settlement: Breach of Commissioner's Directive"

One-page memo from R. Hardy to Honourable P. Calahasen, cc;d Honourable S. McClellan and R. Hicks

Memo summarizing activities underway in response to the situation where "...it is clear that at least some of the Councilors have breached the Directive...I am presently examining a number of options and obtaining legal advice..."

"...What is quite clear, is that the breaching of the Directive cannot be condoned and that something has to be done. My main interest is in ensuring that any action taken should move us closer to a solution and avoid, to the extent possible, further damage..."

"...We are proceeding with caution, but as quickly as possible and I will keep you informed..."

C. 2000 File Review

January 12, 2000 "Peavine Metis Settlement: Status Report"

Memo: Randy Hardy to Honourable Pearl Calahasen cc: Honourable Shirley McClellan, Ron Hicks (Deputy Minister, IIR)

Referencing "Hatfield and McCoy" situation between families but noting evidence of attempts at bridge building between the parties on council.

New administrator, Dennis Cunningham, settling in well, and it appears that administrative improvements appear evident.

Budget amendments approved by 70% of the 120 members in attendance at the December 13, 1999 council meeting.

1 conflict of interest situation resolved when Councilors, who are also company directors, paid back rebates received from Peavine Lumber on supplies purchased from the mill.

1 breach of the Commissioner's Directive had occurred and was addressed (Council to seek Commissioner's approval from non-routine purchases exceeding \$20,000). On November 22, 1999 a truck was purchased for \$40,039 for use by the Peavine Enterprises foreman. The truck was returned without any penalty, and all lessons were learned.

February 1, 2000 Letter

Letter from Honourable Pearl Calahasen to Terry Gauchier cc: Honourable Shirley McClellan, all Peavine councilors, R. Hardy

Letter summarizes discussions of January 18, 2000 meeting concerning the "lifting of the Commissioner's directives."

Minister identified four commitments which would need to be endorsed within a council resolution prior to proposing to the Metis Settlements Transition Commission Commissioner that the directives be lifted.

February 17, 2000 "Peavine Metis Settlement Directives"

Memo from R. Hardy to Honourable Pearl Calahasen cc: Honourable Shirley McClellan, Ron Hicks

Noted a few incidents which have occurred at Peavine, specifically:

February 7, 2000 motion of the Peavine Enterprises Board to formalize the employment status of four employees. Since one of the employees is directly related to two Board Members, "...this hiring contravenes the Corporation's 1993 bylaw that forbids a Director voting for family members..."

"...the engaging of equipment owned by the brother of one Director who is also the uncle of another Director..." in defense, it was noted that the request originated from an oil company that specifically asked for equipment that is only available from this one individual.

"...an Environmental Monitor employee was awarded a contract for his equipment..." (not tendered or made publicly known).

Peavine office functions to be curtailed due to Council discovering "...some wrongdoing by a staff member..."

Noting that the MSTC Commissioner would be meeting with all five Councilors on February 22, 2000 "...to review the checks and balances on their authority that will remain in place after the Directives are lifted..." and "...that Council addressed hiring and contracting in a bylaw as per the verbal agreement made at the meeting...on January 18th."

February 17, 2000 "Meeting with Peavine Council to discuss the Directives"

Letter from R. Hardy to Terry Gauchier

Confirming a meeting for 1:30 pm, February 22, 2000 among Peavine Council members and the MSTC Commissioner to discuss "the lifting of the Directives imposed under section 13 of the *Metis Settlements Accord Implementation Act...*"

Also noting "...my sincere hope that all five Councilors can be in attendance...", that "...the Peavine office functions will be curtailed...so that an internal investigation can be done on suspicions of wrongdoing by persons unknown..." and "...perhaps we could meet in the community hall..."

February 17, 2000 "Peavine Metis Settlement – Revoking the Commissioner's Directives"

Letter: R. Hardy to Terry Gauchier – cc'd: Honourable Shirley McClellan, Honourable Pearl Calahasen, Ron Hicks, K. Noskey (Metis Settlement General Counsel), D.Cunningham (Administrator), 4 Councilors.

Letter summarizing the history of the original (March 1999) and amended (October 1999) Commissioner's Directives.

Noted the number of meetings held to discuss and correct various problems (Dec. 7/99, Jan. 18/00) re: cost benefit analysis for substantial expenditures and the practice of securing quotes, bids, second opinions, etc.

Peavine Councilors agreed (3) to a formal resolution on February 3, 2000

Allegations of unfair hiring and contracting surfaced again in Peavine, and Peavine Metis

Settlement agreed to enact a hiring and contracting bylaw "...that would make the process transparent and fair..."

Commissioner's Directive for the Peavine Metis Settlement, as amended and dated October 12, 1999 revoked as of February 22, 2000.

February 22, 2000 "Peavine Metis Settlement Council Resolutions"

Peavine Metis Settlement Council Resolution dated February 22, 2000 "...hereby, resolve to develop and implement an Employment By-Law which will ensure that all hiring on the Settlement is carried out in a fair and equitable manner...to have this By-Law ready for ratification by the membership within 3 months of this date..."

February 24, 2000 "Peavine Metis Settlement – Revocation of Commissioners Directives"

Memo from Sam Hall to C. Dillman (E.A. to Associate Minister of Aboriginal Affairs) – cc: Honourable P. Calahasen, R. Hardy, R. Hicks
Memo summarizing the February 22, 2000 meeting of R. Hardy, the writer and all Peavine Metis Settlement Councilors.

Commissioner provided with a copy of a February 7, 2000 resolution from the Peavine Enterprises Board, that "...established an arms length hiring subcommittee (3 individuals)..."

The Commissioner requested that the Peavine Metis Settlement Council approve a resolution with regard to enacting a hiring bylaw which 4 of the 5 Councilors did immediately.

March 7, 2000 Letter: Associate Minister Calahasen to Councilor Rene Cunningham

Two-page letter from Honourable P. Calahasen to Rene Cunningham, Peavine Metis Settlement Councilor – cc'd to Honourable S. McClellan, Randy Hardy

"...I am writing in reply to your February 8th letter...you raised concerns...about unfair hiring..."

"...I understand that the Commissioner or his staff held several discussions with you in private to seek your agreement that the concerns raised could be placed on the Council table during an open discussion. I further understand that you would not give your permission to have the letter and its allegations brought forward to Council..."

"...Nevertheless, on February 22, 2000 the Commissioner met with you and other Peavine Metis Settlement Councilors to seek agreement on a process that would alleviate your concerns. I now have a copy of a Council resolution, signed at that meeting by four Councilors agreeing to prepare and place before the members a bylaw to address fair hiring on the Settlement within a three-month time-frame..."

"...Your signature is not on the document, although you were at the meeting. Frankly, I am confused as to why you would not endorse a resolution that seems to address your concerns..."

"...With regard to cheque signing, this is an internal policy matter for the Council to work out. Cheque signing is addressed in the Metis Settlements Act and may only occur after all signatories are satisfied that the proper approvals and controls are in order to make the expenditure..."

"...In conclusion, I urge you to work with your fellow Councilors toward improvements to employment selection processes and other matters..."

March 8, 2000 Letter from Honourable Pearl Calahasen to R. Hardy

Acknowledging February 17, 2000 letter advising of the lifting of Directives on the Peavine Metis Settlement.

D. 2001 File Review

January 21, 2001 "Peavine Metis Settlement"

Two-page fax containing one-page letter from _____ to R. Hardy raising various concerns regarding the Peavine Metis Settlement administration, specifically:

"...the By-Law process that was used in Peavine on the 17th of January...A part of the proposed by-law was not read that dealt with a new company be started with a budget \$5,000,000.00..." [sic]

"...The hiring continues to discriminate certain families here in this community. Non-members are being hired while people that were born here and lived here all their lives are being left to starve their children...Will you give those people financial support for Legal Fees for the injustice that some of those people continue to encounter [sic]..."

May 4, 2001 "Peavine Metis Settlement – Business Plan Update and Performance Measurement"

One-page letter from Gerald Cunningham to Iner Gauchier, Peavine Metis Settlement Vice-Chairperson, cc'd to Dennis Cunningham, Peavine Metis Settlement Administrator and Judy Hopkins, Business Plan Implementation Coordinator

One-page letter indicating that Peavine's: "...Three-year rolling Community Business Plan is overdue and needs to be updated to encompass the years 2001/02-2003/04..."

"...As well, the Settlement's 2000/01 Performance Measurement Rating has not yet been conducted. Currently \$207,588.90 remains uncollected in relation to these Business Plan items..."

June 11, 2001 "Request for Public Documents"

Two-page letter from R. Hardy to Iner Gauchier, Peavine Metis Settlement Chairperson cc'd to Honourable P. Calahasen, Settlement Council Members

"...I have been approached by various members of your Settlement who indicated that, despite a number of written and verbal requests, copies of the financial statements and the minutes and resolutions of the Settlement owned Peavine Enterprises have not been made available..."

"...If this is in fact the case, I find it very disappointing that your Council...would choose not to operate with openness and transparency, despite repeated assurances over time from you that this is what you want to do. I cannot imagine that you or any of the directors would be scared to provide the information requested. Neither do I understand the reluctance if you, in fact, do not have anything to hide..."

"...I would strongly suggest that you carefully review the contents and prescriptions of the *Freedom of Information and Protection of Privacy Act*, and at the very least, conduct yourselves in accordance with the requirements of the legislation..."

"...I would urge you to run the government of your Settlement and the business of Peavine Enterprises in an open manner worthy of the trust placed in you by the membership. To do otherwise might appear arrogant and demonstrate an attitude that would cause harm to the reputation of not only Peavine, but of all eight Settlements..."

"...managing an important company such as Peavine Enterprises places a big responsibility on you and your colleagues. It is not some game in which participants play hide and seek with information in order to "outsmart" others..."

"...I am looking forward to hearing from you that the appropriate action has been taken – without unnecessary gamesmanship..."

June 25, 2000 "Peavine Metis Settlement: Business Plan Update"

One-page letter from Gerald Cunningham to Iner Gauchier, Peavine Metis Settlement Chairperson cc'd to Dennis Cunningham, and Judy Hopkins

On-page letter referencing previously noted May 4, 2001 letter and "...to remind you again that your three-year rolling Community Business Plan is overdue and needs to be updated..."

"...As per the new Performance Measurement System...we need to jointly determine the "weight" of each business plan item. As this weighting is now three months overdue, we need to complete it as soon as possible to ensure that your Settlement does not forfeit the performance related funding for this year..."

September 11, 2001 "Peavine Metis Settlement Community Business Plan: Performance Rating"

One-page letter from Randy Hardy to Iner Gauchier, Peavine Metis Settlement Chairperson cc'd to Judy Hopkins, Business Plan Implementation Coordinator with 18 pages of attachments relating to Performance Measurement Rating review process/findings

"...The performance rating of the Peavine Metis Settlement against the goals and objectives set by your community in its Business Plan for 2000/2001 has now been completed..."

"...The rating indicates that Peavine has completed 86% of its goals for 2000/2001. I have reviewed and approved the rating report and congratulate your Council and administration on a job very well done..."

