

# PROGRAM EVALUATION

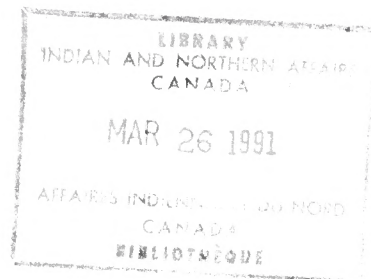
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EVALUATION  
SECHELT INDIAN BAND  
LAND MANAGEMENT PROGRAM  
MARCH 31, 1979



Indian and Northern Affairs  
Indian and Inuit Affairs Program  
Program Evaluation Branch

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EVALUATION  
SECHELT INDIAN BAND  
LAND MANAGEMENT PROGRAM  
MARCH 31, 1979

Prepared by: D.A. Weir  
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D. A. W E I R

545-2355

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Vernon, B.C.  
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LETTER OF TRANSMITTAL

March 31st, 1979.

Mr. P. Fillipoff,  
Senior Projects Officer,  
Policy, Research and Evaluation Group,  
Indian and Inuit Affairs,  
Les Terrasses de la Chaudiere,  
10 Wellington Street,  
Hull, Quebec.

Dear Sir,

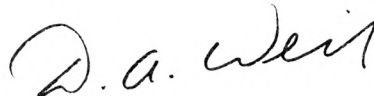
The following report of thirty-three pages and appendices is my evaluation of the Sechelt Band Land Management Program completed in accordance with the Terms of Reference contained in Service Contract 99243.

Confidential information concerning Sechelt Indian Band revenues during the period of the Land Management Program has been submitted under separate cover in order to assure confidentiality of the information.

I received excellent support and co-operation from the Sechelt Indian Band Council and all staff, and the Department of Indian Affairs staff during the currency of my review. This co-operation made the preparation of this report a pleasure.

I would like to congratulate the Sechelt Indian Band for successfully managing their real estate resources during the period of the program. I am confident that the experience gained from the Sechelt Program will provide a valuable base for future Land Management transfers to other Indian Bands.

Yours very truly,



D.A. Weir, B.A., M.A., R.I. (B.C.)  
Management Consultant

DAW/dh

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EXECUTIVE SUMMARY

EVALUATION SECHELT LAND MANAGEMENT PROGRAM

MARCH 31ST, 1979

Since April 1st 1974 the Sechelt Indian Band has exercised direct control and management of it's Reserve Lands based upon delegation of authorities as provided by Section 60 (1) and Section 53 of the Indian Act. In addition the Band under authority of Section 69 of the Act also had direct control and management of Revenue funds. The transfer of responsibility to the Band for management of it's Reserve lands was undertaken as a pilot project with program costs being underwritten by the Department of Indian Affairs.

D.A. Weir was retained by Policy, Research and Evaluation Group of the Department of Indian Affairs to provide an independent evaluation of the program. The evaluation provides a report as to the scope and adequacies of the management agreement, operations under the agreement, and makes recommendations concerning the continuance of the program, and is based upon field work undertaken during March 1979.

The Department of Indian Affairs approval of the Land Management Program request was given almost immediately and was supported by Departmental personnel at all levels. Initial implementation of the project began in October of 1973 with the

hiring of staff including a Land Management Consultant, and the preparation and implementation of policies and procedures. On April 1, 1974 the Band assumed all program responsibilities including:

- a) Completion of appraisals and land valuations.
- b) Negotiations of Terms and Conditions of all Land transactions and agreements.
- c) Preparation of documents for execution.
- d) Authorizing execution.
- e) Submission of documentation for execution by Region and registration in the Indian Land Registry.
- f) Collection of rents, fees, payments, etc.
- g) Administration of Terms and Conditions of all agreements.

While the Department had given approval to the Land Management Program, and the Band for practical purposes had exercised control and management of Reserve Lands since April 1974, the enabling legal authorities as required by the Indian Act were not fully completed until February 1978.

The roles and responsibilities of the parties with respect to the transfer of responsibilities and provision of project funding are not set out in a formal "Land Management Agreement". The lack of formal agreement setting out budget criteria and approval of funding has resulted in problems with program funds being provided late in almost every year of the program.



The Sechelt Indian Band Council has indicated that they have been most pleased with the results of the Land Management Program and do not see a need for amending its basic terms and conditions. The Regional staff of the Department of Indian Affairs have provided positive and excellent technical support to the program and have assisted with many difficult matters.

The Sechelt Band has adopted simple administrative and financial procedures which provide an excellent system of internal checks and controls. It is my unqualified opinion that the Minister's "Trust Responsibilities" which have been delegated to the Sechelt Band have been adequately protected.

Currently there are 208 leases and permits in force on the Sechelt Reserves and this number accounts for 35% of the total number presently in place in the Vancouver District of the Department of Indian Affairs and 12.2% of all leases/permits in the B.C. Region.

Program costs since inception until January 31st, 1979, have been \$247,658. I estimate however that "front end" costs for implementation, training, and lease up-dating program were \$55,000 of the total expenditure. The average annual cost during the five years of providing base services has been \$38,531. per annum.

There have been substantial direct financial benefits which have accrued to the Sechelt Band as a result of their Land Management Program, and these are:

- a) Annual lease permit revenues has increased 225%.

- b) Bank interest revenues has increased from zero at the outset to \$10,000. in 1977/78.
- c) Pre-paid lease trust account balance has increased by 375% and in addition there have been substantial interest revenues accrue.
- d) Band Revenue funds surplus increased by 196% during the period 1975-78.
- e) Large deposits at a local bank provides for financial leverage, liquidity, and higher yield.

