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GRASSY NARROWS RESERVE: MERCURY POLLUTION, SOCIAL DISRUPTION, AND NATURAL RESOURCES: A QUESTION OF AUTONOMY¹

Christopher Vecsey

INTRODUCTION

There are few Indian communities in North America where economic life flourishes. Old skills and the environments—natural and cultural—in which they developed have altered drastically over the centuries. In most cases traditional knowledge and materials are gone, or considered obsolete today. In all cases the land base of particular Indian populations—the reservations or reserves in the United States and Canada respectively—are too small to support the growing Indian populations. These territories were too small in the late nineteenth and early twentieth century when most of them were formed—reduced—to their present size, and when Indian numbers were at their nadir. At present virtually no Indian land base can economically support the people who live on it.

United States and Canadian power diminished Indian sovereignty through the process of diminishing Indian land holdings. Indians were conquered as their natural sources of existence were conquered, changed, and taken from them. In contemporary North America, the ability of Indian communities to claim and practice at least partial self-determination depends on their ability to produce at least a portion of their livelihood. Indian autonomy has little or no validity where Indian economy has lost its viability.

It is often difficult to say precisely what these words—sovereignty, self-determination, autonomy—mean in principle, and there are arguments for and against their practice, in theory. Nevertheless, the following paper describes the very real results of a lack of Indian local control, at the Grassy Narrows (English River No. 21; see Map 1) Reserve of Ojibways in western Ontario. In this case, non-Indian Canadian entities—including federal and provincial jurisdictions, hydroelectric facilities, and corporations—have usurped Indian control over their traditional environment and have exerted enormous influence over Grassy Narrows existence. The result has been economic and social devastation. It is my view that, whereas the loss of control over land and resources has meant loss of sovereignty and resultant socio-economic disaster, the path to recovery must be grounded in increased self-determination which can occur only if the people of Grassy Narrows

can gain some autonomy over their traditional environment. The recent history of Grassy Narrows does not suggest that such autonomy will occur.

I came to Grassy Narrows in January of 1979 with Kai T. Erikson, the Yale University sociologist, in order to write a report on behalf of the chief, Simon Fobister, concerning a case of immense mercury pollution on the reserve. Grassy Narrows was about to enter a mediation process with Canada, Ontario, and the polluting company, Reed Paper Ltd., a multi-national timber corporation, and Chief Fobister wished to make use of scholarly "expert" appraisals of mercury's impact on his community. We spoke with local Ojibways, as well as with teachers, missionaries, merchants, police, and other non-Indians on and around the reserve, including the photo-journalist Hiro Miyamatsu and the official Grassy Narrows fact-finder, Anastasia Shkilnyk. We learned about the 20,000 pounds of mercury dumped into the English-Wabigoon River system upon which Grassy Narrows lives depend. We learned that the Grassy Narrows economy, recently based in commercial fishing and guiding for tourists, was now in shambles because of the pollution. But we also learned that this enormous catastrophe was part of an even larger and more painful set of circumstances that included religious persecution, coerced relocation, hydroelectric disruption of the water levels upon which trapping and wild rice harvest are dependent. The waters of disruption flowed far deeper than the river system poisoned by mercury, and at their source lay the question of Indian autonomy.

Erikson and I wrote our report (Erikson and Vecsey 1980), one in a long line of published and unpublished studies of Grassy Narrows (see, e.g., Avery and Pawlick 1979; Canada-Ontario Steering Committee 1984; Hutchinson 1978; Donald 1976; Rebuffoni and Zerby 1977; Jackson 1984; Parks et al. 1984; Rudd et al. 1984; Shkilnyk 1978-1979 and 1981; Swenarchuk 1978; Troyer 1977; Turner and Rudd 1984; McLeod 1977), and most recently Anastasia Shkilnyk (1985)² has published a masterful, richly textured, well documented analysis of Grassy Narrows history and social disruption.* Drawing upon these works, I shall present a chronological socio-economic account of the reserve up to 1979. Then I shall describe the negotiations that took place between 1979 and 1985; and I shall depict the Grassy Narrows Reserve's present situation and the ameliorative conditions upon which its prospects depend, conditions that in my opinion are not yet forthcoming.

*Editor's note: This book is reviewed on p. 330 of this issue.

THE CAUSES, NATURE, AND SYMPTOMS
OF SOCIO-ECONOMIC DISRUPTION

LONG BEFORE CANADA CAME INTO EXISTENCE, Ojibways lived in the area of western Ontario where Grassy Narrows is situated. The Indians claim the area as their ancestral home, even though historians (e.g., Bishop 1974, 1976) and Ojibway migration legends (e.g., Dewdney 1975) point to a more easterly origin of the people, either at the eastern end of Lake Superior, around Sault Ste. Marie, or even ultimately the Atlantic coast. In the eighteenth century the fur trade brought these Algonkian-speaking people to their present location, historians say, using the Wabigoon River as one of the migration routes. As partners in the fur trade, the Indian ancestors of the Grassy Narrows people adapted their aboriginal hunting and trapping skills; they modified their settlement and kinship patterns, and faced the periodic crises of trade wars and mergers, monopolies and price fluctuations, and even—in the 1820s—starvation due to animal depletion. It was in the 1820s that the Ojibways of western Ontario turned to fishing as a major source of protein, when game animal populations failed (Bishop 1978).

After the creation of Canada in 1867, the Ojibways of the Lake Winnipeg drainage area in Ontario signed Treaty No. 3 (1873; see Map 1), in which they ceded 55,000 square miles of land to Canada. The government set aside reserves not exceeding one square mile for each family of five—a miniscule amount for hunters—and agreed that the Indians would have the right to pursue traditional hunting and fishing activities throughout their traditional land use area (see Map 1), except—and this has been a big exception—should the government make new rules for settlement, mining, lumbering, or other purposes. The government promised schools and a small cash payment, and shortly thereafter the followers of one of the signatories, Chief Sahkatch-eway, retreated to two reserves, Grassy Narrows (25 square miles), Wabauskang, and elsewhere.

At the same time the transcontinental railway came past, sixty miles to the south, and some Ojibways worked on its construction. Because of the rail lines, the Hudson's Bay Company was able to put up a trading post at Grassy Narrows in 1911, and logging, mining, and a pulp mill came to the area in 1920. During the same period Catholic missionaries made their visits, and set up schools in Kenora and McIntosh. The infrastructure of Canadian life brought changes, and also disaster. For instance, the 1919 influenza epidemic—part of

a world-wide, two year plague—wiped out the Wabauskang population. There were ten families out on their traplines when the killing flu hit, and these were all who were spared. The epidemic took three-quarters of the lives and created a spiritual crisis when medicine men were unable to stop its spread. The surviving families moved to Grassy Narrows, considering it "sacred ground" (Shkilnyk 1985).

The boarding schools of the 1920s further weakened Ojibway culture, as did the introduction of elective chieftaincy in 1933 and the persecution of religious practitioners in the mid-1930s; however, at the end of World War II, the Grassy Narrows Reserve continued to maintain economic autonomy. Trapping, fishing, hunting, wild ricing, blueberry gathering, and other subsistence pursuits were still practiced throughout the traditional land use area beyond the reserve. In 1947–1948 the Ontario provincial government began a new program, through the Department of Lands and Forests (now the Ministry of Natural Resources), of resource management and licensing. Ojibways were required to register their traplines, and quotas on beaver and other species were created. Commercial fishing licenses were enforced for the first time, with catch-reporting requirements. Then in the 1950s, as wild rice became a cash crop in Ontario, the province began to grant land-use permits to Indians and non-Indians alike. The Grassy Narrows people regarded these licensing procedures as infringements of their Treaty No. 3 rights, and as prohibitive innovations.