September 11, 2001 "Ministerial Order and Removal of Metis Settlements Transition Commissioner"

One-page letter from Iner Gauchier, Peavine Metis Settlement Chairman to Honourable P. Calahasen – cc'd to Settlement Councils, Metis Settlement General Council Executive indicating that:

"...The Peavine Settlement Council would like to confirm its support for the repeal of the aforementioned Ministerial Order issued in March 2000 that delegated the Public Interest powers to the Metis Settlement Transition Commission Commissioner..."

"...In light of the present Commissioner's political aspirations with the General Council and his failed bid to become the Metis Settlements General Council President, we have the obvious concern that there may be repercussions targeted at those Settlements that did not support his bid..."

"...As always, we fully support the continued development of the Metis Settlements Governance... We feel it necessary to remind you that all government regulatory/watchdog and judicial institutions need to be free from political biases which may affect the decision-making processes of those institutions. While this situation may in fact be one where no bias exists... a change or action must be taken to remedy the problem..."

"...in the immediate term, the MO (Ministerial Order) needs to be repealed and the question must be asked whether the present Commissioner can fulfill his present duties and mandate... We are not convinced that this duty or mandate can be fully adhered to in light of the General Council election last week..."

"...We remain confident that as a Minister of the Crown, and a member of the Transition Authority, you will ensure that both the Public Interest powers are returned to your care and that a new Commissioner will be appointed for the remainder of the Commission mandate..."

October 25, 2001 "Request for Meeting: Submission Received from Peavine Residents"

One-page letter from Randy Hardy to the Honourable P. Calahasen requesting a meeting to discuss a possible "...course of action to be taken..." "...in response to a submission faxed to my office by a number of concerned residents of the Peavine Metis Settlement..." cc'd to Paddy Meade, Deputy Minister, Aboriginal Affairs and Northern Development

11 pages of attachments consisted of:

- a. Three-page briefing summary,
- b. Five-page faxed Petition, and
- c. Three-page letter, dated September 11, 2001 from Iner Gauchier to Honourable

P. Calahasen with attached March 14, 2000 Ministerial Order cc'd to Settlement Councilors, Metis Settlement General Council Executive.

October 25, 2001 Options Briefing (3 pages)

"...on October 25, 2001 the office of the Metis Settlements Transition Commissioner received...fax transmission, described as a petition and signed by 33 individuals claiming to be members of the Peavine Metis Settlement..."

Situation

"...Over a period of several months rumors have been circulating about alleged irregular practices by members of the Peavine Metis Settlement Council, both in their capacity as Councilors and as Directors of the Settlement's business entities..."

"...concerns have come...through a number of telephone calls to the Commissioner by various Settlement members..."

"...the Commissioner advised the concerned members that it would not be appropriate to initiate investigation on the basis of verbal allegations only..."

"...The document...now...submitted does not constitute a formal petition because it has not been signed by a sufficient number of members as required by the *Metis Settlements Act* (s. 172)..."

"...(Of the 33 members who signed the "petition" only 20 are members, constituting 6% of the total membership of 365...this falls short of the minimum one-third required for an official petition)..."

Allegations/Concerns

...The concerns expressed in the submission echo those expressed by the individual members who contacted the Commissioner, namely:

"...that, despite numerous requests...the Council has not been willing to provide financial statements (audited or otherwise)...regarding the operations of any of its business entities..."

"...That a number of Councilors and an individual or individuals within the administration have very lucrative service contracts with Settlement business entities..."

"...that Councilors are paid excessively large amounts of money in compensation for their services as Councilors, both in terms of per diems and travel expenses..."

Background Observations

"...It is believed that the Peavine Council has been aware of the local rumblings from some time and that may have prompted the Council's letter (September 11, 2001) requesting:

- repeal of the Ministerial Order dated March 14, 2000, and...
- removal of the Commissioner from office..."

"...The Peavine Council, based on experience when the existing members urged action against a previous Council for similar alleged wrongdoings, understands that the Commissioner would investigate and take action based on fact and without regard for the individuals concerned..."

"...It is therefore reasonable to infer that the Council's request for curtailment of the Commissioner's power or his removal from office was meant as a pre-emptive strike...In short, they most likely have a strong interest in protecting their current financial arrangements..."

Options Available

"...The rumours and allegations have been persistent enough and, if accurate, reflect irregularities that are serious enough to warrant a detailed investigation..."

"...The Peavine Council...be requested by the Minister or the Commissioner to make the...financial information available to the members without delay..."

"...Section 172 of the *Metis Settlements Act* provides...the powers...to initiate action in the form of appointing a person or persons to audit the books and accounts of the Settlement..."

"...Section 171 allows the Minister (Commissioner) to appoint a person to inspect or investigate a Settlement or an entity of a Settlement to determine ...the financial or administrative condition...matters connected with the management, administration or operation...This can be done either on the Minister's own initiative or upon the request of...a substantial number of Settlement members..."

"...The request submitted by the Settlement Council for curtailment of the Commissioner's powers and removal of the Commissioner...severely inhibits the activities of the Commissioner in this particular situation..."

Recommendations

"...That the Minister clarifies the position of the Commissioner in response to the letter from Peavine dated September 11, 2001..."

"...That the Minister indicate whether she wishes the Commissioner to exercise the powers delegated to him by Ministerial Order..."

"...That...the following action be taken:

- a. "...The...Peavine Council...make public to members, within a specified timeline, full information on the financial statements of the Settlement's business entities..."
- b. "...In the event of failure to respond...the Commissioner appoints an investigator...pursuant to section 171 of the *Metis Settlements Act*..."
- c. "...If warranted by the findings of the inspector, the Commissioner appoints a person or persons to audit the books and accounts of the Settlement..."

Five-page Faxed Petition (confidential)

Faxed petition with covering letter from _____ to Randall Hardy, Metis Settlements Transition Commission – Commissioner, cc'd to Honourable Ralph Klein, Premier and Honourable P. Calahasen

Covering letter states:

"...Included is a petition with a number of people signatures with a number of legitimate concerns. The excessive sending of public funds, unaudited controlled companies, no reporting, etc..." [sic]

"...A large number of people said that they would be very willing to talk to you in person. Many are afraid to write their concerns for the simple fact that it would jeopardize the little service/jobs that they may qualify for. I can personally verify that..." [sic]

"...An immediate stoppage needs to take place of the Council/staff hiring their own Heavy Equipment. They are also giving themselves a huge salary from Settlement funds to attend to their own interests, from my understanding..." [sic]

Petition Preamble

"...We, the undersigned, members of Peavine Metis Settlement request that a Forensic Audit be done on all Operations of Peavine Settlement including all its Controlled Entities for the last three years. We request that you take immediate measures to stop all inappropriate transactions in all the operations. Investigations of all activities, transactions including purposes for the actions is requested.

1. No audited Statements for Peavine Lumber and Peavine Enterprises for two years. Yearly audits have to take place.
2. No Audited Statements for TIRM OIL (millions of dollars used) this year.
3. We believe millions of dollars are being used to pay some Council/staff members' equipment (conflict of interest/self interest) directly/ indirectly to family members and associated companies.
4. We believe that thousands of dollars used is clearly not for the benefit of the Settlement.

Rationale: to protect the public funds and to preserve the resources that is being totally depleted by these handful of people and their families..." [sic]

The petition was signed/witnessed by 33 individuals.

November 6, 2001 "Letter- Honourable P. Calahasen to Iner Gauchier, Peavine Metis Settlement Chairperson"

cc'd: Richard Blyan, President, Metis Settlement General Council

"...I have for reference your letter of September 11, 2001 requesting that the Commissioner of the Metis Settlements Transition Commission...be removed and that I revoke the powers to protect the public interest delegated to him under the *Metis Settlements Act*..."

"...I have reviewed your request...I have every confidence in Mr. Hardy's integrity and fairness. I am not, therefore, prepared to revoke the powers delegated to him nor will I support his removal as Commissioner..."

November 19, 2001 "Investigation Pursuant to Section 171, Metis Settlements Act"

Two-page letter from Randy Hardy to Iner Gauchier, Peavine Metis Settlement Chairperson cc'd to all Peavine Metis Settlement Councilors; Rick Blyan, President, Metis Settlement General Council; Honourable P. Calahasen; Paddy Meade, Deputy Minister

"...I have received telephone calls from a variety of concerned Peavine Metis Settlement members (including Councilors) over the course of several months...The recurring theme involved concerns about the lack of information regarding Settlement affairs in general and the financial situation, management practices, and contract administration of the Settlement's business entities in particular..."

"...You will recall that I wrote to you...urging you to address the legitimate information requests of your members and to operate with the openness and transparency you have stated as your aim..."

"...More recently, a substantial number of members submitted their concerns in writing to the Commissioner, the Minister...and the Premier. It is alleged that the financial resources of the Settlement are not being used to the benefit of the community as a whole, but to the advantage of a select few members..."

"...Given the nature of the concerns raised, the number of Settlement members involved, and the fact that this has been ongoing for some time, I consider it essential that we clear the air...Under the powers delegated to me...I have decided to initiate an investigation pursuant to section 171 of the *Metis Settlements Act*. I have appointed Mr. Ed Ryan of the firm PricewaterhouseCoopers as investigator and he will arrive at the Settlement and entity offices at Peavine on November 26, 2001, to commence his investigation..."
"...I trust that your Council and staff will fully cooperate with the investigator...I suggest you make staff aware of the fact that section 173 of the *Metis Settlements Act* gives the investigator the same powers as a commissioner under the *Public Inquiries Act*..."

"...To ensure that there is no misunderstanding...I strongly suggest that I meet with your Council prior to November 26th. This can be done at your convenience and at a location of your choice...Please let me know as soon as possible..."

November 19, 2001 "Appointment as Investigator under the (Key Document) Metis Settlements Act: Peavine Metis Settlement"

Two-page letter, Randy Hardy to Mr. Ed Ryan, PricewaterhouseCoopers with attachments identified as i) Appointment of Investigator (1 page), ii) open letter to "Any Bank, Credit Union, Treasury Branch, Trust Company or financial institution" that holds accounts for the Peavine Metis Settlement and/or any of the entities directly or indirectly controlled by the Peavine Metis Settlement Council, and iii) an excerpt, section 175 of the *Metis Settlements Act*, cc'd to Honourable P. Calahasen, Paddy Meade.

"...Pursuant to powers delegated by the Minister of Aboriginal Affairs and Northern Development to the Commissioner of the Metis Settlements Transition Commission, I am appointing you as investigator under section 171 of the *Metis Settlements Act* to investigate the management, administration and operations of the Peavine Metis Settlement and the entities directly or indirectly controlled by the Settlement Council or any employees or officials of the Settlement..."

"...A formal document to this effect is enclosed, as well as a letter of introduction to any financial institution that holds accounts for the Settlement or any of its entities, requesting that you be granted access to financial information pursuant to section 175 of the *Metis Settlements Act*..."

"...In carrying out your duties...you will have the same powers, privileges and immunities as a commissioner under the *Public Inquiries Act*..."

"...You have been provided with a statement of concern submitted by a number of Peavine Settlement members and residents..."

"...The purpose of the investigation is to determine if any irregular, improper, or improvident actions have been taken, or are being taken by any member of the Settlement Council, a staff member, or a person appointed by the Settlement Council or any of its entities..."

"...the scope of your investigation should be limited to a determination of fact sufficient to enable a decision on whether further investigation is warranted..."