There is a positive relationship between the costs of the program and revenues generated. The cost of the program to date is 13.4% of the total revenues generated and in the private sector the cost of providing comparable services is 12% of gross annual income.

It would be very difficult for the Department of Indian Affairs from District Office in Vancouver to provide comparable services at a competitive cost. The estimated cost to the Department of Indian Affairs would be \$61,000. per annum and the Band has been providing these services at a cost of \$38,500. per annum.

Recommendations of the evaluation are as follows:

- a) The Sechelt Land Management Program should continue.
- b) The Department of Indian Affairs should continue to underwrite the cost of the program.

- c) A formal Land Management Agreement should be drawn up between the Department of Indian Affairs and the Band.
- d) The Sechelt Band should prepare a Land Management Manual.
- e) Deposits should be held in trust by the Band pending approval of agreements.

The Sechelt Land Management Pilot Project notwithstanding the difficulties in obtaining legal authorities, the lack of a formal agreement, and lateness of funding, has been very successful. There has been a number of factors and circumstances which have contributed to the success of the program and it is important that practical lessons are learned from the Sechelt experience.

RESUME ADMINISTRATIF

EVALUATION DU PROGRAMME DE GESTION FONCIERE

DE LA BANDE DE SECHELT

LE 31 MARS 1979

La bande indienne de Sechelt est chargée de la gestion et du contrôle direct des terres de la réserve depuis le 1<sup>er</sup> avril 1974, par suite de la délégation des pouvoirs conformément au paragraphe 60(1) et à l'article 53 de la Loi sur les Indiens. De plus, la bande, conformément à l'article 69 de la Loi, exerce un contrôle direct et la gestion des fonds de revenu. Le transfert des responsabilités de gestion des terres de la réserve à la Bande fut entrepris à titre de projet pilote, les coûts du programme étant assumés par le ministère des Affaires indiennes et du Nord canadien.

Le Groupe de la politique, de la recherche et de l'évaluation du ministère des Affaires indiennes et du Nord canadien a retenu les services de Monsieur D.A. Weir pour effectuer une évaluation indépendante du programme. L'évaluation comprend un rapport sur la portée et l'efficacité de l'entente de gestion des activités découlant de l'entente, ainsi que des propositions quant à l'opportunité de poursuivre le programme. Le rapport est fondé sur une étude effectuée sur place au cours du mois de mars 1979.

La demande d'un programme de gestion foncière a fait l'objet d'approbation immédiate par le ministère des Affaires indiennes et était appuyée par le personnel ministériel à tous les niveaux.

La mise en oeuvre initiale du projet fut entreprise en octobre 1973, suite à l'embauche de personnel, dont un conseiller en gestion foncière, et à l'élaboration et à l'application des politiques et des modalités. Le 1<sup>er</sup> avril 1974, la Bande assumait toutes les responsabilités du programme, y compris:

- a) la mise au point des évaluations foncières.
- b) la négociation des modalités de toutes les transactions et les ententes foncières.
- c) la rédaction des documents à des fins d'exécution.
- d) l'autorisation de l'exécution.
- e) la présentation de documentation à des fins d'exécution par la Région et d'inscription au Registre des terres indiennes.
- f) la perception des loyers, des frais, des paiements, etc.
- g) l'administration des modalités de toutes les ententes.

Bien que le Ministère avait approuvé le programme de gestion foncière et que la Bande exerçait, à toutes fins pratiques, le contrôle et la gestion des terres de la réserve depuis avril 1974, les documents de délégation exigés conformément à la Loi sur les Indiens étaient seulement entièrement remplis en février 1978.

Les rôles et les attributions des parties au niveau du transfert des responsabilités et de la prestation des fonds pour le projet n'avait pas fait l'objet de détermination officielle

dans une "Entente de gestion foncière". L'absence d'entente formelle visant à fixer les critères de budgétisation et d'approbation des fonds a entraîné des problèmes, plus précisément des retards au niveau du financement pour presque chaque année du programme.

Le Conseil de la bande indienne de Sechelt a signalé qu'il était satisfait des résultats du programme de gestion foncière et qu'il ne voyait pas la nécessité de modifier les modalités fondamentales de l'entente. Le personnel régional du ministère des Affaires indiennes et du Nord canadien a assuré un appui technique positif et excellent au programme et a également participé au règlement de nombreuses difficultés.

La Bande de Sechelt a adopté des méthodes administratives et financières simples qui fournissent un excellent système de contrôles et de vérifications internes. Je suis convaincu que les "responsabilités de fiducie" du Ministre, déléguées à la Bande de Sechelt, ont été adéquatement protégées.

Il existe actuellement 208 baux et permis en vigueur dans les réserves de Sechelt, et ce nombre constitue 35% du nombre total actuellement en vigueur dans le District de Vancouver du ministère des Affaires indiennes et du Nord canadien et 12.2% de tous les baux et permis dans la Région de la Colombie-Britannique.

Les coûts du programme depuis le début jusqu'au 31 janvier 1979 se chiffrent à \$247,658. Cependant, j'estime que les coûts

initiaux pour la mise en oeuvre, la formation et le programme de mise à jour des baux composaient \$55,000 du coût total. Le coût annuel moyen au cours des cinq années de prestation des services de base a été de \$38,531.

La Bande de Sechelt a profité de plusieurs avantages financiers importants résultant de leur programme de gestion foncière, dont:

- a) les recettes annuelles des permis et des baux ont augmenté de 225%.
- b) les recettes tirées de l'intérêt bancaire ont augmenté de zéro au début du programme à \$10,000 en 1977-1978.
- c) Le solde du compte de fiducie des baux payés à l'avance a augmenté de 375% et de plus, il y a eu une accumulation considérable des recettes d'intérêt.
- d) le surplus du fonds de la bande a augmenté de 196% pendant la période de 1975-1978.
- e) les gros dépôts faits à la banque locale assurent l'amplification financière, la liquidité et un rendement plus important.