At the same time, in the late 1940s, the Grassy Narrows people put their aboriginal skills to use by becoming guides for three fishing lodges on the English-Wabigoon river system, including Ball Lake Lodge, opened by Barney Lamm in 1947. Grassy women worked as maids at the lodge, and both they and the men witnessed white luxury (and heavy drinking) at close range. They received cash payment for their work—money which they spent at the lodge, but which entitled many of them to winter unemployment insurance after a summer of steady work. Winter trapping, in which whole families spent months together on the traplines, became less common, especially when the federal Department of Indian Affairs and Northern Development (DIAND) decided to secularize Indian education and open day schools on the reserve. As a result, adults needed to stay on the reserve to care for children, who in the old days had accompanied them, and in recent years had been under the care of boarding school personnel.

The late 1950s Grassy life was undergoing significant changes. In 1956 an amendment to the Indian Act permitted Indian reserves like Grassy Narrows to allow the purchase and possession of liquor. At the end of the decade a logging road, the Jones Road, came into the eastern part of the reserve. With it came bootleggers, and it also

encouraged seasonal out-migration of Grassy men to McIntosh and Kenora and beyond. Commercial enterprises on the reserve—in particular fishing—became more common. Grassy received its first commercial fishing license in 1957 and beginning in 1959 Barney Lamm transported the local catch by air to non-Indian markets (Keewatin 1979). It was a profitable, year-round operation for many Grassies that helped to replace the losses in trapping when water fluctuations caused by hydro plants flooded and froze thousands of muskrats and other furbearers.

If the 1940s and 1950s brought changes, the 1960s brought disasters. The first came about through federal government policy: the relocation of Ojibways within the Grassy Narrows Reserve, from an area of relatively inaccessible islands and peninsulas five miles southeast, to a mainland area of the Jones logging road (see Map 2). Although almost all written records concerning the relocation have either disappeared or been destroyed (Aniol 1985, Bennett 1985, Campbell 1985), it is not difficult to reconstruct the DIAND motives for moving the Grassies. The early 1960s, indeed the whole decade, witnessed repeated Canadian attempts to “modernize” Indian life, to encourage economic “development.” DIAND policymakers perceived Indians as impoverished by Canadian standards because they were too isolated from the Canadian infrastructure. If the infrastructure could not be brought easily to them, then they were to be brought to the infrastructure, so that the Indians could share in Canadian economic opportunities. The Grassy Narrows relocation begun in 1961 was part of this policy. The federal government would improve the Indians’ socio-economic lives by bringing them to electrical lines, roads, a permanent day school, medical treatment, police, and the Hudson’s Bay Company store, which had moved from the old reserve when the Jones Road came through.

Shkilnyk suggests that DIAND relocated the Grassies for the benefit of the Bay Company, which made some money from tourists and loggers but needed the Indian trade to survive financially (1985: 168–171, 255–256). While such a scenario is plausible, it remains unproven. What is clear from Shkilnyk’s evidence is that people at Grassy Narrows resisted the removal, which was forced upon them by the local DIAND Agent, Eric Law. Law promised electricity and financial assistance to those who came, and threatened loss of family allowances to those who resisted, and although Law reported (Aniol 1985) that the Grassy chief at the time had agreed to the relocation, DIAND officials today (e.g., Bennett 1985) admit that the Grassies were “led down the garden path,” to their ruin.

One might expect that such a short move could have only minimal effects on Grassy Narrows life; however, for Shkilnyk—and myself—

the removal was the "turning point" (1985: 53) of recent Grassy history. By 1970 the community was a wreck. Why should this be?

First, the move was coerced; it was against the will of the people, who saw no compelling reason on their own to move. The first houses on the new location were built by DIAND in 1961; by 1963 only four families had moved, despite promises and threats. The last family did not come until 1972, and in recent years a few Grassies have attempted to move back (Shkilnyk 1985b).

Secondly, DIAND built houses in close proximity to one another, leaving no room for traditional Ojibway perceptions of proper social planning, not to mention gardens, play areas, and free access to the water. Grassy Narrows people came to refer to the new reserve as a "cage," a "corral," a "prison," and even a "concentration camp" (Erikson and Vecsey 1980: 155), fraught with factional tensions exacerbated by the tight quarters (Loon and Payesh 1979).

Thirdly, the people regarded the new site as spiritually deadly. Some people sighted evil spirits on the reserve, as well as other omens. All signs pointed to an unhealthful place to live and die, and so the Grassies moved there with great reluctance.

Fourthly, the reserve lacked the means of producing subsistence. Its soil was full of clay which made gardening virtually impossible. Its animal population was small, as compared to the old reserve (Beaver et al. 1979). It was cut off from easy access to the English-Wabigoon river system—although connected to it—because of the small size of Garden Lake upon which it was situated. The traplines, commercial fishing and wild rice sites were placed at greater distance, and thus economic pursuits were made more difficult.

Anastasia Shkilnyk contrasts the socio-economic patterns of the old reserve in the 1950s to those on the new reserve after relocation (1985: 40–41, 60–68, 82–88, 94–95, 102–104, 156–162). We can learn a great deal by following her analysis, gathered from Grassy Narrows people themselves.

On the old reserve the traplines provided the economic base. From October to April, families worked the lines for beaver, muskrat, mink, otter, lynx, fox, and other furbearers. Men caught the animals and women worked them into saleable commodities: stretching, smoothing, tanning, sewing the furs and hides. When the ice broke up in spring, the families came into the reserve from the far parts of the traditional land use area and created their summer camp. They planted gardens in May. In mid-July they gathered blueberries for sale, to buy flour, lard, tea, sugar, salt, raisins, canned milk and other commercial items. Their gardens produced pumpkins, onions, corn and potatoes for community consumption. In September they harvested

wild rice and the men hunted moose and deer. Women dried fish and meat from the Summer and Autumn catches, and then the families dispersed for their Winter traplines. Commercial fishing did not disrupt these seasonal patterns, and neither did the employment at the local lodges. To the contrary, these activities supplemented and complemented the more traditional patterns. The basis remained "trapping as a way of life, economic self-sufficiency on the part of clan-based family groups, and close ties with the natural world" (Shkilnyk 1985: 63).

Spatially, families were separated from one another. In the old area, clans were territorially differentiated, providing a traditional buffer for social interaction. A person could observe the approach of strangers from a distance, and every family had easy access to the lake and river system. In the Winter families worked their own traplines, which were generally recognized and respected.

The family was the economic unit. As one Grassy Narrows member says:

Trapping was our culture. Trapping kept the family together because everyone in the family had something to do; the man had to lay traps and check them; the woman skinned the animals, cooked and looked after the kids. The grandparents helped with the kids; they taught them manners, how to behave, and told them stories about our people. The kids, if they were old enough, had work to do. They had to set snares for rabbits and chop wood (in Shkilnyk 1985: 82).