"...you will arrive in Peavine to commence the investigation on November 26, 2001, and that the projected date for completion and the submission of a report will be December 14, 2001..."

"...Please indicate your acceptance of this appointment and the conditions by returning a signed copy to me at your earliest convenience..."

November 19, 2001 "Your letter of November 19, 2001 – Investigation Pursuant to Section 171, *Metis Settlements Act*"

Two-page letter, Iner Gauchier, Chairperson, Peavine Metis Settlement to Randy Hardy, Commissioner, Metis Settlements Transition Commission, cc'd to all Peavine Metis Settlement Councilors, Rick Blyan, President, Metis Settlements General Council, Honourable P. Calahasen, Paddy Meade

"...I am somewhat dismayed at the receipt of your letter dated November 19, 2001 wherein you have informed us that an investigation of the Peavine Metis Settlement, in particular its business entities will be commenced on November 26, 2001..."

"...I am very disappointed with the fact that we were not contacted to meet to discuss this matter prior to this investigation being initiated as I believe that would have been more appropriate..."

"...Since this was your chosen course of action, we have arranged to meet with you on Wednesday, November 21, 2001...in Edmonton prior to the commencement of the investigation..."

"...The specific matters that we would like to discuss with your are as follows:

1. Your letter refers to verbal concerns as well as written concerns that have been relayed to you...from a variety of concerned members as well as Council members who apparently have alleged that the financial resources of the Settlement are not being used to benefit the community as a whole. We will be requesting the details of the specific information relating to those concerns as they seem to be the basis on which the investigation is being commenced...
2. We would also like to be made aware of the process that will be used to conduct the investigations as well as who will be responsible to pay for the costs associated with the investigator..."

November 19, 2001 "Unsigned Letter"

One-page letter from Chris Noskey, Peavine Settlement Councilor to Randy Hardy, Commissioner, cc'd to Honourable P. Calahasen

"...In regards to your letter...in which you informed the Peavine Metis Settlement Council of an upcoming investigation by PricewaterhouseCoopers, I would like to express a number of concerns and provide some suggestions..."

"...My first concern is that there may be an attempt to retaliate against members who have expressed written and verbal concerns regarding the affairs of the Settlement..."

"...My second concern is that the business affairs of the Settlement may not be properly conducted or may be interrupted in some way..."

"...In response to these concerns, I would like to suggest that names of individuals be kept confidential; a Comptroller be appointed immediately; and directives be issued to prevent retaliation against members, employees, Councilors, and business owners..."

"...Appointing a Comptroller and issuing directives would also ensure the continuation of Settlement business activities so that no one is adversely affected..."

November 20, 2001 "Appointment as Investigator under the *Metis Settlements Act*: Peavine Metis Settlement"

Three-page faxed copy of Randy Hardy's November 19, 2001 letter to Mr. Ed Ryan of PricewaterhouseCoopers, returned by Mr. Ryan to Randy Hardy, duly signed by Mr. Ryan

"...I accept the appointment as investigator under the terms and conditions set out above..."

November 21, 2001 "Petition Names Under Freedom of Information and Protection of Privacy (FOIP)"

One-page interoffice memorandum from R. Raitz to Pieter de Vos/Randy Hardy

"...This is in regard to the issue of the release by the Minister/Commissioner to the Peavine Council of the names (signatures) on the recent petition from Peavine members..."

"...The *FOIP Act* provides that 'personal information' (e.g., name, home address, personal views and opinions) must not be disclosed if the disclosure would be an 'unreasonable invasion of personal privacy'...a disclosure is presumed to be an unreasonable invasion if the disclosure of the name also reveals other personal information about the person..."

"...I believe this presumption applies in this case since disclosure of the name also reveals the person's place of residence and their personal views and opinions (on the issues that are the subject of the petition) as well as their Peavine membership..."

"Section 16 of the *Act* further provides that in determining if a disclosure is an unreasonable invasion, the public body must consider if the disclosure means the named person "will be exposed unfairly to financial or other harm." I believe this consideration certainly applies in our case (as reinforced by the many calls from Peavine members)..."

"...Previous cases under the *FOIP Act* say there is no limitation on the kinds of harm a public body (the Minister) can consider, e.g., harassment, in whatever form, damage to familial relationships or reputation, etc...They have also said it is up to the public body, not the courts, to decide whether there is unfair exposure to harm..."

November 21, 2001 "Notes: Meeting Between The Commissioner, Metis Settlements Transition Commission and the Peavine Metis Settlement Council and Others"

Four-page document highlighting the discussions which took place regarding the "Investigation of the Peavine Settlement and its entities."

The Chairperson and all Peavine Councilors were present as was Dennis Cunningham (Administrator Peavine Settlement), Tim LeClair, Richard Hajduk (lawyer), Randy Hardy, Commissioner and Pieter de Vos (Metis Settlements General Council – Consultant)

Summary of Comments by Source/Participant:

R. Hardy:

"...Purpose of the meeting was to discuss an investigation...into the affairs of the Peavine Metis Settlement and the entities under its' direct or indirect control..."

"...it was not the first investigation...the decision to proceed was made as a result of allegations, both written and verbal, received from Settlement members. No assumptions had been made about the guilt or innocence of any party or parties, and follow-up action...would be determined once the results of the investigation were known. The investigator...was well known to Peavine as an open-minded and fair investigator..."

"...If everything was in as good as state as was hoped, Council would receive a clean bill of health. If...this was not the case, then the investigation might be followed by a full-blown audit..."

"...The cost of the initial investigation would be borne by the Commissioner/Minister..."

"...The concerns raised by members involved the alleged misuse of funds and failure to provide information when requested. There were also allegations of nepotism..."

"...When concerns such as those raised by Settlement members were forwarded to the Premier, it is incumbent upon all involved to show that responsible governments are in place for the Settlements..."

"...What was being undertaken was not a forensic audit, but an investigation confined within the parameters of section 171 of the *Act*..."

"...The concern was to ensure transparency exists..."

"...There was a good chance that the media would become aware of the allegations. The intent was to be proactive and show that the allegations had been investigated and indicate the findings..."

"...The reality was that if the Council were given a clear bill of health, the other side would say that Council was being protected..."

"...The idea was to clear the air...A Comptroller had been put in place following the previous investigation after the Commissioner had recommended that the Council be dismissed. The Minister at that time felt that a Comptroller would provide an opportunity to clean things up..."

"...Indicated that (Councilors) _____ and _____ had spoken to him..."

"...Emphasized that the intent of the investigation was to clear the air as soon as possible..."

Iner Gauchier, Chairperson:

"...enquired why the Commissioner had not called the Council prior to launching an investigation..."

"...Peavine was being blind-sided. How was the Council to know of concerns if it had not been advised that anything was wrong?..."

"...Peavine had no qualms about opening its books and had nothing to hide. The Council would have appreciated a phone call in advance..."

"...Referred to the fact that the Commissioner's letter made reference to Councilors who had raised concerns and enquired into the names of those Councilors..."

"...The Commissioner should be aware that individual Councilors did not speak for the Council...Any concerns should be addressed by letter..."

Raymond Carifelle, Councilor:

"...An investigation is proceeding in any event, despite anything discussed?..."

"...Did not want to see a Comptroller installed at Peavine, as it would interfere with business such as the making of cash calls on oil developments..."

"...who would have the right to a lawyer? Did it have to be a group of Councilors, or could an individual member have legal representation at Settlement cost?..."

"...The people who did not benefit from the oil developments were concerned...Enquired about what information a Councilor could release?..."

"...had nothing to do with the request for the Commissioner's removal..."

Chris Noskey, Councilor:

"...If the allegations were cleared up, Peavine would not have a black eye, but if nothing were done the Settlement would receive a black eye in any event..."

Richard Hajduk, Peavine Metis Settlement Lawyer:

"...enquired whether the Commissioner was aware of the court action challenging section 90, and speculated that the current allegations might be an indirect way to achieve a result in an action the parties had abandoned in court...Council had defended itself against this and other actions but the people involved kept walking away or adjourning the action..."

"...Concerned, because...an investigation in response to allegations would attach a stigma to the Council...an investigation would leave the implication that something was wrong..."

"...Even if everything were found to be in order, the stigma would remain..."

"...People should not shoot from the bushes...enquired whether the basis for the investigation would be to avoid embarrassment should the matter get to the media..."

"...The Settlement Council has a fiduciary obligation to the members..."

November 22, 2001 "Follow-up To Meeting of November 20, [sic], 2001"

One-page letter from Dennis Cunningham, Peavine Metis Settlement Administrator (FOIP Coordinator) to Randy Hardy – cc'd to Honourable P. Calahasen

"...Thank you for meeting with Council on short notice..."

"...In follow-up...you had indicated that you would provide copies, (subject to your responsibilities under the FOIP legislation) of the letters of concern received by your office and those passed along to you from Minister Calahasen. We would therefore officially request these copies be made available as soon as possible..."

November 22, 2001 "Investigation Pursuant to Section 171 Metis Settlements Act"

Six-page letter from Iner Gauchier, Peavine Metis Settlement Chairperson to Honourable P. Calahasen and Paddy Meade, Deputy Minister – cc'd to all Peavine Metis Settlement Councilors, Randy Hardy, Rick Blyan, Metis Settlements General Council President.

"...Pursuant to Mr. Hardy's stated suggestion, Peavine Metis Settlement recently met with Mr. Hardy...on the morning of November 20 [sic] 2001..."

"...This correspondence is meant as a follow-up to our...meeting...as well as our initial comments in response to the investigation. A more detailed correspondence outlining our further concerns will be directed in due course..."

"...The mere launching of an Investigation...suggests that sufficient or reasonable basis has been raised...such will be the minimum perception of the general public and more importantly the members of Peavine Metis Settlement. However, it is equally clear from our meeting with Mr. Randy Hardy...that the exercise of such discretionary exercise of power...appears to have been capricious and at least premature in any event..."

"...We are in full support of open, fair and transparent government and the Ministerial review of those practices where warranted. However, the determination to proceed with a formal Investigation...should only be a course of action reserved in those clear situations where a minimum objective standard has been met..."

"...An Investigation should not be advanced where the purpose is simply to give credence to and fuel unsupported innuendo and character assassination, support collateral attacks from opposing political factions or interfere with the determination of matters currently before the Courts. An Investigation should not be commenced unless there is at least some minimum credible basis to support the allegations being made..."

"...Mr. Hardy acknowledged that previous concerns relating to Settlement Council...had been adequately addressed by Settlement Council when directed. Mr. Hardy could not explain why this same process or prior consultation was not utilized in relation to this most recent set of concerns..."

"Mr. Hardy could not explain why a meeting or even a phone call was not first advanced to Settlement Council to discuss these concerns...Mr. Hardy openly admitted that he should have first contacted Settlement Council to discuss these issues prior to making any determination to commence an Investigation..."

"...Mr. Hardy acknowledged that he was not aware of the current Court proceedings wherein the very issue of the validity of the Settlements Programs, Services and Benefits Policy was being litigated...the mere bringing of this Investigation served not only to undermine the process currently before the Courts but also served to undermine the credibility of Settlement Council in such process...the mere bringing of this Investigation cast significant negative aspersions upon Settlement Council. Mr. Hardy...continually repeated that he needed to 'clear the air'..."