Il existe un lien positif entre les coûts du programme et les recettes créées. Le coût du programme, jusqu'à maintenant, constitue 13.4% des recettes totales créées et dans le secteur privé, le coût de la prestation de services comparables est de 12% du revenu brut annuel.

Le ministère des Affaires indiennes et du Nord canadien, par l'entremise du Bureau de district à Vancouver, pourrait difficilement assurer des services comparables à un coût concurrentiel. Les coûts prévus pour le Ministère se chiffrent à \$61,000 par an et la Bande assure ces services à des coûts de \$38,500 par an.

Les propositions découlant de l'évaluation sont les suivantes:

- a) Le Programme de gestion foncière de la Bande de Sechelt devrait continuer.
- b) Le ministère des Affaires indiennes et du Nord canadien devrait continuer de défrayer les coûts du programme.
- c) Il conviendrait de rédiger une Entente de gestion foncière formelle que signerait le ministère des Affaires indiennes et du Nord canadien et la Bande.
- d) La Bande de Sechelt devrait rédiger un manuel de gestion foncière.
- e) La Bande devrait détenir les dépôts en fiducie en attendant l'approbation des ententes.

Le projet pilote de gestion foncière de la Bande de Sechelt, malgré les difficultés à obtenir les autorisations légales, l'absence d'une entente formelle et les retards au niveau du financement, a été un grand succès. Un certain nombre de facteurs et de circonstances ont contribué au succès du programme et il est essentiel que des leçons pratiques soient tirées de l'expérience de Sechelt.



## INTRODUCTION

During the past five years the Sechelt Indian Band has exercised direct control and management of its Reserve Lands based upon delegation of certain authorities as provided by the Indian Act. The transfer of this control and management is unique in Canada and the program was undertaken as a "pilot project" with funding provided by the Department of Indian Affairs. The purpose of this report is to evaluate the operation of the Sechelt Indian Band Land Management Project to date.

The Sechelt Indian Band has approximately 525 members and is located on the Sechelt peninsula adjacent to the town of Sechelt and approximately 50 miles plus a 45-minute ferry trip from Vancouver. The Band has thirty-three reserves and has 208 leases and permits on these lands. In addition to the Land Management Program the Sechelt Band has taken over the responsibility for the operation of many other programs and activities formerly handled by the Department of Indian Affairs.

The original application to assume responsibility for land management was submitted by the Sechelt Band on April 16, 1973

The objectives of the Band were first, to obtain authority to control, manage, and expend revenue funds, and second, to have direct control and management over Reserve lands. In April 1973 the Band did have control and management of revenue funds under Section 69 of the Indian Act; however, this authority was expanded to allow the Band to collect rents and fees from leases and permits. Control and management of lands was to be authorized in accordance with the provisions of Sections 60(1) and 53 of the Indian Act, while Section 4 subsection 2, and Section 28 subsection 1 authorized the Band to enter into contracts respecting Reserve lands.

#### TERMS OF REFERENCE

The purpose of this analysis is to evaluate the performance of the Sechelt Land Management pilot project during the five years from its inception to the present. The terms of reference for the evaluation are:

1. Scope of Agreement

- a) to review the scope and adequacy of the Land Management Agreement,
- b) to review whether the Minister's "Trust Responsibility" has been adequately protected,

2. Operations

- a) to determine program costs,
- b) to determine outputs and benefits,

c) to relate costs and benefits,

It was agreed at the outset of the study that the actual revenues generated by the Sechelt Band as a result of the Land Management Program would not be included in the body of this report since this information is confidential and it is anticipated that the evaluation will have wide circulation outside of the Department of Indian Affairs.

### 3. Recommendations

- a) make recommendations with respect to continuation and/or improvements to existing agreement,
- b) recommend criteria for determining costs of Land Management for Sechelt.

### METHODOLOGY

The evaluation was commenced on March 5, 1979, and consisted of two field trips to the Sechelt Indian Band, at which time detailed discussions were held with the Band Council, Band staff, and professionals retained by the Band as part of their Land Management Program. In addition, a thorough review of all records, files, financial information, and management systems was undertaken. Sechelt Indian Reserves 1 and 2 which have the majority of lease-hold leases were toured in order to assess the nature and scope of lease-hold development.

An analysis and review of Department of Indian Affairs

Regional Office files concerning the Sechelt program was undertaken and discussions were held with Regional staff involved in the land management transfer from its inception to the present.

After the completion of all research a meeting was held in Vancouver with a quorum of the Sechelt Indian Band Council; Mr. Graham Allen, former Land Management Consultant to the Band; Gordon Anderson, Band Accountant and Auditor; and Mr. Peter Phillipoff, Senior Projects Officer; Policy Research and Evaluation Group, Ottawa; and the writer. The purpose of this meeting was to review a preliminary draft of the evaluation and to discuss the recommendations.

## HISTORICAL OUTLINE - LAND MANAGEMENT TRANSFER

The transfer of control and management of Reserve lands to an Indian Band was a new undertaking for the Department of Indian Affairs and because of the many unknowns a number of problems relating primarily to legal requirements, but also some of a procedural nature, were encountered. These problems resulted in delays in the actual transfer of legal authority to the Band even though the program responsibility had been formally transferred in October 1973.

The original Band Council Resolution requesting authority was submitted to the Department in April 1973 and immediately thereafter a committee composed of representatives of the District, Region, and Headquarters of the Department of Indian Affairs, plus a Regional representative of the Department of Justice was formed for the purpose of completing the transfer requested.