This pattern of subsistence meant that the Grassy Narrows people were producing the bulk of their material goods. The food they ate was primarily local game, produce, and fish. The distribution of these goods encouraged a relative lack of social differentiation. Sharing was highly valued, even when commercial enterprises began. Religious sanctions played a role both in the producing of food and in the sharing of resources.

On the new land these patterns changed. A Grassy Narrows member explains the differences:

Now, on the new reserve, we can't trap as a family any more. The woman has to stay home 'cause the kids are in school on the reserve. The man has to go out on the trapline by himself. But he gets lonely there and doesn't like to do all the work by himself. So he comes back to the reserve and tries to find a job or goes on welfare. . . . The women are left in the house alone. They don't share the work anymore. They buy cans at the store and have nothing to do in the daytime. The kids also don't do chores any more. The old people don't teach the kids how to behave. . . . If you divide the family in work, you tear it apart in other ways as well (in Shkilnyk 1985: 82-83; cf. Loon and Payesh 1979).

DIAND encouraged Grassy men to receive welfare payments, rather than traveling out on their traplines (Beaver et al. 1979; Keewatin 1979). Commercial enterprises replaced family trapping and hunting, and with cash came class differences, as well as the ability to buy alcohol. Grassy Narrows food changed from protein-rich chowders of meat and fish to canned starches and sugar: spaghetti, macaroni, candy, sodas and the like. In short, life on the new reserve encouraged unhealthy patterns of consuming rather than producing. Significantly, by 1977, 97.4% of the income on the reserve was spent on non-native products and left the reserve. 47% went to the Hudson's Bay Company and 21% went to the Ontario Liquor Control Board (Shkilnyk 1985: 162). Grassy Narrows economic autonomy was destroyed on the new reserve, and with it went the structure of societal life.

At precisely the moment at which government policy was undermining the socio-economic viability of the Grassy community, poisonous mercury was beginning to work its way down the Wabigoon River from the Reed paper and pulp plant, eighty miles upstream at Dryden (see Map 2), where mercury was used in the chlor-alkali plant to produce chlorine as a bleach for the products. Between 1962 and 1970 an estimated 20,000 pounds of mercury spilled into the waterway, with catastrophic results for Grassy Narrows. Anastasia Shkilnyk remarks that, "Those who are persuaded that mercury pollution was the most important causal factor in the etiology of human breakdown at Grassy Narrows will be disappointed by the detailed discussion of the conditions that predated the mercury spill" (1985: 237). Nevertheless, she and others have demonstrated beyond any reasonable doubt that mercury pollution alone had—and persists in having—an horrendous impact on Grassy Narrows socio-economic life.

The Dryden plant dumped inorganic mercury into the river; the metal then began a process of biomethylation—a process not really understood by scientists until 1969. Various organic bodies, including fungi, bacteria, and even fish, produce a reaction in the heavy metal that makes it organic, and very lethal, at a rate of about 1% every year. And so, for seventy to a hundred years the river system will continue to transform inorganic mercury into methylmercury. Methylmercury moves up the food chain, from algae to fish to humans. When a human ingests the substance, he or she absorbs 95–100% of it into the body, excreting it at a very slow rate. In the body, the toxin travels through the bloodstream and into the large organs: heart, liver, the spinal column and to the brain. In pregnant women the methylmercury lodges in the fetus.

Its symptoms are many. It causes numbness in hands, feet, mouth. It creates tunnel vision and blind spots. It brings about hearing im-

pairment and speech disorders, making persons clumsy and uncoordinated, with unsteady gait. It makes swallowing difficult. It causes cerebral and some cerebellar atrophy. The victim shakes, loses an ability to remember, concentrate, motivate and endure. There is rage, then convulsions, deformity, paralysis, coma and sometimes death. In children born of poisoned women there are birth defects. There are also "hidden effects," including miscarriage, high blood pressure, heart disease, lowered resistance to alcohol and infections, as well as to extremes in temperature (for a description of the symptomology, see, e.g., Wheatley et al., Vol. 1: 9-41; Troyer 1977: 4-22, 51-52, 131; Shkilnyk 1985: 184-185).

The people at Grassy Narrows ate huge quantities of fish on their new reserve in the 1960s, and in 1970 some began showing symptoms of mercury poisoning. The Canadian and provincial governments performed tests—checking mercury levels in blood and hair—and found levels exceeding a safe rate by far. And yet, to this day, the medical analysis of mercury poisoning at Grassy Narrows is inconclusive. Matthew Beaver in 1976 showed many symptoms: his lip quivered; he lost his balance; he couldn't see well, sometimes missing objects right next to him. He had mercury in his blood seventeen times the highest safe human level (McDonald 1976: 126). Other Grassy children were born blind, deformed, and retarded (Fobister 1977). Although it was clear that the mercury was poisonous, and that it derived from the Reed paper plant in Dryden (Parks et al. 1984: 5), the diagnosis of mercury poisoning was inconclusive (Wheatley et al. 1979). Some Canadian officials blamed the symptoms on alcoholism, venereal disease, laziness, and so forth (McLeod 1977: 125-179). Over the past fifteen years the medical profession has been "very, very cautious" (Olthuis 1985) in diagnosing mercury poisoning, and its symptoms have been interpreted vaguely and variously.

On the other hand, the socio-economic results of the pollution are not in doubt. In 1970 Grassy Narrows commercial fishing was banned, and in the same year Barney Lamm closed his Ball Lake Lodge. In both cases the contaminated fish were considered too toxic for consumption. Within the space of a year, Grassy Narrows moved from 95% employment to 95% unemployment, with monetary losses from commercial fishing alone set at hundreds of thousands of dollars in the short run, millions of dollars by the time the river system cleans out naturally (Shkilnyk 1985: 199-202).

For several years the Ontario Ministry of Health and other agencies conducted tests of Grassy Narrows mercury levels. Media accounts of the pollution raised Canadian consciousness about the horror. Law-suits started and stopped. Frozen fish were shipped into the reserve

and put in government-owned freezers. Make-work programs and welfare payments increased. In the meantime Grassy Narrows fell to pieces.

In a small community—around five hundred in the late 1970s—the signs of “social pathology” (Shkilnyk 1985: 10) were many. Homicides made up one-quarter of the deaths. Seventy-five percent of deaths were related to drugs or alcohol. The rate of successful suicides was nearly twenty times the Canadian national average. Two-thirds of the adults on the reserve were either alcoholic or close to it. Over half of the children by grade three were sniffing gasoline, and many had deteriorated brain functions. Gangs of children beat up the helpless, and there were gang rapes of young girls. Incest taboos were falling apart, and with them clan authority. Alcohol was another poison, consumed in massive binges. For example, in one payweek in 1978 the people at Grassy Narrows spent over \$14,000 on alcohol, including the costs for planes and taxis to bring the liquor onto the reserve (Erikson and Vecsey 1980: 160; Shkilnyk 1985: 10–46). These conditions were not manifested twenty years before on the old reserve. What had happened?