"...Mr. Hardy indicated that the Settlement Councilors he had spoken to...were _____ and _____. During our meeting, _____ maintained that...he had not requested an investigation which fact was not disputed by Mr. Hardy..."

"...In relation to _____, during our meeting Mr. Hardy was presented with information regarding a current Settlement election challenge and _____ dismay with Settlement Council and the " _____ " for not agreeing to pay for his independent lawyer..."

"...Mr. Hardy, in support of his decision to commence an Investigation, provided the first page of a document entitled "CONFIDENTIAL"...Mr. Hardy was not aware that audited financial statements were done on an annual basis with respect to Peavine Lumber and Peavine Enterprises...A simple telephone call could have resolved this issue..."

"...With respect to concerns "No Audited Statement for TIRMOIL this year" Mr. Hardy was not aware that this was a newly incorporated company and that financial statements are not completed until the fiscal year end. Again...this issue could have been immediately and very easily resolved by the Settlement directing completion of an interim Audited Financial Statement. No such request was ever made to Settlement Council..."

"...With respect to the further concerns relating to nepotism and the conversion of...dollars for personal benefit by "these handful of people and their families"...Any continuing concerns could have been addressed by the Settlement Council retaining a mutually satisfactory third party to investigate and address such allegations. This process would have had the effect of addressing concerns while...minimizing the stigma and defamation. An insufficient or inadequate response by Settlement Council in this manner could have resulted in a Ministerial directed Investigation pursuant to the *Metis Settlements Act*..."

"...When Mr. Hardy was further pressed about the representations in his correspondence that there were concerns "dating back to early 2000" he then indicated that the reference to the year "2000" was a typo and it should have stated "2001"..."

"...In your correspondence of November 6, 2001, you denied our request to revoke the powers delegated to Mr. Hardy and stated that you would not support his removal as Commissioner..."

"...Less than [sic] two weeks later we receive correspondence from the Commissioner...advising that he has commenced a formal Investigation of Peavine Metis Settlement...We are very concerned...with the conduct of the Commissioner in this matter and express continued concerns relating to the perception of fairness and the discharge of his duties objectively and without bias..."

"...We will of course cooperate fully and openly in all respects with the Investigator..."

"...We will demand that Mr. Hardy be removed forthwith from any further connection or involvement with respect to this Investigation..."

"...We further demand that the Investigator...report directly to you with his report and that you be directly in charge of this Investigation..."

"...We will agree to full payment of the costs of Mr. Ryan's report on the basis that we are subsequently provided with a full copy of same..."

"...We will also agree to Mr. Ryan's report including not only an inspection/investigation review but also an expanded emphasis to include specific recommendations in support of our mandate of open, fair and transparent government..."

November 23, 2001 "Correspondence: Peavine Metis Settlements Investigation Section 171, *Metis Settlements Act*"

Two-page memo from Randy Hardy to Honorable P. Calahasen – cc'd to P. Meade, Deputy Minister, Aboriginal Affairs and Northern Development, Iner Gauchier, Peavine Metis Settlement Chairperson, all Peavine Metis Settlement Councilors, Rick Blyan, President, Metis Settlements General Council.

"...I have been copied on a letter dated November 22, 2001 directed to you by the Chair of the Peavine Metis Settlement Council..."

"...The letter contains a number of inaccuracies...His interpretation of what transpired is questionable...Be that as it may, I do not think that it will serve any useful purpose at this stage to analyze his comments in great detail..."

"...As has been the case in all previous investigations and reviews...it is not my practice to get involved with the investigation while it is in progress. The sole purpose of an investigation such as this is to establish the facts and clear the air in response to serious allegations expressed by Settlement members. I have no preconceived notion about the outcome, and understanding this investigation is in keeping with my interpretation of the spirit and intent of the *Metis Settlements Act*..."

"...The terms of the investigator's appointment have been set...and I am confident that the terms of reference provide him with sufficient direction without the need for guidance during the course of his assignment..."

"...As the only intention is to determine whether fair, open and provident governance is maintained at the Settlement...I have no qualms at all with Mr. Gauchier's request that the investigator submit his report to your office directly, with simultaneous copies to my office and the Peavine Council. In fact, I would like to recommend that this be arranged..."

"...It is encouraging to note that the Council does not actively oppose the investigation, and I am pleased with the degree of commitment shown by offering to assume financial responsibility for the investigation process – including a possible expansion to incorporate specific recommendations..."

November 23, 2001 "Request for Copies: Letters of Concern"

One-page letter from Randy Hardy, Metis Settlement Transition Commission Commissioner to Iner Gauchier, Peavine Metis Settlement Chairperson with four pages of attachments (letters from unidentified sources) – cc'd to Honourable P. Calahasen

"...In response to a letter dated November 22, 2001 from the Peavine Metis Settlement Administrator, requesting copies of letters of concern in addition to the material provided to you at our meeting on November 21, 2001, I enclose the following..."

"...letter dated April 30, 2001 addressed to you and fellow directors of Peavine Enterprises

this letter requested copies of audited financial statements for the 1998-1999 and 1999-2000 fiscal years...copies of the minutes of meetings for the two years 1999-2000 and

copies of the Peavine Enterprises' hiring policy relating to hiring personnel, trucks and equipment..."

"...Letter dated May 18, 2001 addressed to you and fellow directors of Peavine Enterprises – copies to the Honourable P. Calahasen and Randy Hardy

this letter requested copies of Peavine Enterprises meeting minutes from January 1999 to May 2001. If the minutes cannot be provided, please provide copies of all resolutions since May 1999...and...a written explanation as to why these public documents are not available..."

"...Letter dated October 24, 2001 addressed to the Commissioner, Metis Settlements Transition Commission – copies to Honourable P. Calahasen and the Honourable Ralph Klein, Premier:

this letter was attached to a petition concerning "excessive spending [sic] of public funds, controlled companies, nor reporting, etc..."

"...Letter dated November 19, 2001 addressed to the Commissioner, Metis Settlements Transition Commission – copied to the Honourable P. Calahssen..."

this letter outlined the concerns which may arise as a result of the announced Investigation i.e., retaliation against members who have expressed written and verbal concerns and that the business affairs of the Settlement may not be properly conducted or may be interrupted in some way..."

November 26, 2001 "Misuse, Conflict, Failure, Breach of Trust"

Seven-page (unsigned) document to Randy Hardy, Metis Settlements Transition Commission Commissioner and Mr. Ed Ryan, "Authorized Financial Investigator" from "Concerned Members of Peavine Settlement"

"...subject: Misuse of Settlement Funds (Section 1777 of *Metis Settlements Act*)
Conflict of Interest (Section 39 of *Metis Settlements Act*)
Failure of [sic] follow Settlement Business Plan and Policies
Failure to follow posting regulations as required by the *Metis Settlements*

Act (Section 44 of *Metis Settlements Act*)
Breach of trust (Section 123 of Criminal Code of Canada)..."

"...The contents of this document are to remain confidential and are intended for view of the addressee only..."

"...Since May 1999, a quorum of the Peavine Council aka Board of Directors for Peavine Enterprises aka Board of Directors for Tirmoil Energy aka Board of Directors for Peavine Lumber have been in Breach of Trust as defined by Section 123 of the Criminal Code of Canada..."

"...It is believed that research and a forensic audit of the following facts will substantiate the Criminal Code claim..."

"...A quorum have been using their positions to pose unfair advantages to their families and friends. Upon audit you will notice that almost all the _____ brothers are employed as well as _____ as _____ sons and wife..." [sic]

"...A lot of people living in the Settlement live in constant fear of having their jobs taken away if they speak out about what is going on...One Council member has even told people that whoever is behind this investigation will fry [sic]. The _____ on Council, administrator, and Peavine Enterprises Manager are using their authority positions to taunt, ridicule and oppress members...The _____ have proved [sic] how unjust, discriminatory and corrupt their government has been for these past two and a half years..."

The remaining five and one-half pages of this document itemized approximately 65 alleged claims which included nepotism, conflict of interest, misuse of Settlement funds, preferred contractual arrangements, over expenditure of funds, failure to follow the Settlement Business Plan and policies, breach of section 177 of the *Metis Settlements Act*, failure to publicly post employment opportunities and failure to publicly post Council, Peavine Enterprises meeting minutes.

December 4, 2001 "Investigation at the Peavine Metis Settlement Pursuant to Section 171 *Metis Settlements Act*"

One-page letter from Iner Gauchier, Peavine Metis Settlement Chairman to Honourable P. Calahasen, Minister of Aboriginal Affairs and Northern Development cc'd to Randy Hardy, Commissioner

"...As per a letter from the office of the Commissioner...dated November 19, 2001, Ed Ryan of PricewaterhouseCoopers commenced the investigation on Monday, November 26, 2001 at the Peavine Metis Settlement offices..."

"...The Settlement Council have given the staff strict instructions to fully cooperate with the investigator..."

"...Since this investigation was based on concerns by Settlement members, we find it highly unusual that non-Settlement members have been attending the Peavine Settlement offices and speaking with the investigator, Ed Ryan, during the investigation, and about the investigation..."

"...This turn of events is of grave concern to the Settlement Council and the Settlement people. Non-Settlement members should not be allowed to interfere with this investigation initiated by your department. It is felt that the Commissioner should have given full and strict instructions that non-Settlement members should not be allowed to participate in the investigation..."

"...This investigation was initiated based on concerns by Settlement members, therefore any information received or innuendo's pertaining to the investigation from non-Settlement members should be disregarded..."

December 4, 2002 "Telephone Calls From The Peavine Metis Settlement"

One-page letter from Iner Gauchier, Peavine Metis Settlement Chairperson to Honourable P. Calahasen – cc'd to Randy Hardy (Metis Settlements Transition Commission), Rick Blyan (Metis Settlements General Council), and Harry Supernault (Metis Settlements Appeal Tribunal)

"...It has been brought to our attention that a number of non-Settlement members have been phoning your office and the offices of the Commissioner, the General Council and the Metis Settlements Appeals Tribunal regarding Peavine Metis Settlement affairs..."

"...Former Peavine Metis Settlement members who have voluntarily terminated their membership under section 90 of the *Metis Settlements Act* should not concern themselves about the affairs of the Peavine Metis Settlement..."

"...The following people have voluntarily terminated their membership via section 90 of the *Metis Settlements Act*:

"...The above noted people are no longer members of the Peavine Metis Settlement; therefore, any discussions with these people pertaining to the affairs of the Peavine Metis Settlement should be disregarded...I trust this practice will cease immediately..."

December 6, 2001 "Ministers Letter of Response to the November 22, 2001 Letter from Iner Gauchier, Peavine Metis Settlement Chairman"

Two-page letter from the Honourable P. Calahasen, Minister to Mr. Iner Gauchier, Peavine Metis Settlement Chairman – cc'd to all Peavine Metis Settlement Councilors, Randy Hardy and Rick Blyan, Metis Settlements General Council

"...Thank you for your letter of November 22, 2001 outlining a number of issues related to the investigation currently being conducted in Peavine...The basis of the investigation is outlined in correspondence (November 19, 2001) sent to you from the Commissioner and copied to myself..."

"...I am pleased that you and your Council intend to cooperate fully with the investigation. In addition, your level of support and commitment to this investigation is encouraging, including your preparedness to "agree to" possible recommendations flowing from the investigation and a willingness to contribute to the costs..."