The original objective was to have the program in place by September 15, 1973. The program did commence on a limited basis in October 1973 with funding being provided by the Department of Indian Affairs for the balance of the fiscal year. Haskin and

Sells, Management Consultants, were retained to develop a practical accounting and financial reporting system. The recommendations of their report which was completed in November 1973 were adopted and implemented by the Band. A Land Management Advisor to the Band was retained at the end of August 1973. District files and documents required by the Band were photocopied and transferred to the Band on October 11, 1973.

A Referendum of the Electors of the Sechelt Indian Band was held December 28, 1973 for the purpose of requesting the Minister to make application to have the authority granted by Order in Council for the Band to control and manage its Reserve lands. The Referendum was passed; however there was confusion within the Department of Indian Affairs and the Department of Justice as to the legal interpretation of Section 60(1) of the Indian Act and the enabling Order in Council was not forthcoming.

On April 1, 1974 the Sechelt Indian Band began to collect rents and permit fees and this was in reality the commencement of the program.

The Land Management "take-over" Committee was disbanded in June 1974 for reasons which are not quite clear even though the actual legal transfer of authorities had not yet been accomplished.

The authorities which were eventually forthcoming, enabling the Sechelt Indian Band to control and manage its revenue funds and to control and manage Reserve lands are as follows:

1. Control and management of revenue funds provided by Section 69 of the Indian Act was obtained in 1966 and it was interpreted that this authority allowed the Band to collect Land revenues.
2. The Regional Director of Indian Affairs for B.C. by letter advised all lessees and permittees that effective April 1, 1974 all rents, rates and payments should be made directly to the Sechelt Indian Band.
3. Ministerial letter of July 31, 1974 to the Sechelt Indian Band conferred authority on the Sechelt Band to manage Surrendered Lands as provided for by Section 53 of the Indian Act.
4. Order in Council P.C. 1977 - 1391, May 19, 1977, granted the Sechelt Band the right to exercise control and management over Reserve lands pursuant to Section 60(1) of the Indian Act.

A second Band Referendum with respect to the requirement of an Order in Council was held November 1976. This Referendum failed because non-resident Band members who were unavailable and did not vote were considered as negative votes.

A third and final Referendum, held on January 9 and 10, 1977 was affirmative.

5. Order in Council P.C. 1977 - 3028, October 27, 1977, declaring that subsection 28(1) as provided by Section 4(2) shall not apply to any Chief or Councillor of the Sechelt Indian Band when lawfully acting as representatives of the Minister of Indian Affairs and Northern Development with respect to Sections 53(1) and 60(1). This authority empowered Band Council to enter into contracts with respect to Reserve lands.
6. Revised Ministerial delegation of authority over Surrendered Lands as provided by Section 53 of the Indian Act was provided by Ministerial letter dated February 14, 1978.

While Departmental approval of the Land Management Program was given initially the enabling legal authorities were not fully completed until February 1978. It is recognized that many aspects of the Indian Act are confusing and even at the present there is some disagreement as to the legal status of Sections 69 or 60(1) if they were challenged in the courts. It is to be expected that the Sechelt experience would allow the Department to transfer authorities more expeditiously in the case of future applications by other Bands.



One of the factors which has resulted in problems for the project is that a formal agreement between the Department and the Band with respect to the program was never fully documented. There has historically been serious problems with respect to the provision of annual program funding to the Band. Program funds have been up to nine months late in some years. With a proper agreement and a program transfer implementation plan these problems would have been overcome. I would recommend that in future applications, one Departmental staff member be assigned responsibility for the project, its terms of reference, implementation, funding, and review and evaluation.

## LAND MANAGEMENT PROGRAM - OPERATIONS

It has been noted elsewhere that a formal Land Management Agreement does not exist. In order to evaluate the program, a list of the principles which would have been contained in an agreement was compiled and is included with this evaluation as Appendix "A".

The Land Management Program actually started in the fall of 1973 at which time staff was employed, financial and administrative systems were developed and implemented, and the initial planning completed.

One of the basic requirements for successful implementation of the program was a detailed and complete knowledge of the Department of Indian Affairs policy and procedures with respect to land transactions. Fortunately, the Sechelt Indian Band was able to retain Mr. Graham Allen, a former Real Estate Officer of the Department of Indian Affairs, as Land Management Consultant. Mr. Allen was responsible for developing and implementing policy and procedures. The availability of Mr. Allen to the Band resulted in a significant reduction in time required by the Department of Indian Affairs to success-

fully complete the transfer of authorities and the subsequent implementation of the program.

During the course of the program, the Land Management Consultant, in addition to being responsible for the operation of the program, provided practical training for the Band Council with respect to day-to-day real estate operations. During the last two years of the period a Band member was employed as Land Officer in a training position under the Land Management Consultant. Finally, the real estate development "Tswacome Properties" was undertaken by the Band during this period.

#### PROGRAM FUNCTIONS

The day-to-day functions of the Land Management Program are as follows:

- a) Complete appraisals and valuations for the purpose of establishing a base for negotiations.
- b) To negotiate terms and conditions of all land transactions including leases, rent reviews, permits, easements, rights of way, etc.
- c) Preparation of all documents for execution on standard forms as used by the Department of Indian Affairs.
- d) Obtaining authorizing Band Council Resolutions.
- e) Submission of documentation to Regional Office of the

Department of Indian Affairs for execution and registration. During the past year the same authority to execute documents as held by the Director-General for the B.C. Region was transferred to the Sechelt Indian Band. Documents once executed by the Band are now forwarded directly to the Indian Land Registry in Ottawa for registration.

- f) Collection of rents, fees, etc.
- g) Administer all terms and conditions of leases and permits to ensure compliance.
- h) Attend to and prepare documentation for transfers, assignments, modifications, etc.