Chief Fobister stated in 1977 that mercury poisoning was the “most dramatic example” of Grassy problems and their causes. He argued that the economic losses brought about by the pollution were even more dramatic than the medical symptoms: “Our people have suffered the consequences—both physical and social.” When asked what the greatest disaster of his lifetime was, former chief Andy Kee-watin said, “When we all lost our jobs. . . . We were fishing, commercial fishing. The next thing we were just told to pull up all our nets. . . .” (1979). Another Ojibway remarked that happiness on the reserve was directly proportional to the ability to work and have a job (Pahpasay 1977). A young Grassy man admitted that drinking was a problem; however, the root cause was the lack of stable jobs. He noted that, “If the job is insecure, then the person is insecure” (Williamson 1977). The poison of alcohol would not subside until the poison of unemployment subsided. An investigator reported in 1978 that the people of Grassy Narrows

have individually and collectively suffered damages to the quality of their family and community life as a result of the damage caused to the fisheries resource. This damage includes high rates of personal withdrawal, negative self-evaluation, heavy use of alcohol, and attendant violence. Demoralization of the communities has been caused or aggravated by economic and cultural losses stemming directly from the contamination of the river system (Swenarchuk).

THE SEARCH FOR SOCIO-ECONOMIC RECOVERY

IN 1976—THE YEAR THAT NINETEEN-YEAR OLD Simon Fobister was elected chief over Andy Keewatin, who was considered too easygoing in publicizing mercury pollution on the reserve—two events occurred that led in 1979 to the beginning of negotiations for redressing the damages done to Grassy Narrows. First DIAND gave \$121,000 to Treaty No. 3 chiefs to test the feasibility of taking Reed Ltd. to court. The chiefs' lawyers formed AMOG (Anti-Mercury Group) to gather information. Secondly, the government of Ontario made a memorandum of understanding with Reed Ltd. concerning 47,500 square miles (nineteen million acres; see Map 3) of land in northwestern Ontario. The province promised this timberland for "clear cutting" of trees that would have left "a desert" (Bennett 1985). Here was the mercury polluter, asking for and receiving—contingent upon environmental hearings—a gigantic tract of land, while denying any responsibility to the people whose lives had been damaged by the original pollution. There was such public outcry that the province created a Royal Commission on the Northern Environment, headed by Justice E. Patrick Hartt.

Justice Hartt conducted hearings throughout Ontario, and in the process he encountered Chief Fobister in 1978. Fobister described eloquently the conditions on the reserve and their causes, and as a result Hartt appointed a fact-finder to work at Grassy, and recommended a tripartite committee—composed of the federal, provincial, and Grassy band governments—to begin addressing these life-and-death matters. Hartt (1978) made the "plight" of Grassy Narrows (as well as Whitedog Reserve nearby) a "first priority" of his commission. A series of reports between 1977 and 1979 outlined the socio-economic distress at Grassy Narrows, and mentioned the mercury pollution's effects on commercial fishing as the primary cause, and in May of 1979 a mediation panel made up of representatives of Ontario, Canada, Grassy Narrows, Whitedog, Ontario Hydro, Lake of the Woods Water Control Board, and Reed Ltd. met for the first time to redress the problems.

A preliminary "Memorandum of Understanding" (Government of Canada et al. 1978) stated that "the Indian Bands residing on Whitedog and Grassy Narrows Reserves are experiencing adverse effects on their social, health, cultural, environmental well-being, as well as their economic opportunities by reason of damage to resources on which they relied for the viability of their communities." The

causes of these "adverse effects" were said to be: 1) the artificial raising and lowering of water levels; 2) flooding; 3) relocation; and 4) pollution of the reserves. It was concluded that, "The issues to be mediated may be resolved by monetary means and/or remedial measures and/or mitigatory measures."

Chief Fobister presented to the panel (Grassy Narrows Band 1979) a complex examination of the problems at Grassy Narrows, their causes, and his detailed proposals for resolving the situation. It is instructive for us to observe the Ojibways' solutions at the beginning of negotiations.

After discussing the education of Grassy Narrows children, the presentation turns to land, resources, and economic development. It quotes Grassy members who insist that land, not money, is the key to a reserve future. This land must be productive and must be guaranteed to the Grassy people. The document then asks the government of Ontario

to return to the people of Grassy Narrows the exclusive use of, or the control over access to, land and resources that have traditionally been relied on for food or barter, on which a substantial portion of the population still depends for a livelihood, and which are the key resources for the future economic and social development of the community.

The section concludes that "the key to the restoration of viability to this community is land, not subsidy."

The presentation describes roughly the traditional land use area of 2,000 square miles, which does not differ extensively from the area presently allocated to Grassies for traplines. Then the document treats each of the economic activities—trapping, wild rice gathering, hunting and fishing, blueberry gathering, logging, tourism—and in each example makes a case for Grassy Narrows control over the particular resource. In short, the text declares Grassy Narrows autonomy over its traditional land use area. This autonomy is seen as the socio-economic future of the Grassy Narrows people. The presentation does not neglect the need for capital, as well as land and the skilled labor made possible through education, and so calls for the creation of a Grassy Narrows Socio-Economic Development Fund, in the form of a cash settlement. In addition, the text asks for an affirmative action program for Grassy Narrows members in industries already existing within the traditional land use area—in mining, logging, transportation, fire-fighting and tree-planting programs. There are other issues, too, but the core of the proposal consists of autonomy over traditional Grassy territory.

Two years later, in May 1981 (Aniol 1979–1984) the Grassy Narrows government issued another, similar proposal, "Without Prejudice,"

under a different chief. The proposal remained firm: Grassy Narrows requires the control over land and resources for its people to recover from the “devastating impact” of mercury pollution and resultant loss of commercial fishing. The 1981 document states that, “An economy reliant on traditional resources such as hunting, fishing, trapping, ricing and logging requires ownership by the Band of a much larger area of land than the present 25 square miles of the reserve.” Grassy Narrows’ negotiating principles and goals were thus clear and consistent from the outset. The reserve representatives were saying that its future depends on regaining control over land and resources traditionally theirs.

In annotations made on the Band proposal in 1979, both federal and provincial representatives appeared ready to accommodate Grassy Narrows’ needs. DIAND said that it should “work with band and province” to develop plans for resource management and employment in planning the Grassy future, including unpolluted fish off the English-Wabigoon river. The province seemed willing to give the reserve members more “guaranteed access to various natural resources” in the traditional land use area, including control over hunting and fishing. Ontario supported the affirmative action proposal and expressed a desire to help Grassies with a logging program. Chief Fobister wrote that “the response was one of true understanding” (personal communication 1979) at that first meeting.

Nevertheless, events conspired to thwart the mediation process. The chief mediator—Edward B. Jolliffe, a retired member of Staff Relations Board in Ottawa—seemed unable to bring the parties together regularly and amicably (Shkilnyk 1985b). But more significantly, as the mediation was beginning, Reed Ltd. was selling its Dryden plant and removing all assets from Ontario, at least in part to avoid prolonged negotiations and possible lawsuits. Reed “packed its tent and snuck off into the night,” said John Olthuis, Grassy Narrows’ lawyer since 1979, and they did it with the help of the province. “This whole bloody thing was set up,” so that the buyer—Great Lakes Forest Products Ltd.—would act as negotiator when it wasn’t the original polluter. With public opinion firmly set against Reed, this was a public relations “scam,” since the public wouldn’t blame Great Lakes for the sins of its predecessor. Others doubted that the sale was planned to defeat the claim against the company, but its effect was to encumber the negotiations (Taggart 1985).