"...In response to your request to have...the investigator, report directly to me...I believe the process outlined by the Commissioner in his correspondence of November 23, 2001 meets your request..."

"...Once the investigation is concluded, Mr. Ryan will complete a report, which will be forwarded to me and copied to both the Commissioner and yourself. The findings contained in the report will determine whether any additional action is required..."

December 9, 2001 "\$4,000,000 Bank Loan"

One-page letter from Chris Noskey, Councilor to Iner Gauchier (Chairman), Arnold Gauchier (Councilor) and Melvin Gauchier (Councilor) Peavine Metis Settlement – cc'd to Honourable P. Calahasen, Randy Hardy

"...You are in the process of applying for a \$4,000,000 (four million) bank loan to be used for a pipeline that is being built on the Peavine Metis Settlement. Since...Peavine Metis Settlement could become liable for the repayment of this loan, I would like to request some documents from you..."

"...First, I would like to request a written legal opinion...stating that the process of borrowing this money, without consulting the members of Peavine Metis Settlement, is a legal process..."

"...Secondly, I would like to request written documentation showing that members of the Peavine Metis Settlement have approved the investment for this project..."

"...Finally, if you are signing this loan agreement as directors of Tirmoil or any other entity under the Peavine Metis Settlement, I would like written documentation, such as by-laws, showing that you have the authority to borrow money..."

"...Since I am a Councilor of the Peavine Metis Settlement, I could be held liable for the loan if the process is not legal; therefore, I would like to see the documentation stating it is a legal process. I am requesting that you forward this documentation to me today because the loan application is to be signed on Tuesday..."

December 19, 2001 "Investigation Pursuant to Section 171 *Metis Settlements Act*"

Five-page letter from Iner Gauchier, Peavine Metis Settlement Chairman to Honourable P. Calahasen, Paddy Meade, Deputy Minister – cc'd to all Peavine Metis Settlement Councilors, Randy Hardy and Rick Blyan

"...This correspondence is in response to Mr. Hardy's correspondence dated November 23, 2001..."

"...Mr. Hardy's reference to my correspondence...strikes at the heart of our contention with Mr. Hardy. He has lost our trust and confidence to effectively and objectively discharge the duties of his office. His convenient interpretation of our meeting further reinforces this concern..."

"...I would invite Mr. Hardy to specifically address those portions of my correspondence which he states as being "inaccurate" as well as those further portions where he alleges that I have "taken license with the construal of statements..."

"...We would confirm that we only agree to pay for Mr. Ryan's report on the basis that Mr. Hardy have no further involvement whatsoever with this investigation including the receipt of any such report or being involved with any discussion or decision resulting for the report. Please confirm that (sic) foregoing is agreeable to you..."

"...As previously expressed, we maintain very significant concerns regarding the objectivity of Mr. Hardy considering his recent failed election bid at Metis Settlements General Council and our vocal opposition to his election..."

"...that we do not "actively oppose the investigation"...we only take this position because to oppose the investigation at this stage would merely support the perception Mr. Hardy has created of political corruption..."

"...Your office through the Commissioner has created this mess and countenanced the perception of political corruption by directing such an Investigation for the political self interest of your office. We have no reasonable alternative but to cooperate fully with the investigation...it is further clearly apparent that one of the principle factors in directing the Investigation was for the Government to be "proactive" in the context of any resulting 'black eye' to the Government from potential negative media attention...It appears that the Investigation was commenced to benefit its political self interests rather than the bona fide interests of the members of Peavine Metis Settlement..."

"...Peavine Metis Settlement has nothing to hide and we fully open our books and government practices to third party scrutiny in compliance with the Investigation. It is the basis of directing a formal Investigation which has resulted in irreparable damage of not only to Peavine Metis Settlement but also those specific members against which the allegations are directed...Is it your Government's position that a formal Investigation will be commenced every time unsubstantiated allegations are directed by a self-interested party?..."

"...Your office is clearly aware of politically motivated factions within Peavine Metis Settlement such as those in involving the Section 90 issue and those clearly vying for the removal of the current Council..."

"...We are very concerned that the complaints of non-Settlement members were apparently relied upon in directing this Investigation...The Settlement is only responsible to its members and we are very concerned that the complaints of non-members would form the basis of any resulting investigation. Did the complaints of non-Settlement members form any basis of the resulting Investigation?..."

"...We would kindly ask for your immediate response to our correspondence of today and of November 22, 2001...We wish to deal with these issues in a responsible and fair manner consistent with the practices of good and open governance. We wish to work together with you in resolving these issues, however, your immediate attention is required..."

December 21, 2001 "Draft – Investigation Report"

32 page report from Ed Ryan, PricewaterhouseCoopers to Randy Hardy, Metis Settlements Transition Commission – Commissioner – cc'd to Iner Gauchier, Peavine Metis Settlement Chair and the Minister of Aboriginal Affairs and Northern Development

"...Further to our appointment as Investigator pursuant to Section 171 of the *Metis Settlements Act*...we provide hereunder a preliminary report concerning our review..."

"...we were appointed investigator to investigate the management, administration and operations of the Settlement and the entities directly or indirectly controlled by the Settlement or any employees or officials of the Settlement..."

"...We were provided with a statement of concern submitted by a number of Settlement Members and residents...the scope of the investigation was to be limited to the determination of facts sufficient to enable a decision on whether further investigation was warranted..."

"...During the week of November 26, 2001 we conducted interviews with Settlement staff and community members and detailed a number of concerns...we completed a preliminary analysis of the financial data and conducted further interviews in Edmonton with Settlement members, the Administrator and all Councilors..."

"...We understand that all letters, reports, documents, conversations and other communications to or for us in furtherance of this appointment are privileged and to be revealed to no one else without your written permission..."

"...This report was prepared by us on your behalf. We understand that it will be used by you to make certain policy and other decisions with respect to the Settlement. This report contains personal information that may not be suitable for distribution in its entirety to members of the community..."

"...We would suggest that you seek legal advice from your legal counsel respecting the public release of any portion of this report..."

"...Except as expressly noted, we did not audit or otherwise verify with third parties any underlying data and will accept no responsibility for loss from any person using or misusing this report...All comments and opinions made in this report are subject to the information sources reviewed..."

Conflict of Interest – Favouratism/Nepotism

"...We acknowledge that the Settlement is a small community and many people are related to one another..."

NOTE: report (page 4) contains a chart identifying 15 individuals either elected or employed by the Peavine Metis Settlement and/or business entities. Of the 15 individuals only 3 are not related to any of the remaining 12 individuals.

"...We stress that the foregoing list is simply a finding of fact...we are not suggesting that employees were hired on the basis of family ties rather than qualifications. We do note, however, that a disproportionate number of one family group appear to occupy senior positions at the Settlement..."

"...We do note...that a number of persons have been hired on an 'Interim' basis with job postings pending. This practice assists in creating the perception of bias, particularly if the Interim employees are members of the same family group as the decision maker (s)..."

"... We were told that a Councilor was involved as a consultant in the construction of a pipeline to the Settlement... We spoke with Councilor _____ and _____ confirmed that he worked as a consultant for..., however, did not work on the project within the Settlement boundaries. He advised further that he was sensitive to the perception of conflict of interest and obtained the concurrence of the other members of Council prior to taking the job..."

"... We reviewed documentation that demonstrates that the Settlement has issued business /agricultural loans totaling \$461,305 to 23 Settlement members...since June 2001..."

"...One of the loans is four months in arrears, eight of the loans are three months in arrears, five of the loans are two months in arrears and two borrowers have missed the last payment only..."

"...two Councilors' loans are up to date, one Councilor is four months in arrears... We understand that this program was administered by the Economic Development Officer and the Administrator, with input from Council..."

"... We provide hereunder a number of community concerns pertaining to specific transactions allegedly completed by persons identified, as well as the present standing of our enquiries..."

By specific topic the report identifies:

- i) Improper or Improvident Financial Transactions - issues identified (6); individuals identified: elected (3), related (3)
- ii) Logging – issues identified (7); individuals identified: elected (1), appointed (3), related (5)
- iii) Tirmoil Energy – issues identified (7); individuals identified: appointed (3)
- iv) Enterprises – issues identified (27); individuals identified: elected (4), appointed (9), related (8)
- v) Land, Membership, Housing – issues identified (14); individuals identified: elected (1), appointed (5), related (9), other (7)
- vi) General Administration – issues identified (14); individuals identified: elected (1), appointed (11), related (7)
- vii) Community Issues – issues identified (8); individuals identified: elected (3), appointed (2), related (2), other (1)

In addition, the report contained five pie charts in the Appendix which identified individuals and/or companies in receipt of Enterprise Subcontractors revenue by fiscal year as follows:

Enterprise Subcontractor's Revenue

1997/1998	-	13 individuals/companies identified
1998/1999	-	9 individuals/companies identified
1999/2000	-	19 individuals/companies identified
2000/2001	-	22 individuals/companies identified
2001/2002	-	20 individuals/companies identified

"...Our preliminary review did not reveal any clear contraventions of the provisions of the *Metis Settlements Act*. We have some concern that the Councilor who is in arrears with his business/agricultural loan may be in contravention of Section 25(1)(m) of the *Metis Settlements Act*..."

"...During our review, we saw no evidence of the commission of criminal offences..."

"...We provide the following preliminary recommendations:..."

"...The process of recording revenues and expenses within Enterprises should be reviewed to verify that proper revenues and expenses are being recorded...the rental-purchase contracts...should be reviewed in detail..."

"...we are not of the view that the business interests of the Administrator...represents a conflict of interest. We would suggest...that an abundance of caution be exercised and a legal opinion be sought on that issue..."

"...The manager of Enterprises should be given the opportunity to more fully explain the process of allocating contract work in the Settlement..."

"...An inventory of currently employed interim personnel should be assembled and the appropriate postings completed..."

"...Confidentiality agreements should be signed by all personnel. Personnel should be reminded periodically of the ramifications of confidentiality breaches..."

"...The circumstances surrounding loans in arrears, particularly respecting the Councilor in that position, should be fully reviewed and the appropriate action taken..."

"...Council and the respective Boards of Directors should consider requests for information from the community relating to the Settlement's corporations...non-disclosure of at least the most basic information on a regular basis tends to breed distrust..."

"...We encourage Council to expedite the identification and hiring of a designated accountant to assume the position of Controller..."

"...Council should consider the establishment of a position such as an "Information Access Coordinator" whose primary function would be to field enquiry's from the community for information. This may alleviate considerable time pressures on the Administrator, Council and other support staff and lessen the communication issues which appear to in part to have led to this investigation..."

"...We look forward to meeting with the Settlement Council, the Commissioner and the Minister/delegate... We understand that a tentative schedule for between January 14 and 16, 2002 may be appropriate for the parties to discuss this draft report and plan the appropriate next steps..."

E. 2002 File Review

January 13, 2002 "Letter from Honourable P. Calahasen to Mr. Ken Noskey"

cc'd: all Peavine Councilors and Randy Hardy, Metis Settlements Transition Commission - Commissioner

"...Thank you for copying me on correspondence you sent to the Peavine Metis Settlements Council regarding issues related to timber hauling contracts...I fully appreciate the concerns and issues you raise...including allegations about unfair logging contract practices..."