#### PROGRAM OBJECTIVES

The Sechelt Indian Band currently has 208 leases and permits in effect on its Reserves and of this total 188 are residential/cottage leases with the majority on Sechelt Indian Reserves 1 and 2. There are 8 commercial leases and 12 permits in force. Many of the recreational/residential leases have been in force for a number of years.

One of the primary objectives of the Band during the first five years of the program was to up-date leases in effect on its Reserves so that they would reflect current market rents and that the various blocks of leases would have common expiry dates.

In addition, tenants were given the opportunity of pre-paying lease terms. During the course of these re-negotiations, appraisals were completed for all properties and after difficult negotiations all leases have now been up-dated. The net effect has been that the annual revenue from lease and permit income has increased by 225% during the period the Band has operated its own program. Substantial additional revenues has been accruing to the Band by pre-payment of lease terms.

#### BAND COUNCIL ROLE

The Sechelt Indian Band Council has adopted a strong leadership role particularly with respect to the Land Management Program and the establishment of Band policy. There is an excellent working relationship between the Band Council and its staff. It is clear that the Council sets policy based upon advice received from its professionals. During the period, the Council developed a positive relationship with its tenants and this is based upon the business-like approach that the Council has adopted in its dealing with tenants.

The Band Council has adopted and actively participates in the management program, and their approval is required for all transactions. Council member's time devoted to the program has been subsidized in part by other Band programs. In addition,

the Council has spent a good deal of time discussing its Land Management Program with other Bands in B.C. and other parts of Canada.

## SCOPE OF AGREEMENT - EVALUATION

Even though there is no formal Land Management Agreement and the actual transfer of responsibilities and provision of funding has been haphazard the Band Council has been most pleased with the results of the program take-over. It is apparent that much of the Band's positive attitude results from the decentralization of authority from Headquarters to Region and subsequently to the Band during the currency of the agreement.

The Council indicated that even if they were provided with signing authority of longer term leases they would, because of the special nature of Reserve lands, refer the matter to the Band for their approval prior to entering into any arrangements.

Both the Council and staff of the Band stated that they had received positive and excellent technical support to the program from Regional staff of the Department of Indian Affairs. Department staff had been most willing to assist with any difficult matters and were expeditious in the processing of documents submitted.

In order to assess whether the Minister's "trust

responsibility" had been adequately protected under the agreement a complete review of all relevant policy, administrative and financial procedures, and terms and conditions of the agreements was undertaken.

The Band has simple administrative and financial systems which provide an excellent system of internal checks and controls which ensure the following:

- a) Compensation negotiated is adequate.
- b) Leases are brought forward regularly for rent reviews.
- c) Leases are reviewed prior to expiry.
- d) Rents and fees are invoiced and collected regularly.
- e) Monies received are properly protected and accounted for.
- f) Monthly statements are prepared.
- g) Band Council Resolutions approving of transactions are duly executed.
- h) Drafting and execution of documents is in accordance with Departmental policy and procedures.
- i) Leases are recorded individually when approved.

It is my unqualified opinion that the Minister's "trust responsibility" in accordance with authorities transferred to the Sechelt Indian Band has been adequately protected.



## OPERATIONS - EVALUATION

### PROGRAM COSTS

The cost to the Sechelt Band for the Land Management Program since its inception in October 1973 until January 31, 1979 was \$247,658.62. Annual operating expenses statements for the program were prepared from information provided by the Band Accountant and from audited financial statements of the Sechelt Band and are as follows:

Table I - Consolidated Statement of Direct Expenses

Table II - Statement of Direct Expenses by Year

SECHELT BAND - LAND MANAGEMENT PROGRAM  
 CONSOLIDATED STATEMENT OF DIRECT EXPENSES  
 FOR PERIOD OCTOBER 1973 TO JANUARY 1979

Salaries		\$ 87,119.45
Fringe Benefits		2,001.00
Travel		18,485.49
Telephone		8,283.01
Office Supplies and Equipment		7,897.10
Copying and Duplicating		4,263.09
Office Rent		9,860.00
Professional Services	\$ 17,670.20 *	
- Audit	2,929.00	
- Appraisal	12,441.20	
- Legal	2,169.00	
- Administrative	21,518.00	
- Land Management	47,011.00	
- Other	<u>3,859.00</u>	107,597.40
Miscellaneous		523.00
Office Renovations		<u>1,629.08</u>
TOTAL		<u>\$ 247,658.62</u>

\* The financial statements for the fiscal years 1974 and 1975 did not break out the actual cost of the components for professional services. Therefore, this amount is the cost for these two years.

March 31, 1979

SECHELT BAND - LAND MANAGEMENT PROGRAM  
STATEMENT OF DIRECT EXPENSES  
FOR PERIOD OCTOBER 1973 TO JANUARY 1979

	Year Ending Mar. 31/74	Year Ending Mar. 31/75	Year Ending Mar. 31/76	Year Ending Mar. 31/77	Year Ending Mar. 31/78	Year To Jan. 31/79
Salaries	\$ 9,658.09	\$22,435.35	\$11,027.01	\$12,021.00	\$13,182.00	\$18,796.00
Fringe Benefits				650.00	643.00	708.00
Travel	5,107.80	4,239.00	4,305.69	1,731.00	2,638.00	464.00
Telephone	1,212.00	1,391.27	1,641.74	1,035.00	2,003.00	1,000.00
Office Supplies and Equipment	4,984.53	584.76	328.81	339.00	956.00	704.00
Copying and Duplicating			989.09	1,179.00	1,095.00	1,000.00
Office Rent	420.00	1,680.00	1,680.00	1,680.00	2,400.00	2,000.00
Professional Services	7,658.43	10,011.77				
- Audit	250.00		850.00	600.00	600.00	629.00
- Appraisal			2,918.20	931.00	6,426.00	2,166.00
- Legal			500.00	902.00		767.00
- Administrative			5,000.00	5,108.00	6,292.00	5,118.00
- Land Management			14,950.00	13,272.00	14,032.00	4,757.00
- Other				3,859.00		
Miscellaneous	523.00					
Office Renovations	1,629.08					
 TOTAL	 \$31,442.93	 \$40,342.15	 \$44,190.54	 \$43,307.00	 \$50,267.00	 \$38,109.00