Great Lakes Forest Products Ltd., a subsidiary of Canadian Pacific Enterprises, manufactures paper goods, including pulp, paper, and lumber. It purchased Reed Ltd.’s Dryden assets in 1979 for \$89 million, at which time the companies agreed to share equally any financial

liabilities caused by mercury pollution, with Ontario promising to pay any amount over \$15 million—so eager was the province to keep the Dryden plant open. Thus, the companies were liable only up to an amount of \$7.5 million each; Ontario would pay the rest. Since that time Great Lakes received net profits of \$235 million (through 1984), averaging almost \$40 million annually. It paid \$50 million in dividends and in 1985 offered its stockholders a 4-to-1 stock split. In 1980 the company began a \$250 million expansion of Reed's Dryden operations, and the Ontario and Federal Governments awarded Great Lakes \$48 million in grants for their expansion (Olthuis 1985).

R. A. Stradiotto (1985), the lawyer for Great Lakes, said that his corporate client has always wanted to make an "amicable" arrangement with the reserve; however, he denied that Great Lakes had any liability or direct responsibility for the mercury pollution or its effects. He stated that if Great Lakes had purchased the shares in Reed, it would have purchased the liabilities, too. But since it bought assets only—the plant at Dryden—it was not legally responsible. "That's the kind of purchase it was: an asset purchase." As for the \$15 million figure, this was "pulled out of the air" by Ontario, and Great Lakes was not sure there was any liability, much less such a high figure. Stradiotto stated that the \$15 million was "the pot of honey that will draw the flies," but he insisted that his client had no intention of paying anywhere near the \$7.5 million, for which it would seem to have been responsible. Stradiotto noted that until 1985, Reed "simply would not come" to negotiations, despite "repeated invitations" from Great Lakes.

Opposing lawyers and bureaucrats found Great Lakes' explanation regarding purchase of assets to be inadequate. A counsel for Chiefs of Ontario, a legal aid group for Indians in the province, commented that Mr. Stradiotto was "full of baloney" (Taggart 1985); DIAND representatives held that Great Lakes was legally liable for mercury damage. Richard Aniol noted, "We are unequivocal. We lump Reed and Great Lakes together. They are liable together. They are the polluters. They are part of the problem; they must be part of the solution." He reported that on December 23, 1983, John Munro—the former DIAND Minister—wrote to Mr. C. J. Carter, Chairman and President of Great Lakes, saying that "no impartial observer" could doubt that mercury has destroyed the economy of Grassy Narrows and Whitedog. He accused Great Lakes of a "callous delaying tactic." Aniol added that it was "intransigence" on Great Lakes' part that slowed down the negotiation procedures.

Negotiations were also slowed by the difference in perception among the various parties regarding responsibility and liability. John Olthuis cited a 1984 "Pre-Litigation" feasibility study performed by

University of Toronto law professor Robert Sharpe in 1984 that indicated “no question” regarding the legal responsibility of Canada, Ontario, and Great Lakes. Others—for example, Alastair Campbell of DIAND—thought that the case was strong only against the company. Judith Clapp, Executive Coordinator of Native Affairs for the Province did not think that Grassy had a solid claim even against the company, and her lawyers said so publicly (Clapp 1985). The company lawyer agreed with her, arguing that between 1962 and 1970 there were no environmental laws prohibiting Reed’s mercury dumping practices. No law was broken; there was no malfeasance (Stradiotto 1985). As a result, Great Lakes was willing to offer only “good citizen” payments to Grassy Narrows, in the range of \$3 million (Fobister personal communication), until 1985.

DIAND representatives denied that either the federal government or the province was legally responsible for the mercury pollution, the relocation, or the conditions resulting from them. Richard Aniol remarked that the negotiations were “never compensatory.” “Let’s look ahead, not behind us,” he said (1985). Brian Bennett of the same office noted that mediation was designed to obviate a “legal claim,” and he insisted that there was no “federal legal obligation” to Grassy Narrows; however, there was a “trust responsibility” for Indians, and so his office encouraged a settlement with Grassy Narrows in order to “set an example” to other parties, to “assist the band,” and to “save against future social disruption.” And although there was an “awareness that the federal government could have contributed” to Grassy Narrows problems unintentionally in relocating the people in the 1960s, he admitted no legal responsibility for his department.

Equally, only in 1984 was the band lawyer able to convince the federal negotiators that flooding had indeed caused economic disruption on the reserve (Olthuis 1985), and the province has never accepted this premise (Clapp 1985), even though written records exist to indicate that as far back as 1959 the reserve complained of the flood damage to wild rice and furbearers.

Another difficulty in negotiations was the discontinuity in successive Grassy Narrows administrations. Between 1979 and 1984 twelve elections took place on the reserve, resulting in eight changes in governing personnel. These changes were symptoms of the social disruption on the reserve—one chief served for four days in 1982 before being ousted—and each new band administration had to familiarize itself with the progress of the negotiations. Nevertheless, the band’s lawyer noted that he represented the Indians during the entire process; their negotiating principles never changed, and that there was at least as

much turnover in the provincial negotiating personnel over the years (Olthuis 1985).

The major stumbling block for negotiations, he asserted, was the provincial refusal to accept the notion of Grassy Narrows autonomy over their traditional land and resources. The negotiation records bear him out. From the beginning the province refused to halt mineral leases and built a mining road to expedite such activity through the land use area. Whereas the band officials spoke consistently of "ownership of a substantial tract of land . . ." (Aniol 1979-1984), and whereas provincial negotiators spoke of their support of "the Band's efforts to become a self-sustaining community, as well as providing the Band members with the opportunity to continue their traditional lifestyles and perpetuate their culture" (Aniol 1979-1984), Ontario was and is prepared to consider only "access to land and its resources" (Aniol 1979-1984). The band wrote in 1981 that, "Additional access cannot ensure the continuing viability of our way of life," that the reserve must "control" its traditional area and its development, in order to control the development of Grassy Narrows' future. The band representatives must be the "licensor instead of the licensee" of resource access in the traditional land use area (Aniol 1979-1984). Ontario refused all such notions, and returned repeatedly to the concept of "access" to trapping, timber, wild rice, fishing, blueberries, hunting, and a water supply free of mercury pollution (Aniol 1979-1984).

In 1984 the provincial Ministry of Natural Resources designed maps that designated the Grassy Narrows traditional land use area; these differed only marginally from similar maps outlined in 1981 by Peter Usher, who interviewed reserve elders who told him where they used to hunt, trap, gather and fish (Olthuis 1985). Superimposed on the provincial maps were plots of land already leased or promised for timber, mining, trapping, fishing, land patents, canoe routes, wild rice gathering, and other constraints on potential Grassy Narrows use (Clapp 1985). It is clear that the province already apportioned major parts of traditional Grassy lands to non-Indians for commercial development and other purposes, and although there could be some accommodation and compromise regarding the remaining areas—which are still considerable—Grassy Narrows and the province (which in the Canadian system is primarily responsible for natural resources) were making conflicting claims of control over the same territory.