"...As you know, On November 19, 2001, the Metis Settlements Transition Commissioner appointed an investigator...to conduct a preliminary investigation of the financial and administrative condition of Peavine Metis Settlement and various entities..."

"...given the significant number of concerns raised by members of Peavine Metis Settlement, such an investigation was necessary to ensure appropriate policies and procedures are being followed. This is a critical necessity in any governance regime..."

"...I can share with you that concerns related to logging practices, including contract issues, were identified in the course of the investigation...I will carefully review the report and pending the content and recommendations, will decide on the need for any further action..."

"...it is my hope that the Peavine Metis Settlement Council will give serious consideration to the concerns you raise..."

January 18, 2002 "Peavine Metis Settlement Preliminary Investigation Briefing Note Prepared by Aboriginal Initiatives - Aboriginal Affairs and Northern Development (AAND)"

Issue:

"...A process to deal with the report from the Peavine Settlement Preliminary Investigation is required..."

"...The Pricewaterhouse Coopers report...is now complete. Copies of the report have been provided to Aboriginal Affairs and Northern Development (AAND), the Metis Settlements Transition Commission and the Peavine Council. The investigation...examined more than 80 specific allegations by community members..."

"...The report is currently being reviewed by AAND staff regarding access to information and privacy issues..."

"...The investigation was designed to determine if Council or any of the related entities had taken any irregular or improvident actions...The investigation was not an in-depth examination and did not include an audit...Mr. Ryan was presented with more than 80 allegations made by Settlement members. The report therefore, is more of an analysis of each allegation rather than each entity, even though the allegations are directly related to each entity..."

"...The findings of the report do not reveal any indication of criminal action.
_____ may be in contravention of the *Metis Settlements Act* regarding eligibility because he is behind in his payments on a loan from the Settlement..."

"...The findings and corresponding recommendations reveal a degree of imprudent financial management inconsistencies in the process of awarding contracts, lack of comprehensive policies and procedures, as well as not adhering to existing policies, and an apparent lack of effective communication with Settlement members..."

"...Mr. Ryan recommends further investigation on two issues, loans made by the Settlement to 23 members and the compensating structure for Peavine Enterprises..."

"...The Minister is meeting with Mr. Ryan, Peavine Council, the Commissioner and AAND department staff on January 24, 2001... to:

review the findings of the report;
provide an opportunity for comments from the Commissioner and Peavine Council; and
discuss strategies aimed at addressing the findings of the report..."

"...A public meeting in Peavine should be held as soon as possible. Pending the resolution of any concerns regarding the protection of privacy, the report should be distributed at that meeting. The purpose of the meeting would be to:

review findings of the report;
provide Council with an opportunity to address the report;
provide the community with an opportunity to address the findings; and
discuss strategies aimed at addressing the recommendations..."

January 18, 2002 "Review of Peavine Metis Settlement Preliminary Investigation Report – Briefing Note prepared by Aboriginal Initiatives - AAND"

Issue:

"...Review of the investigative report..."

"...Mr. Ed Ryan conducted the investigation. It included a review of financial data, interviews with Councilors, staff and members and was conducted during the week of November 26, 2001..."

"...Copies of the report have been provided to AAND, the Commissioner and the Peavine Metis Settlement Council. Confidentiality provisions apply and public release of the report will require legal advice..."

"...The report indicates that there is no evidence of the commission of criminal offences..."

"...Business and agricultural loans totaling \$461,305 have been made to 23 members since June 2001. Fourteen are in arrears, including a Councilor. The report recommends an examination of these practices to determine if conflicts exist and if action should be taken..."

January 23, 2002 "Peavine Metis Settlement Report – Request to Review Draft Consultants Report dated January 16, 2002"

Three-page memo from Gerry Kushlyk, Director, Research and Analysis, AAND – FOIP Coordinator to Cameron Henry, Acting Executive Director, Aboriginal Initiatives, with 48 page (draft report) attachment.

Note: the Peavine Report was brought to the attention of the AAND – FOIP Coordinator on January 18, 2002.

"...In response to your request of January 18, 2002, I have reviewed the above-noted report from a FOIP perspective and provide the following observations and suggestions..."

"...While the consultants noted that certain personnel, lending, by-law and governance practices are in need of remedial action in accordance with the *Metis Settlements Act*, it was also noted that "...during our review, we saw no evidence of the commission of criminal offences..." (pg. 32)..."

"...My review of the Peavine report identified approximately 60 individuals, whose names were noted on approximately 146 occasions within the text of the report. In addition, I noted 11 companies which were referred to in 45 separate instances within the report and five diagrams within Appendix "A" which identified between 9 and 22 subcontractors, over the 1997/98 to 2001/02 time period..."

"...Since October 1, 1999 all individual Metis Settlements and the Metis Settlements General Council have been designated local government bodies and subject to the FOIP legislation..."

"...Pursuant to FOIP, elected and appointed officials as well as employees, consultants and contractors of local public bodies are subject to a level of scrutiny that is more "enhanced" than it is for members of the general public. I am assuming that the preparation of the Peavine Report was undertaken to address various concerns of Peavine Metis Settlement members and that the release of this report may be desirable for the purposes of subjecting the activities of the Peavine Metis Settlement to public scrutiny and to also address the claims, disputed and/or grievances of the membership, factors which the FOIP Act addresses in sections 17(5)(a) and 17(5)d)..."

"...The FOIP Act allows for the release of information about:

- i) public officials i.e. employees [section 17(2)(e)],
- ii) contracts for goods and services [section 17(2)(f)],
- iii) license, permit or other similar discretionary benefits [section 17(2)(g)], and
- iv) discretionary benefits of a financial nature i.e. grants [section 17(2)(h)]..."

"...The rationale underlying these FOIP provisions is that, subject to certain restrictions, more information should be available about individuals who are paid out of public funds and that the public is entitled to know from whom and for what amount various services were purchased. The release of financial and other details about job classification and duties, receipt of discretionary benefits provided in the absence of a

formula or scale, and the supply of goods and services to a public body is not an unreasonable invasion of privacy, even when such details may be personal information..."

"...The severing of all individual names and business' within this report would in all probability, render significant portions of the report "unreadable" and of little, if any value to the Settlement leadership/membership..."

"...The report suggests that "...Council should consider the establishment of a position such as an Information Access Coordinator whose primary function would be to field enquiries from the community for information..." (pg 35). Given that each Metis Settlement and the Metis Settlement General Council were provided FOIP Coordinator training prior to the October 1, 1999 proclamation of FOIP, I thought that this process is now in place..."

"...I suspect that the Peavine Report release is of significant interest to the Peavine Metis Settlement membership...I would suggest the following specific deletions...that the report be forwarded to the Settlement leadership for subsequent review with the Settlement membership..."

"...FOIP requests are a time-consuming and expensive process to the recipient public/local government body. The more information that can be released to the public or interested segments of the public through normal channels, the more effective a public body will be in administering its programs and activities..."

January 24, 2002 "Meeting Notes: Peavine Council/Minister of Aboriginal Affairs and Northern Development/Metis Settlements Transition Commission Commissioner"

Five pages of handwritten notes from meeting of the above noted parties to discuss Peavine Metis Settlement Investigation Report contents and resulting activities.

Comments by source:

Ed Ryan (Pricewaterhouse Coopers)

- Settlement policies appear to be sound
- Enterprises – no policies and a significant struggle with financial administration, staff payments require review
- Contracts were well handled and found nothing of concern
- Information – while not required under the *Metis Settlements Act* for subsidiary operations, basic information should be made available
- Confidentiality Agreements – required for all employees since certain allegations were based upon information that could only have been gained because confidentiality agreements were breached
 - Interim positions – need to be reviewed and filled properly where concerned
 - Loans – need to be administered by an outside source which has the staff and expertise
 - Logging – oil policies are in need of revision/updating
 - Information Access Coordinator – retrieving and providing basic information is time consuming for members, staff and Councilors

alike...vast majority of allegations were not based in fact but rather poor communication

- Administrator's Business interests found to be proper
- Report has to be reviewed for FOIP considerations..."

Iner Gauchier (Chairman, Peavine Metis Settlement Council)

- Review cost Peavine millions, created a black eye and should have been handled differently
- The Chairman should have been contacted when complaints are reviewed
- Suggests an early public meeting with the Minister and Commissioner present
- Peavine Council to provide a response/plan of action to the Minister prior to the public meeting

Randy Hardy (Commissioner, Metis Settlements Transition Commission)

- Petitions received alleging rules/bylaws infractions
- Metis Settlements Transition Commission did not feel that a full forensic audit was warranted – this investigation was only a "smell test"
- There has to be an avenue for people to raise their concerns

Honourable P. Calahasen (Minister, Aboriginal Affairs and Northern Development)

- A negative environment and a lot of hurt existed, this was a good opportunity to clear the air – the Peavine Council will benefit from this investigation
- Commits to working with the Peavine Council in the future with individual complainants
- How do we go forward and deal with process and issues?
- Council should address this report, prepare a response and plan of action

Richard Hajduk (Peavine Legal Counsel)

- Council did not request this investigation, there was no findings of impropriety
- Why should the Minister's office continue to monitor the situation?
- Minister should deal with the recommendations and the public
- Ongoing monitoring keeps a shadow over the Council
- Wants to see an end date to this process, when will the government withdraw from this investigation?_

Iner Gaucher

- Propose a bylaw for an annual review of this nature

Honourable P. Calahasen

- Agreed – Council should bring its response to the recommendations to the public
- Should assess the report for FOIP considerations and use only one report for an upcoming public meeting
- Final report to be ready by Friday, February 1st
- Public meeting to be held on Tuesday, February 5th

January 25, 2002 "Peavine Metis Settlement – Media Attention"

One-page e-mail forwarded from Peter Tadman, Director of Communications to various AAND officials

"...It's possible that the Peavine Metis Settlement investigation could attract some media attention...Media calls should be directed to me...the response from communications for your background and the Minister's will be..."

we supported an independent review ordered by the Commissioner...
the review found that there was no evidence of criminal wrongdoing...
the review found that there were some administrative and operational weaknesses...
steps are being taken (via an action plan) to strengthen the Settlements operating procedures..."

January 31, 2002 "Letter from Honourable P. Calahasen to Iner Gauchier, Peavine Metis Settlement Chairman"

Two-page letter

"...I appreciated the opportunity to meet with you and your Council...I thought the discussion was productive and I am pleased that you have committed to developing an action plan...It will be critical to establish clear time lines to achieve the objectives identified in the action plan...Your agreement to hold a public meeting on February 5, 2002 to provide your members with an opportunity to review and discuss the report is a positive step..."

"...I was pleased that the investigation did not reveal any evidence of criminal action. I do believe, however, that you and your Council face important challenges as you strive to build fair and transparent governance..."

"...It is my hope that proper mechanisms will be put into place which ensure fair and balanced hiring and contracting practices, responsible and accountable financial management and effective and consistent communication with your members..."

"...Your stated goal of replacing yourselves from directorships of companies once they are operational is an excellent example of a balanced approach to the necessary separation between business and governance..."

"...the report identified two areas requiring further investigation...an examination of the agricultural and business loans as well as the lack of policies for the remuneration of Peavine Enterprises staff. I am looking forward to reviewing how the action plan addresses these two areas..."