March 31, 1979

Financial statements and individual items were reviewed with the Band Accountant and Auditor and I am satisfied that they truly reflect the expenses incurred by the Band. Some items have been pro-rated and charged to the Land Management Program, but since the Band administers a large number of programs it would be most difficult and uneconomical to provide separate accountings for individual items such as office supplies, copying, heating, light, power, etc. One of the major items of expenditure over the period of the agreement was salaries, and this included one full-time clerk since inception and a Land Management Trainee during the last year of the program. The professional services portion of the total expenditure appears high; however the Land Management Consulting fees are included within this expenditure and this cost would normally be a salary expense. Also within the professional services category are the expenses for appraisals and pro-rated administrative expenses by the Band.

In my opinion the Band has subsidized the program by virtue of having Band Councillors who are employees of other programs available at all times for lengthy meetings and travel. This cost is not reflected in the financial statements.

An important consideration when reviewing program costs for

a pilot project and particularly during the period of initial implementation is to make allowances for the "front end" costs incurred. In my opinion there have been substantial "front end" costs for the Sechelt Land Management Program, and which I would estimate to be \$55,000, and which would include the following:

1. Implementation	
Set up of financial and administrative systems	\$ 25,000
2. Training	10,000
3. Lease Up-date Program	<u>20,000</u>
Total "Front End" Costs	<u>\$ 55,000</u>

The above are one-time-only expenses. The actual cost of providing ongoing services for the program to date is therefore \$192,658. The average annual cost during the five years to provide base services was \$38,531 per annum.

#### WORK LOAD

The Sechelt Indian Band has 208 leases and permits and this number accounts for 35% of the total number of leases and permits in place for the Vancouver District at October 31, 1978. In the B.C. Region there was at this date 1707 leases and permits in place and relatively, the Sechelt Indian Band accounted for 12.2% of all leases in the B.C. Region. The significance of the number of transactions handled by the Sechelt

Indian Band relative to District and Region is evident.

The cost to the Band for the Land Management Program accounts for only 3.2% of the total B.C. Region expenditure for the Lands, Memberships and Estates function for the fiscal year ending March 1978. While it is recognized that the Regional budget covers items other than Lands, the relationship of the number of Sechelt Indian Band leases and permits compared to Regional totals and total program expenditures is significant.

A review of the Sechelt Band records indicates that there is an average of 174 transactions per year covering the activity of preparing and mailing rent notices, collection of rentals, accounting, and banking. In addition, there is a substantial work load with respect to lease administration, enquiries, preparation of documents, transfers and assignments, and registrations.

During the five year period there were lease renewals and rent reviews required for 208 land alienations. It follows therefore that there are an average of 41 transactions per year each of which would require an average of three days work for the Land Manager in order to complete the appraisals and negotiations. This would account for a minimum of 123 work days

or a total of 220 working days per year.

#### PROGRAM BENEFITS (OUTPUTS)

The actual monetary benefits which have accrued to the Sechelt Indian Band during the currency of the program have been substantial. A direct result of the up-dating of all leases, permits, etc. is that the annual revenues therefrom have increased by 225%.

As a direct result of collecting funds and controlling revenues at the local bank, the Band has been able to increase its interest income from nil at the outset to \$10,000 in 1977/78.

The Band deposits all pre-paid leases into a special Trust Account which it administers separately from the annual revenues. The balance in this account has increased by 375% over the duration of the program and the interest revenue from deposits has been substantial.

An additional monetary benefit from the program and increased revenues generated is that the actual surplus in Band revenue funds increased by 196% during the period 1975 to 1978.

The ability of the Sechelt Band to have its Revenue Funds on

deposit at the local bank gives certain direct benefits to the Band and they are:

- a) Financial leverage and flexibility in obtaining financing.
- b) Immediate availability of cash as required.
- c) Yield on deposits is much higher than formerly obtained with funds held in trust by the Department of Indian Affairs.
- d) Funds can be used for mortgage financing.

In addition to the direct program benefits there are a number of indirect benefits to the Band, and these would include:

- a) Education in a relatively complex and sophisticated area of business. It is obvious that the Band Council has developed analytical, negotiating and technical skills with respect to real estate development and management.
- b) Confidence in dealing with the non-Indian business community.
- c) A greater degree of self determination in accordance with the greater responsibility and accountability as a part of the program transfer.
- d) The Band has direct control over one of its most substantial assets, being its real estate resource.

#### COST TO BENEFITS

There is a very positive relationship between the cost of



the Land Management Program and the revenues generated. The cost of the Land Management Program to date is 13.4% of the revenues generated during the period. In calculating this percentage an allowance has been made for "front end" costs. In the private sector, currently the cost of marketing and managing lease-hold real estate is 12% of gross annual income. Real estate management is provided for commercial and income residential projects on the basis of 7% of gross annual income while the commission for leasing commercial properties is 5% of gross annual rents for leases with terms in excess of one year. It is my opinion therefore, that in view of the "trust responsibility" statutory requirements of the Indian Act, special status of Reserves to Indians, and the comparable cost in the "private sector", that the annual land management cost to the Band is very reasonable.