Chief Arnold Pelly of Grassy Narrows testified before the House of Commons in 1985 that his reserve's future depended on control over the resources within the traditional land use area; however, "when we want to go trapping we have to apply for a trapper's license; when we want to go and cut firewood, to keep our lodges warm, we have

to get a fire permit." He asserted that provincial permits to non-Indians were "competing" with Grassy economy, and that "the band's traditional activities are threatened to the point of extinction." The band proposed methods of "co-management," but to no avail; to the province "the issue of natural resources . . . was a non-negotiable item" (House of Commons 1985:9,11,15).

In 1984, an "Agreement between the Government of Canada and the Grassy Narrows Band" (1984) was reached. It consisted of a \$4.4 million contribution to Grassy from the federal government, for the purpose of "rebuilding the community" (Bennett 1985). \$2.9 million established an "Economic Development" fund, and \$1.5 million set up a "Social Service Development and Planning" corporation. After years of negotiations, DIAND Minister John Munro decided that before he left office in the Conservative national sweep in 1984 he would act upon his "liberal principles" and sense of "fair play" (Bennett 1985) and settle with Grassy Narrows. The agreement was almost his last act in office. DIAND officials denied that the agreement was "buying your way out" (Aniol 1985), although they admitted that others might see it as such.

Despite the fact that members of DIAND, as well as lawyers associated with the reserve said all along that Grassy Narrows personnel lacked the experience to operate multi-million-dollar budgets and investments, and despite the fears that persons close to the band will cheat the Ojibways through consultation fees and bad advice (Aniol 1979–1984; Aniol 1985; Campbell 1985; Morison 1978; Taggart 1985), the Canadian government provided capital for "projects for the good of the community" (Bennett 1985), including commercial ventures, ambulance service, educational projects, and aid to the indigent to complement social services already available from the province, the federal government, and missionary activities. In short, this was seed money to spend on long term socio-economic planning on the reserve (Taggart 1985).

Article Seven of the "Agreement" (1984) made it clear that the money was given in consideration of the damages caused by changing of water levels, flooding, relocation, and pollution; nevertheless, the wording was careful not to "release" Canada from future lawsuits or liabilities because of the payment. Because in Canadian law, ". . . a release of one of two 'joint' tortfeasors operates as a release of all other 'joint' tortfeasors" (Wright 1967: 389)—in this case the "tortfeasors" are Canada, Ontario, and Great Lakes-Reed—Grassy Narrows promised not to sue the federal government for damages. If the band broke its promise it gave Canada the right to recover the money gained by such a suit (Taggart 1985). In this way, the "Agreement" settled

with the federal government without running the risk of letting the province and the companies off the hook.

In order to facilitate further agreements, the new Minister of Indian Affairs, David Crombie, appointed former Supreme Court Justice Emmett Hall to expedite talks among the various parties. Hall's reputation as a jurist—including significant opinions in Indian cases—as well as his intimate contacts with governmental and business leaders, raised hopes that he would see the negotiations to a conclusion. Under his tenure Reed re-entered the negotiating picture, and progress occurred, until in November 1985 a settlement was reached (Indian and Northern Affairs Canada 1985). Grassy Narrows received \$8.7 million, of which Reed and Great Lakes paid a \$6.2 million total, in comparable amounts. The provincial and federal payments were \$1.1 and \$1.4 million, respectively. In the 1984 and 1985 settlements—totalling \$13.1 million—Grassy Narrows received approximately the amount (allowing for inflation) recommended by a consultant (Anderson Research Consultants, Inc. 1980) in order to permit the reserve a viable economic future.

CONCLUSIONS

At the same time, Grassy Narrows' problems are far from solved. Physically the reserve has not changed since 1979. The facilities are as badly planned and badly constructed as they were in the early 1960s, only more run down now. Economically the reserve is still impoverished, and reliant on government social welfare programs. The Grassy Narrows Band Council is "very unstable, politically" (Taggart 1985), with clan rivalries persisting. Indeed, John Olthuis says that the reserve has "hit bottom," and today Band members are "fighting among themselves" concerning the uses of federal money to be delivered by the 1984 and 1985 funds. Statistically, the reserve is worse than other Canadian reserves, even today, despite the growth of population to 800; despite the reform movement spawned by Mennonites that is fostering a "born again" spirit of middle-class values; despite the 1984 band referendum to make the reserve "dry"; despite the determination among young Grassies to rebuild the community. When Anastasia Shkilnyk's book was published, Band Council members resented its portrayal of the community's "social pathology"; nevertheless, the reserve has experienced "no significant improvements" (Aniol 1985) from 1979 to 1985. The problems "seem to persist year after year" at Grassy, because of the "multi-layered" nature of their problems (Aniol 1985; cf. Campbell 1985).

As for the most immediate cause of Grassy Narrows disruption—mercury—DIAND spokesmen state that the levels in Grassy hair and

blood have dropped "quite a bit" (Bennett 1985). However, John Olthuis points out that human blood and hair quickly lose methylmercury, as the toxin travels to the large organs, remaining there for decades. In addition, the tests have been performed in winter, when fish consumption is the lowest and thus rates are lowest. In the river, and in the fish, Olthuis charges, the levels are still too high, and the fish are still not suitable for commercial fishing (Olthuis 1985).

Olthuis' assertion finds support in the 1984 "Technical Report" on "Mercury Pollution in the Wabigoon-English River System."³ The scientists who conducted the study write: "If no remedial measures are instituted, the prognosis for this system is not favourable . . . much of the Wabigoon River system between Dryden and Ball Lake would remain severely contaminated for the foreseeable future . . . for many decades" (Parks et al. 1984: 5). Mercury levels in fish reach as high as forty times the highest safe scale as the river continuously roils up the mercury that is "bound to bottom sediments" (Jackson 1984: 384). The authors conclude that, "Fish throughout the river system are unfit for unlimited human consumption owing to mercury contamination" (Jackson 1984: 385). These scientists recommend remedial techniques that could clean up the river system, including the removal of contaminated sediment by dredging, the covering of contaminated sediment with clean clay, and the addition of clean sediment at regular intervals (Parks et al. 1984: 6). The authors also note that the Great Lakes plant continues to discharge small but toxic amounts of mercury, and they recommend that the leakage cease (Jackson 1984: 386). These analysts suggest that the Grassy Narrows people could be employed in removing the contaminated fish from the river, and after its cleaning, the system could be stocked with new, unpolluted fish. They also mention the possible use of selenium as a means of de-toxifying the present mercury, although they agree that such levels of selenium required to neutralize all that mercury would in itself become a toxic hazard (Jackson 1984: 386-388; Rudd et al. 1984: 400; Turner and Rudd 1984: 442). The costs for dredging and flushing alone are estimated at \$29 to \$39 million, and yet these processes are recommended because "natural" cleanup will take many decades, during which time the "health and well-being" of Whitedog and Grassy Narrows Bands will continue to be "adversely affected by the mercury pollution" (Jackson 1984: 386). Despite these recommendations, no one with whom I spoke at DIAND (Aniol, Bennett, Campbell 1985) considered such a costly cleanup even a remote policy possibility.