"...In preparation for the public meeting...and consistent with the principle of transparency, I would ask that you post this letter in your administration office. I would also like to ensure that your members have access to the report following resolution of privacy issues. It is my understanding that this process will be completed by February 1, 2002 and the report can be made available at that time..."

January 28, 2002 "Freedom of Information and Protection of Privacy Release of Personal Information – January 16/92 Draft Report of Pricewaterhouse Coopers"

Four-page letter from Lorne J. Ternes, Barrister and Solicitor to Randy Hardy, Metis Settlement Transition Commission Commissioner

"...I have reviewed the draft report...provided to me Friday, January 25, 2002. It is my understanding that I was to consider the personal information in the Draft Report with a view to determining if the Draft Report was consistent with FOIPP (as limited to the release of person information [sic])..."

"...It was impressed upon me that the opinion was to be brief and was desired as soon as practicable as you intended to release the Draft Report to Peavine Metis Settlement membership in the next few days..."

"...Given the urgency of this request I expressly limit my opinion to the advisability of releasing the Draft Report in the context of the *FOIPP Act*. I have not turned my mind to any other legal issues..."

"...After reviewing the Draft Report I identified several instances of personal information being reproduced in the January 16, 2002 draft..."

"...The essential problem with releasing personal information is that FOIPP expressly forbids a public head...from disclosing any personal information if it would be a personal invasion of that third party's personal information..."

"...I have not been given either the time or the background information (the facts) to confirm any circumstances if one could release personal information without violating the *FOIPP Act*..."

"...I also draw to your attention paragraphs 8 and 9 of the Draft Report...the report writer indicates that much information has not been verified. I suggest you cannot rely on the report alone for the facts to assess if it is or is not proper to release the particular personal information being considered..."

"...I recommend that the report be recast in a way that describes the complaints and the findings in a way that does not provided [sic] personal information. It could generally describe which complaints do not require further investigation and also set out which complaints will be investigated further..."

January 30, 2002 "Peavine Metis Settlement Investigation Report"

37 page report from Ed Ryan, Pricewaterhouse Coopers to Honourable P. Calahasen, Minister of Aboriginal Affairs and Northern Development; Randy Hardy, Commissioner, Metis Settlements Transition Commission; and Chair and Council, Peavine Metis Settlement

"...We attach a copy of our final report respecting the review of the Peavine Metis Settlement management, administration and operations..."

"...we understand that a public meeting respecting this review is scheduled for February 5, 2002... We will be pleased to attend this meeting..."

"...It was not intended to be a forensic audit. However, the review was to attempt to address the public concerns as expressed to the Minister of Aboriginal Affairs and Northern Developments (sic), and the Commissioner of the Metis Settlements Transition Commission..."

January 31, 2002 "Peavine Settlement Report (Pricewaterhouse Coopers)"

One-page e-mail from Gerry Kushlyk, AAND to Cameron Henry, Thomas Droege, AAND

"...I have reviewed the revised report as provided to me earlier today... Although the copy received did not contain any of the Appendix "A" charts... the alterations made were appropriate... and should assist in addressing the concerns of the Settlement members in both an equitable manner and in one which best serves the public interests of Settlement members..."

February 1, 2002 "Section 171 Investigation"

One-page letter from Iner Gauchier, Chairman, Peavine Metis Settlement to Honourable P. Calahasen, cc'd to Randy Hardy, Commissioner, Metis Settlements Transition Commission

"...Further to our meeting of January 24, 2002, please be advised that regarding the release and dissemination of the Investigation Report, it is our position that your office should be responsible for same as it is your office that directed the investigation..."

"...As such we are not responsible for the contents of the Investigation Report nor the venting of same to comply with the *Freedom of Information and Protections of Privacy Act* (the *FOIP Act*)..."

"...We are concerned that the release of the Investigation Report by the Settlement may make the Settlement a party to any breach of the *FOIP Act* as well as any potential civil liability..."

"...One alternative would be for the Investigation Report to be released by the Minister at the commencement of the General Meeting..."

"...We are also prepared to consider other alternatives which would not prejudice the interests of the Settlement. Kindly advise..."

February 1, 2002 "Pricewaterhouse Coopers Report - Delivery"

One-page letter (faxed) from Corrienne Henson, Metis Settlements Transition Commission Operations Manager to Judy Hopkins, Peavine Metis Settlement

"...Further to our telephone conversation this morning, please be advised that the report... is completed and ready for distribution to members. A package of 100 copies waits for pick up at the Greyhound location in High Prairie..."

February 4, 2002 "Release of the Pricewaterhouse Coopers Report"

One-page letter from Honourable P. Calahasen to Iner Gauchier, Chairman, Peavine Metis Settlement

"...In response to your letter of February 1, 2002 seeking advice on the release of the PWC report, let me offer the following. As was stated at the January 24, 2002 meeting, transparency is a critical component to good governance. It is my view, therefore, that the report should be made public. You should know that the Metis Settlements Transition Commission and my department has reviewed the report in the context of the *Freedom of Information and Protection of Privacy Act* (FOIPP)... "

"...There were several changes recommended to comply with FOIPP and these changes have been incorporated..."

"...I understand that you received copies of the revised report, as did the Commissioner, and myself on February 1, 2002. The Commissioner has sent copies of the report to your Settlement so that members can review the report, if they wish, prior to the public meeting on February 5, 2002..."

"...I look forward to the public meeting on Tuesday evening..."

February 5, 2002 "Peavine Metis Settlements Public Meeting Briefing Package"

One-page memo with 8 pages of attachments from Paddy Meade, Deputy Minister to Honourable P. Calahasen, Minister

"...please find attached the following in preparation for the public meeting in Peavine tonight:

- an agenda;
- speaking notes for your use during the "Minister's Comments" portion of the agenda;
- a briefing note outlining options for further action;
- potential responses to issues which may be raised; and
- list of questions you may wish to ask during the "Discussion" portion of the agenda in order to focus discussion..."

#78a

February 5, 2002 "Postponement of Peavine General Membership Meeting"

One-page letter from Randy Hardy to Iner Gauchier, cc'd to Honourable P. Calahasen, Mr. Ed Ryan, Peavine Councilors

"...Due to the funeral today, and in respect for the family and community in their need to mourn, it was considered appropriate to postpone the General Membership Meeting..."

"...I apologise for this short notice on the cancellation, as I was only made aware of this earlier today..."

"...I am suggesting that the meeting be rescheduled to February 12, 2002; let me know if this date is okay..."

February 5, 2002 "Media - Peavine"

One-page e-mail from Peter Tadman, Director of Communications (AAND) to Cameron Henry, Paddy Meade, Wilson Smith

"...Lisa Gregoire of the Journal has asked for some comment from the Minister with regard to Peavine and a scheduled meeting tonight. I will be getting back to Lisa and explaining that the Minister is jammed up with cabinet and other matters but I can provide Lisa with the following (points as noted in previous January 25, 2002 e-mail)

February 6, 2002 "Media - Peavine"

One-page e-mail with attachment from Peter Tadman, Director of Communications, AAND to Cameron Henry, Ken Boutillier, Paddy Meade, Wilson Smith

"...For the Minister's background, Lisa Gregoire of the Journal called looking for more information for a story she is doing about Peavine. Specifically she wanted to know how much money the Metis Settlements receive and also asked about previous independent reviews on Metis Settlements..."

"...Our verbal response to Lisa is attached..."

- the total is slightly more than \$2 million
- there was an independent review in Peavine in the early '90's
- as a result a Controller was appointed at Peavine. Certain conditions had to be met for the controller to be removed. This was done by Spring '99
- none of the independent reviews found criminal wrongdoing under the Metis Settlements Act there is a process for members to complain
- there is a process to complain. There is a process to investigate. The process is working..."

February 7, 2002 "Peavine Metis told Reforms Needed"

Edmonton Journal article, Page A7, by Lisa Gregoire, staff writer.

"...A two-month investigation into allegations of conflict of interest, nepotism, shady accounting and mismanagement at Peavine Metis Settlement is complete and the final report warns elected Councilors that changes are required..."

"...Pricewaterhouse Coopers, hired by the province after Peavine residents petitioned the Province for outside scrutiny, found no criminal activity but outlined contraventions of the *Metis Settlements Act* and other potential conflicts..."

"...A disproportionate number of members of one family group are employed in senior positions by the Settlement..."

"...Although reasonable hiring policies are in place, a number of employees were hired on an interim basis with no job positions being offered to other community members..."

"...Several of the original complainants who have read the report are disgusted. They say consultants dismissed complaints frivolously and didn't dig deep enough for the truth..."

"...Controversial practices will continue, they say, because the Alberta Government won't hold Peavine leaders accountable and local people are too afraid of losing jobs, homes and membership to do it themselves..."

"...I think it was a waste of time and money," Lynn Cunningham said..."

"...Peavine is the only Settlement to undergo two independent investigations. All eight Alberta Metis Settlements were reviewed in 1998 and that led to some generalized operational changes..."

"...The Peavine report looked at about 90 allegations and dismissed more than half as unfounded. But according to the report, investigators simply confronted individuals in some cases and when the allegation was refuted, they determined no further action was required..."

"...In cases of vehicles bought and sold between Councilors...investigators admitted they did not get the vehicles appraised to determine whether prices were inflated or deflated..."

"...A lot of people don't like what's going on but if they speak out, they lose their job," said one Peavine man..."

"...One woman called the report a whitewash..."

February 8, 2002 "Facsimile Transmittal"

Three-page fax transmittal sheets from Metis Transition Commission Employee to

"...Re: Pricewaterhouse Coopers Report – 13 pages (including cover) @ 4:11, 4:24 and 4:30 p.m."

February 12, 2002 "Peavine Meeting"

41 pages of handwritten notes by Cameron Henry (AAND) notations concerning privacy/information/FOIP noted by:

"...Iner Gaucher: Indicated that Peavine did not make the report public

Honourable P. Calahasen: we had removed some names during our consideration of the draft report

_____ : who made the personal accusations, where is the petition with names?

_____ : who accuses my family of stealing? Who gave the authority to include names?

_____ : considered by FOIP Coordinator as being of sufficient community interest to _____ release – release in public interest

_____ : Council is invading my privacy with the C-31 litigation
_____ : wants list of names of persons who signed the petition
_____ : hurt when I saw the report with names of friends, co-workers,
relatives...can't wait to see list of petitioners..."

February 14, 2002 "Review Prompts Plan to Improve Metis Settlement"

Edmonton Journal article, Page A6, by Lisa Gregoire, staff writer

"...The Peavine Metis Settlement Council and about 100 residents met this week to hear the results of an independent management review, air their concerns and work on a plan for a stronger, more open community..."

"...Some residents, who prompted the review with allegations of mismanagement and discrimination, said they hope the Minister monitors that action plan and ensures the reports recommendations are heeded..."

"..."People need to be treated with justice," resident Hazel Vicklund said. "The Minister needed to know what was going on out here and I think she got a good picture..."

"...The report recommends Peavine and its subsidiaries – Tirmoil Energy Inc, Peavine Enterprises, and Peavine Lumber Inc. – address issues of accounting, hiring, conflicts, communications, contracting and loans..."

"...The report found no evidence of criminal activity and made no finding of a hiring bias..."