It would be very difficult for the Department of Indian Affairs from District Office in Vancouver to provide comparable management and service to that which the Band has been able to provide as a result of its Land Management Program. I estimate that the direct cost to the Department of Indian Affairs of providing comparable services from District would be \$61,000 per annum. The work load indicates that two staff would be required; a Land Officer at a Commerce Officer I level and a

Clerk/Stenographer at a CR4 classification. A substantial amount of travel time would be required by the Field Officer in order to adequately service the Sechelt area. An estimated budget follows as Table III. The average cost to the Band less the "front end" costs has been \$38,500 per year. This is \$22,500 per year less than the estimated cost to the Department of Indian Affairs. Notwithstanding the direct benefits to the Band, it is obvious that there has been a considerable saving by the Department.

ESTIMATED ANNUAL BUDGET  
FOR LAND MANAGEMENT SERVICES  
TO SECHELT INDIAN BAND  
BY VANCOUVER DISTRICT OF DIA

Salaries			
Land Officer	\$ 22,000		
Land Clerk/Steno	13,500		
Fringe Benefits @ 8%	<u>2,840</u>	\$ 38,340	
Office Expense			
Rent - 500 S.F. @ \$10.00/S.F.	5,000		
Telephone @ \$150/mo.	1,800		
Office Supplies @ \$50/mo.	600		
Duplication @ \$100/mo.	1,200		
Postage	400		
Miscellaneous	<u>500</u>	9,500	
Travel			
Hotel and Meals @ \$59/day for 75 days	3,750		
Car - 8,000 mi. @ 22.5¢/mi.	1,800		
Ferry - 40 @ \$12/trip	480		
Air	500		
Miscellaneous	<u>300</u>	6,830	
Program Support @ \$200/mo.		2,400	
Professional Services (appraisals)		<u>4,000</u>	
TOTAL		<u>\$ 61,070</u>	

March 31, 1979

## GENERAL ASSESSMENT

The Sechelt Land Management Pilot Project notwithstanding the difficulties in obtaining legal authorities, the lack of a formal agreement, and lateness of program funding, has been very successful. There have been a number of factors and circumstances which have contributed to the success of the program and it is important that practical lessons are learned from the Sechelt experience. Some of the principle reasons the Band was able to successfully undertake the program responsibility are as follows:

1. The Sechelt Band during the period had a stable and mature Council which was able to act in a business-like manner with lessees, permittees, its own staff, and the Department of Indian Affairs.
2. The Band Council set the policy and its staff and professionals implemented that policy.
3. The Sechelt Council in the face of many problems provided the much needed thrust in order to complete the transfer of program responsibilities particularly when the legal problems became most difficult.
4. The Band employed competent professionals and capable staff which were able to implement the required financial and

administrative systems to successfully assume the program responsibilities.

5. Relatively simple "private sector" type business systems for administration and finance were implemented and therefore many complex problems were avoided.
6. All policy and procedural direction provided by the Department of Indian Affairs has been followed and the Band has been very fastidious with respect to the completion of all details of documentation and accounting.
7. There are no "locattee lands" on the Sechelt Reserves, therefore the Band has not had any internal jealousies or conflict of interest problems evident in Bands which have large tracts of locattee lands.
8. Support from the Band as a whole for the program has allowed the Council to devote its energies to the management of the program rather than in defending its position.

There are many other factors which may have contributed to the success of this program and which have not been included, but would also be important to the Department in formulating policies and procedures for transferring Land Management authorities to other Bands.

## RECOMMENDATIONS

After careful consideration and evaluation of all aspects of the Land Management Pilot Project I recommend that the program continue with funding being provided by the Department of Indian Affairs. It is obvious that the direct and indirect benefits to the Band coupled with the estimated savings to the Department have been substantial and would support the recommendation of continuation.

The Sechelt Indian Band has done an exceptional job of assuming control and management of its land and the success is in part based upon the implementation of simple systems. At this time the Band does not have in written form the policies and procedures for the Land Management Program. I would recommend that a proper Land Management Manual be prepared.

At present when the Band receives deposits on leases and permits prior to approval the deposits are credited directly to the Band's general Revenue Account. In order to ensure that funds are available to cover deposits in the event that the transactions are not approved, these funds should be held in

trust until such time as approval and registration are completed. This is a normal procedure in the real estate business and I would recommend that it be implemented.

If the Sechelt Band and the Department are to continue the Land Management Program I would recommend that a formal agreement between the parties be drawn. A Program Management Agreement should include the following:

1. The basis of the authorities granted enabling the Band to control and manage Reserve Lands.
2. The term of the agreement.
3. Financing for the program and including a criteria for establishing, on an annual basis, a budget.
4. Terms and conditions of both parties to the agreement. I would generally expect these to include the principles as set out in Appendix "A" of this evaluation.
5. Provision for regular accounting and audit.
6. Provision for regular program review and evaluation.

A formal agreement embodying the above terms and conditions would clarify the roles and responsibilities of each party.

The present land management work load indicates that there is a continuing need for a Lands Officer and one Clerk/Steno-

grapher to adequately handle the day-to-day functions of the program. In my opinion continuing professional support for both legal and land management functions would be required and should be included within program costs. The budget format from previous budget submissions as prepared by the Band Accountant and Auditor is satisfactory in form and I would recommend its continued use.

For the purpose of estimating future funding requirements an allowance of 10% increase per year should be made to compensate for the effects of inflation. Notwithstanding this allowance the annual budget should be reviewed prior to the commencement of the fiscal year to ensure that adequate allowance is made for special expenditures. For example, appraisal costs will be higher from year to year.