In addition, the settlements of 1984 and 1985 have not given Grassy Narrows control over its traditional land use area or its natural resources. The provincial refusal to give up economic sovereignty, or

at least to share it with the Grassy Band, represents a larger pattern in Canadian relations with its native peoples. As Peter Cumming (1977: 11) states, "The history of northern development in Canada demonstrates how government has paid relative lip-service to native peoples' . . . concerns, while all the time pressing relentlessly forward for resource development," especially in the last two decades. The province seems to have identified its interests with those of the non-Indian corporations and individuals who promise to increase Canadian profits by exploiting natural resources in technologically sophisticated ways. Canadian law does not seem to recognize special sovereignty to Indians outside their present reserves—if at all within them; to the contrary, treaty obligations are held to have "a legal status equivalent to that of ordinary contracts, and hence are subject to unilateral abrogation by Parliament" (Cumming 1977: 14), or alteration by provincial edict or regulation. Furthermore, the Department of Indian and Northern Affairs contains within itself a conflict of interests—whether it should promote the needs of native peoples, or economic development—and cannot always hold Indian interests as the highest priority.

Drawing on the famous conclusions of historian Harold A. Innis in his study of *The Fur Trade in Canada* (1964), Justice Hartt's Royal Commission on the Northern Environment perceived an historical process through which Indian interests have come to be considered irrelevant to Canadian interests. Innis noted that beaver furs were Canada's first staple product, yielding "substantial profits" (Innis 1964: 384). He continued: "Canada has had no serious problems with her native peoples since the fur trade depended primarily on these races" (Innis 1964: 392). Hartt agreed that, "Involvement of the native peoples was essential to the fur trade" (Hartt 1978: 3); however, when logging, mining, and hydroelectric power plants moved into the wilderness and replaced the fur trade as the economic forces in Canada, these enterprises were "not dependent upon Indian aid, as was the fur trade" (Hartt 1978: 3). To the contrary, "Railway building, hydro development, logging and mining, unlike fur trading, involved the actual occupation, settlement and disruption of . . . the Indians' ancestral home" (Hartt 1978: 14). Perhaps, one might say, in the province of Ontario, the Grassy Narrows people are perceived as a hindrance to economic progress, and that the people who make big decisions in the province are not about to give Grassy Narrows greater control over land outside its limited, official reserve. Why should they? Such a decision, they might think, would reduce provincial sovereignty and reduce the optimum chances for provincial (and Canadian) profit.

And yet, representatives for both Canada and Ontario (e.g., Bennett 1985 and Clapp 1985) claim that government policy these days places

high priority on fostering native self-determination, a “total reversal” from the 1960s when documents like the 1969 White Paper spoke of “total assimilation” (Bennett 1985) as the ultimate goal for Indians. In their 1984 and 1985 efforts, the federal negotiations made every attempt to give Grassy Narrows autonomy over its \$13.1 million. So, why not autonomy over land and resources? The Penner Report of 1983, produced by the Canadian Parliament’s House of Commons, recognizes that Indians must have control over their lands in order for them to have some control over their destiny, and by this the report understands that Indians want control not only over reserves, but also “traditional hunting and trapping areas” (Penner 1983: 110). These Indians say—as the people at Grassy Narrows say—that their treaties never extinguished all rights to use these lands in a traditional manner, and therefore they should share in the use and control of these traditional land use areas. They wish to “participate in the control and management of these lands and resources” in a “system of coexistence” with other interests, including provincial, national, and corporate (Penner 1983: 110).

This is what Grassy Narrows has proposed, as the solution to its socio-economic distress, since the beginning of negotiations in 1979. Why should the province not trust Grassy economic activity within its traditional area, and yet at the same time grant millions of acres—the agreement with Reed (now Great Lakes) in 1976 is still in effect, although in abeyance—to a company that proved itself incapable of socially and environmentally responsible policy and technology? Equally, why should the province treat its recent prerogatives over leases and licenses as immutable principles? For that matter, what laws of unilineal progression dictate that Indian territories must shrink and never grow? Apparently the province could not yet consider the unthinkable, and expand Grassy Narrows autonomy over land and resources within the traditional land use area, and make Ojibway management of this land and these resources the basis upon which the Grassy Narrows people might manage their own socio-economic recovery.

Grassy Narrows today faces over half a century of severe pollution and its devastating effects, and the reserve’s chances of security are undermined by its lack of autonomy. In the words of Grassy Narrows Chief Arnold Pelly:

Today, with the encroachment of logging companies, mining corporations, other interest groups, tourist camp operators, our traditional land use is diminishing and we are losing our land. In order for us to prove that we are quite capable of looking after our own—we talk about self-

determination, self-government—we need a landbase. You could give us hundreds and hundreds of millions of dollars, but what good is that? What we need is a land base so we can have our traditional activities (House of Commons 1985: 9).

NOTES

1. I am grateful to the following people who have helped me research the history and present condition of Grassy Narrows Reserve: from Grassy Narrows, John Beaver, Pat Loon, Simon Fobister, Andy Keewatin, Steve Loon, Tom Payesh; from the Department of Indian and Northern Affairs, Alastair Campbell, Richard Aniol, and Brian Bennett; from the Public Archives of Canada, David Hume; from Chiefs of Ontario, William Taggart; from Citizens for Public Justice, John Olthuis; from the Ontario Provincial Secretariat for Resources Development, Judith Clapp; from Borden & Elliott, R. A. Stradiotto; and my initial colleagues, Kai T. Erikson, Hiro Miyamatsu, and Anastasia M. Shkilnyk. I realize that my conclusions will not please all these people all of the time; however, I hope that I have represented them all accurately. A Colgate University Faculty Research Grant, a Hobart & William Smith Colleges Research Grant, and a Canadian Consulate Grant made this study possible.

2. Anastasia Shkilnyk's book, *A Poison Stronger Than Love: The Destruction of an Ojibway Community*, presents such a detailed picture of Grassy Narrows history and the social disruption of the 1960s and 1970s that I have relied upon it extensively in preparing this paper.

3. The Canada-Ontario Steering Committee (1984) published a "Summary" of the "Technical Report" that does not, in my view, represent the findings of the experts. It is much more sanguine about the future of the river and the fish than the "Technical Report" warrants. The one-page press release is an outright misrepresentation of the scientific findings.