February 15, 2002 "Request for Petitioner's Names"

One-page letter from Dennis Cunningham, Peavine Settlement Administrator to Randy Hardy, Commissioner, Metis Settlements Transition Commission

"...As requested during a previous meeting with yourself, the Peavine Metis Settlement Council requested the named individuals in which headed the Pricewaterhouse Coopers investigation of Peavine Settlement and Entities..."

"...It was your reply that the individual names cannot be released to Council, and the request was only partially fulfilled when we obtained the substance of the petition..."

"...During the Public meeting on February 12, 2002...It was noted that you informed the public that the names of the petition signers and copies of the letters you received in your office can be released to Council, as per their request..."

"...It is in our understanding that you will abide by your word to the members of Peavine and the names will be given to the Settlement Council as soon as possible..."

February 21, 2002 "Follow-up to Public Meeting on February 12, 2002"

One-page letter from Randy Hardy, Metis Settlements Transition Commission Commissioner to Iner Gauchier, Peavine Metis Settlement Chairman – cc'd to

Honourable P. Calahasen; Councilors, Peavine Metis Settlement; Paddy Meade Deputy Minister

"...I would like to thank you and your fellow Councilors who attended the public meeting for taking part in what was, and remains an exercise in democratic accountability..."

"...This form of accountability and reporting to the membership is not always a pleasure for those in power, but you no doubt recall clearly the time not so long ago when you yourself required support to exercise your own rights to address matters you considered to be in need of correction..."

"...I know the Minister shares my appreciation for your agreement at our January 24th meeting...to prepare a plan of action to address all matters identified in the...report..."

"...The Minister is looking forward to receiving a copy of your corrective action plan in the near future..."

March 8, 2002 "Privacy Complaint Notice"

One-page letter from Frank Work, Q.C., Acting Information and Privacy Commissioner to Honourable Pearl Calahasen, Minister of Aboriginal Affairs and Northern Development cc'd to Gerry Kushlyk, FOIP Coordinator, Aboriginal Affairs and Northern Development

NOTE: the first of approximately 24 such notices to be received over the ensuing eight weeks.

"...I am writing to notify you, as head of Aboriginal Affairs and Northern Development, that I have received a complaint that the Ministry and the Metis Settlements Transition Commission has collected, used or disclosed personal information in violation of Part 2 of the *Act*..."

"...I have requested that Frank Borsato, a Portfolio Officer on my staff, investigate this matter and report back to me..."

March 8, 2002 "Peavine Metis Settlement Report...Pricewaterhouse (sic) Report"

One-page e-mail from Gerry Kushlyk to Cameron Henry (AAND) and Ken Boutillier (AAND) cc'd to Paddy Meade, Deputy Minister, AAND

"...Please be advised that the recent Peavine/Pricewaterhouse (sic) Report has generated a number of Privacy complaints which have been filed directly with the Information and Privacy Commissioner's Office..."

"...I have arranged to meet with the IPC Portfolio Officer on Friday, March 15th at 10:30 a.m. to assess the situation. I will keep you advised of this situation as this matter unfolds..."

March 15, 2002 "Meeting of March 15, 2002 re Peavine Privacy Complaints"

One-page e-mail from Gerry Kushlyk (AAND) to Paddy Meade, Deputy Minister (AAND), cc'd to Cameron Henry (AAND)

"...Earlier today I attended a meeting with Mr. Frank Borsato...the following events transpired and instructions were identified..."

"...1) The IPC officer was not aware of the fact that the Metis Settlements Transition Commission is to be dissolved on April 1, 2002. The issue arose when I was requested to provide the name of the Metis Settlements Transition Commission FOIP Coordinator for future meetings on the Privacy complaints...it was strongly advised that the Commissioner of the Metis Settlements Transition Commission transfer the Delegation of Authority for Metis Settlements Transition Commission FOIP matters to someone and suggested it be me...attached are draft documents for your consideration..."

"...2) The IPC Officer was concerned about the eventual disposition of any Metis Settlements Transition Commission records/files. I stated that as far as I knew, that this issue was being addressed...In discussing this matter...I was informed that arrangements to physically transfer the Metis Settlements Transition Commission files to AAND are underway..."

"...3) The IPC Officer suggested that copies of the Contract/Terms of Reference between the Metis Settlements Transition Commission and Pricewaterhousecoopers (sic) (PWC) be secured immediately (done this afternoon)..."

"...In summary, this issue will require considerable attention on my part over the next few months. I would suggest that we discuss the Delegation issue and others briefly..."

March 28, 2002 "Final Report: Metis Settlements Transition Commissioner"

25 page report submitted by Randy Hardy, Commissioner, Metis Settlements Transition Commission to: Honourable Ralph Klein, Premier and Members of the Transition Authority: Honourable Pearl Calahasen, Minister, Aboriginal Affairs and Northern Development; Mr. Rick Blyan, President, Metis Settlements General Council; Chairs and Councillors, Metis Settlements.

"...In my final act as Commissioner...I submit this report..."

"...As always, I offer my observations and views on the accomplishments, or lack of accomplishments, of the Commission and the Settlements without sugar coating..."

"...We have come a very long way since 1990 – collectively, as distinct Settlements, and as individual members..."

"...We also know – all of us – that we yet fall short of the mark in providing our people with the quality of governance that should be their right..."

"...My report does not mince words because we do not have the luxury of ignoring our problems or postponing the cure...It is intended to rouse to action those who care about the future..."

"...I thank the Province of Alberta for an remarkable opportunity given us. I hope that we have used it as best we could...and that the province will stay with us the rest of the way – but with the 'tough love' we deserve from someone who cares about us..."

"...When it was launched, the Accord and the attendant legislation contained certain elements and processes that have acted as serious impediments to the development of self-government..."

"...Included in this category were items such as elections, where annual balloting and staggered terms have wreaked havoc with long-term planning and with group dynamics and stability on Councils, and resulted in time-consuming and divisive political influences for too great a part of each working year..."

"...In the case of some Settlements, there is, unfortunately, a steady stream of standard complaints centered on accusations that Councils favour family members and deny similar treatment and benefits to others..."

"...Other standard complaints...include conflict of interest, featherbedding, and election irregularities..."

"...The Accord brought instant exposure to complex functions and responsibilities. Inexperienced Councilors were called upon to oversee inexperienced administrators..."

"...In short order this became a giveaway culture with no hope of sustainability one the Accord funding runs out..."

"...Because funding comes primarily from outside the Settlements, residents have no direct financial stake or investment in their government and they do not demand accountability for, or commitment to the efficient and effective application of resources..."

"...Accountability, efficiency and the maintenance of ethical standards have become something demanded and imposed by the 'outside'..."

"...Litigation has become a curse as members increasingly look to outside institutions to enforce fairness, accountability and transparency..."

"...By not insisting strongly that the Settlements deliver on their commitments in exchange for funding and other forms of support, the province's insistence on Settlements adherence to the core characteristics of sound governance rings hollow..."

"...The Minister, indeed, has a legislated responsibility and strong powers to protect the public interest and has delegated those powers to the Commissioner in March 2000. It is respectfully submitted, though, that successive Ministers and the Commission were wrong in allowing Settlement Councils to avoid experiencing the full effects of their actions where warranted..."

"...Getting the Settlements back on track to self-reliance and self-regulation will take a clear, joint decision and tough action by both partners..."

"...During the final phase the Commission assisted the Settlements in...undertaking a comprehensive financial and management review of each of the eight Settlements to

gauge their readiness to take on full governance responsibilities...The management reviews identified and highlighted the extent to which Settlements still fell short of the results generally expected of elected governments with public trust obligations..."

"...Lack of accountability, commitment and trust represent the single biggest challenge to the development of self-government by the Settlements..."

"...Because financial arrangements under the Accord were originally set up in a way that favours distributional coalitions, Councils have a stranglehold on most, if not all areas of the average members life. This applies to many members...who have to look to Council for a house, for a job, for a contract, for a grant, for emergency medical assistance..."

"...Councils control all the financial resources and have the ability to secure or squander the future of the people..."

"...The readiness of the Settlements to sue, while consistently claiming that the deal worked out between them and the province had been foisted upon them (Matching Grants Replacement Agreement), points to a growing perception among the Settlements that they are 'entitled' to a certain level of provincial support – while objecting to the notion of keeping to their own commitments and accounting for the expenditure of funding provided..."

"...Settlement members have widely blamed welfare for having broken the spirit of the people on Settlement by treating them as dependents. Yet, the province continues to allow its partners to breach undertakings and agreements..."

"...Not to acknowledge the ability of a people to accept responsibility is tantamount to a mortal insult – regardless of how well intended it might be. By avoiding tough love, the province and our own Metis leadership are causing 'collateral damage' that may soon be irreparable..."

"...As a result of the leniency described above, Settlements seem to be on a steady slide towards the same level of quarrelsome dependence as many an Indian Reserve..."

"...This is not yet inescapable – and in fact may be what some members want – but in the absence of a clear, joint decision to get back on track towards self-reliance and self-regulation, and following through on that decision, it soon will be..."

"...Settlement-imposed restraints to effective self-government

- i) unrealistic expectations
- ii) unified vision
- iii) focus
- iv) accountability, commitment and trust
- v) 'entitlement' syndrome
- vi) role of resources..."

April 19, 2002 "FOIP...Records Management...IT Security Issues"

One-page e-mail from Gerry Kushlyk (AAND) to Paddy Meade, Deputy Minister (AAND), cc'd to John McDonough

"...Further to our discussion yesterday, I forward the following information and suggestions for your consideration..."

"...Considering...new FOIP, Records Management and IT developments and given the changes in AAND staff, IT systems and our records inventory since our last training session (approximately 5 years ago), I would recommend that all AAND staff undergo a one-day training session in these areas..."

"...I would at this point in time, suggest that we plan to deliver training to all staff in early September of this year, i.e., at the completion of the summer vacation season and prior to the Business Plan "intensities." While the logistics could await final tuning, I would suggest 3 one-day sessions for approximately 20 staff in each session...such training could probably be provided on successive days within one week (September 9th or 16th) in our Tansi Boardroom..."

April 22, 2002 "FOIP...Records Management...IT Security Training Issues"

One-page e-mail from Paddy Meade, Deputy Minister, AAND to Gerry Kushlyk and all members of AAND Executive Committee

"...thank you for the suggestions. I am approving that you conduct training for all AAND staff, regardless if they have taken previous FOIP training..."

"...I would ask that Northern Alberta Development Council (NADC) be included in the training and therefore please liaise directly...as to a time in September when you could travel to accommodate the NADC staff for this training..."

"...have the training plan placed on Executive Committee agenda in the near future..."

April 22, 2002 "File Management: Proposed Review"

One-page memo from Gerry Kushlyk to Paddy Meade, Deputy Minister, AAND, Neil Reddekopp, Cameron Henry – cc'd to Ken Boutillier, John McDonough, Wendy Fayant

"...With the recent transfer of approximately 110 cubic feet of Metis Settlements Transition Commission files and the upcoming return of the Aboriginal Land Claims section to Commerce Place, it would be an opportune time to undertake a review of our file management system..."

"...Specifically, we need to consider file/records management access, protection and location. In addition, we need to consider undertaking a Privacy Impact Assessment (PIA) for all AAND records management and IT operations..."

"...I would appreciate your views on this suggestion