The Sechelt experience has been extremely valuable with respect to establishment of the legal authorities required, policy and procedures and basic principles for successful implementation of a Land Management Program by an Indian Band. I would not recommend the adoption en-bloc of the program format and costs as criteria to be adopted by other Bands wishing to assume comparable responsibilities. Each Band is unique and therefore individual



negotiations and agreements should be drawn, but founded upon common basic principles.

SECHELT LAND MANAGEMENT - PILOT PROJECT

PRINCIPLES OF AGREEMENT

- A. TERM: Five years commencing April 1, 1974. It should be noted, however, that a preliminary period for implementation was October, 1973 and all the functions were not assumed until April 1, 1974.
- B. FINANCING: Program costs to be borne by the Department of Indian Affairs, however no criteria was established for calculation of annual budget.
- C. ACCOUNTING: Annual audited statements showing Land Management Program costs and Band revenues were to be submitted to the Department of Indian Affairs.
- D. CONDITIONS OF DELEGATED AUTHORITIES:
  - 1. Delegation of Ministerial authority pursuant to Section 53 of the Indian Act
    - a) Chief and Councillors of the Band appointed to manage and lease the lands set aside for the Sechelt Indian Band that have been or will be surrendered (except the 32.8 acres of Tsawcome Reserve No. 1 which are the subject of another Authority).

- b) Chief and Councillors shall have the same authority as the Director-General of the B.C. Region of the Department of Indian Affairs may have from time to time with respect to the signing of agricultural, commercial, industrial and residential leases, permits and assignments.
- c) Prior to execution, documents to be signed (including rents or fees charged and terms and conditions imposed) will first be acknowledged by the Band Council to be in "the best interests" of the Band.
- d) The standard form of documents in use from time to time by the Department of Indian Affairs will be used.
- e) Any document covering a major development, in the opinion of the Minister, or any lease or permit in excess of a term of twenty years will require the approval of a majority of the Electors of the Band present at a meeting duly convened for that purpose.
- f) An absolute majority of the members of the Council, from time to time, will have the Authority to carry out the powers granted on each occasion the Authority is exercised.

- g) The Band Council is authorized on behalf of and in the name of the Minister of Indian Affairs and Northern Development to execute such leases, permits, assignments, consents and other instruments and documents as may be required in the carrying out of such Authorities.
- h) The Band Council shall determine the "highest and best use" of Sechelt Indian Band Reserve Lands.
- i) The Band Council shall retain such personnel as may, in their opinion, be required to administer all aspects of this Program on behalf of Her Majesty.
- j) The Minister shall have the right to approve the retaining of any person retained (Clause i, above) and to require certain qualifications and proof of competency.
- k) The Band Council shall designate an officer to be responsible for the Management of Band Lands, both surrendered and unsurrendered.
- l) The Minister has the right, at his sole discretion, to withdraw any Authority conferred on the Band, its duly elected Council or its officers pursuant to Section 53 of the Indian Act.
- m) No person who is appointed to manage, sell, lease

or otherwise dispose of surrendered lands or who is an officer or servant of Her Majesty employed in the Department may, except with the approval of the Governor in Council, acquire directly or indirectly any interest in surrendered lands.

- n) Pursuant to authorization under Section 69 of the Indian Act the Band shall collect the monies payable under any lease, permit or otherwise.
- o) Pursuant to the recommendation of the Minister of Indian Affairs and Northern Development under subsection 4(2) of the Indian Act, the Governor General in Council declares that subsection 28(1) of the Indian Act shall not apply to any Chief or Councillor of the Sechelt Indian Band when lawfully acting as representatives of the Minister of Indian Affairs and Northern Development under subsection 53(1) of the said Act or when lawfully acting under powers given to the Sechelt Indian Band under subsection 60(1) of the said Act and pursuant to Order In Council P.C. 1977 - 1391, of May 19, 1977.

- 2. Delegation of Ministerial authority pursuant to Section 60(1) of the Indian Act with respect to unsurrendered lands (P.C. 1977 - 1391, May 19, 1977)

which grants the Band the right to exercise such control and management over its Reserves as follows.

- a) By subsection 18(2) of the Act to authorize the use of lands in the Reserve for the purpose of Indian Schools, the administration of Indian Affairs, Indian burial grounds, Indian health projects or for any other purpose for the general welfare of the Band and may take any lands in the Reserve required for such purposes, but where an individual Indian, immediately prior to such taking, was entitled to the possession of such lands, compensation for such use.
- b) By paragraph 19(a) of the Act, to authorize surveys of the lands in the Reserve and preparation of plans and reports with respect thereto.
- c) By paragraph 19(b) of the Act, to divide the Reserve into lots or other subdivisions.
- d) By subsection 28(2) of the Act, to authorize by permit in writing any person to occupy or use the Reserve or to reside or otherwise exercise rights on the Reserve.
- e) By paragraph 58(1)(a) of the Act, where land in the Reserve is uncultivated or unused, to improve or

cultivate such land and employ persons therefor.

- f) By paragraph 58(1)(b) of the Act, where land in the Reserve is uncultivated or unused and is in the lawful possession of any individual, to grant a lease of such land for agricultural or grazing purposes or for any purpose that is for the benefit of the person in possession.
- g) By paragraph (58(1)(c) of the Act, where land in the Reserve is uncultivated or unused and is not in the lawful possession of any individual, to grant for the benefit of the Band a lease of such land for agricultural or grazing purposes.
- h) By subsection 58(3) of the Act, to lease for the benefit of any Indian upon his application for that purpose, the land of which he is lawfully in possession without the land being surrendered.
- i) By subsection 58(4) of the Act, to dispose of the property mentioned therein which is on the Reserve and issue the permits mentioned therein.
- j) By subsection 71(1) of the Act, to operate farms on the Reserve.