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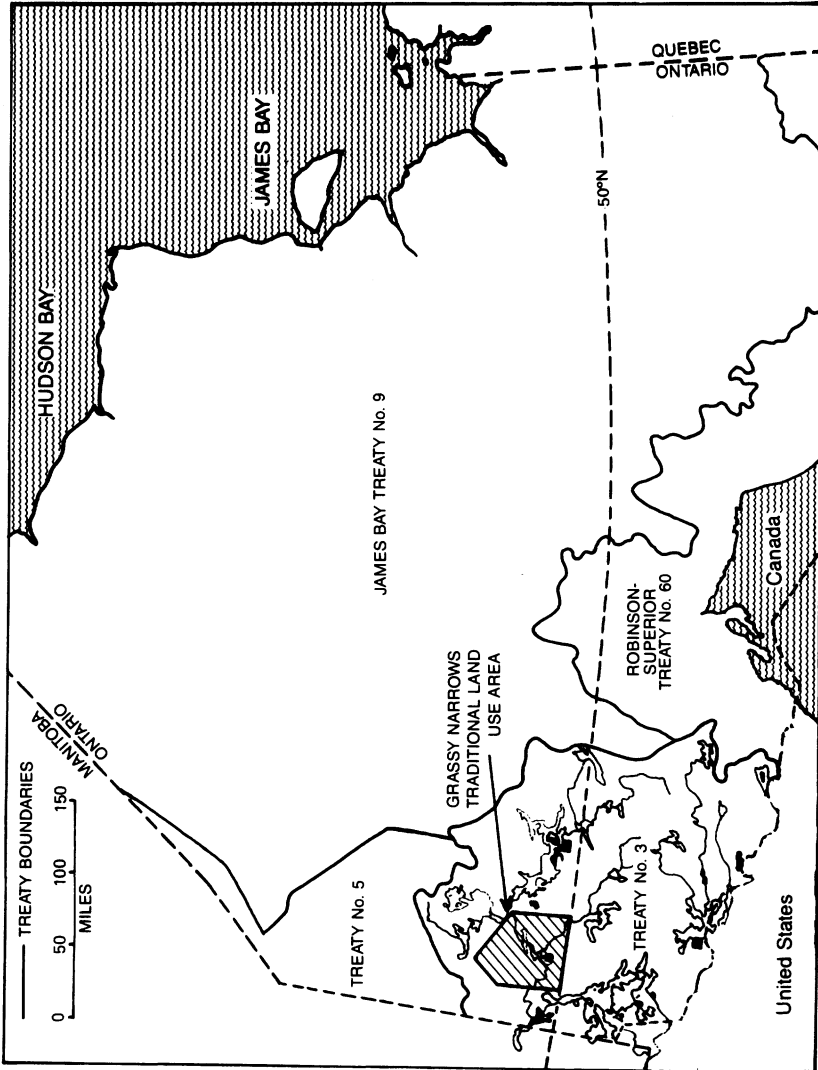
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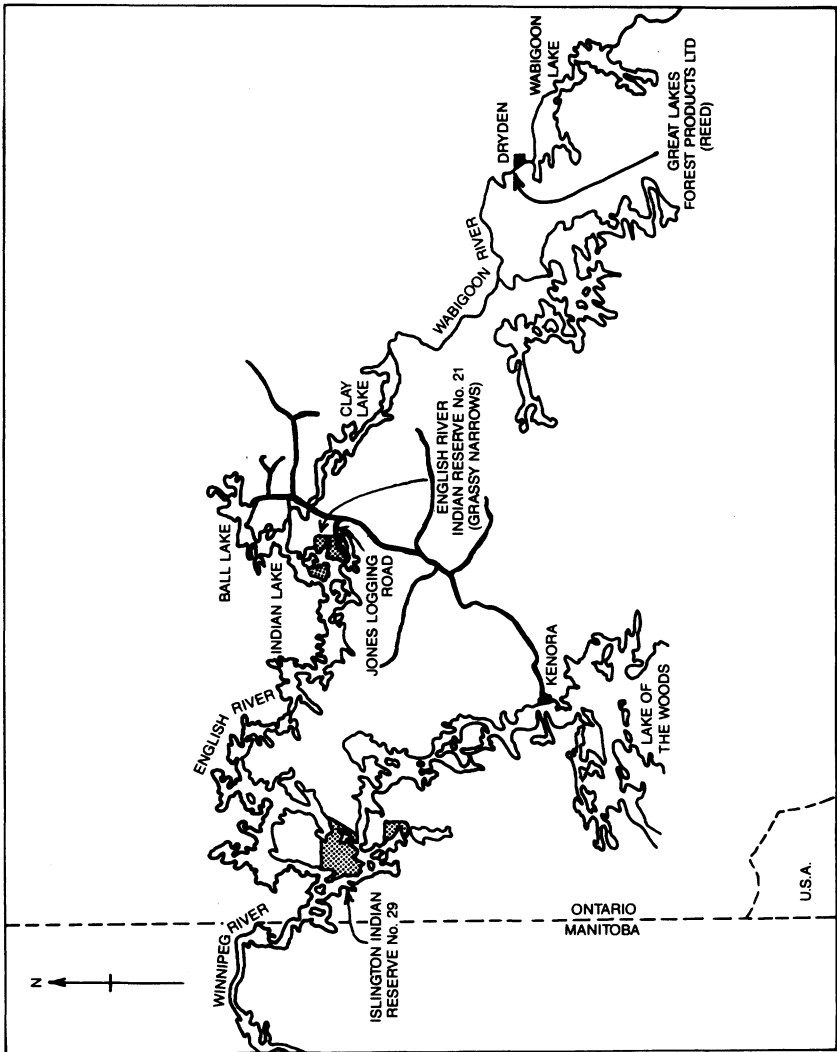
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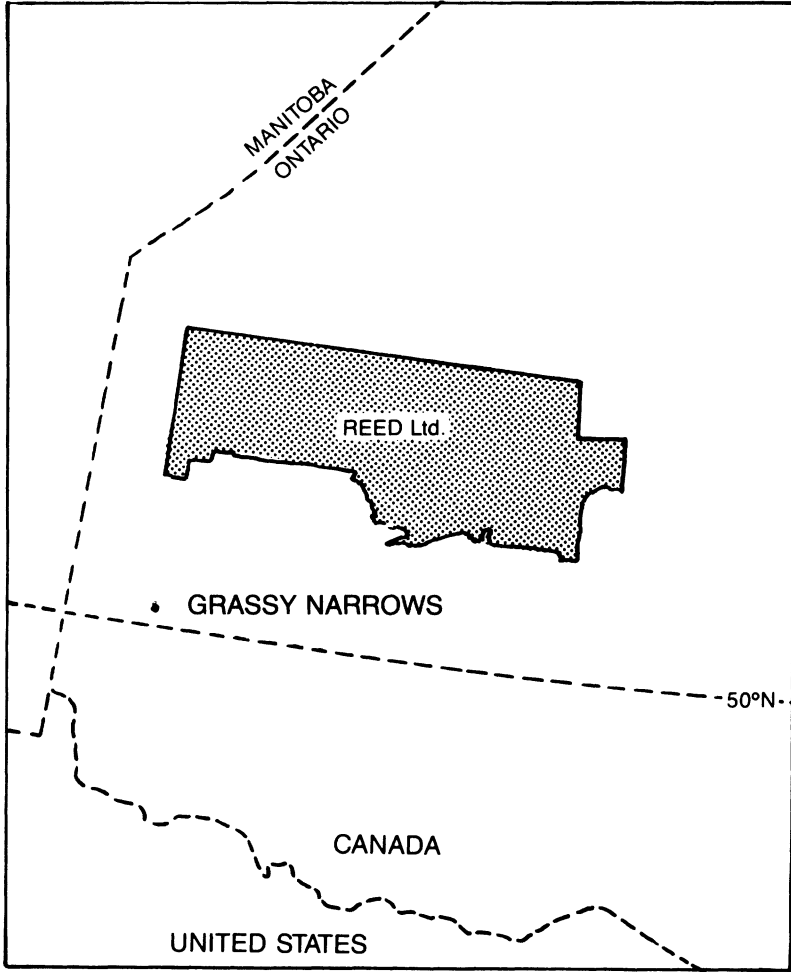
MAP 1 (after Royal Commission on the Northern Environment 1978: M14-15)



MAP 2 (after Canada-Ontario Steering Committee 1984: viii)



MAP 3 (after Royal Commission on the Northern Environment 1978: M12-13)



Memorandum of understanding 