

THIS FOREBAY AGREEMENT AMONG

EASTERVILLE COMMUNITY
as represented by the Community Council,

(hereinafter referred to as the "Easterville Community"),

OF THE FIRST PART,

- and -

HER MAJESTY THE QUEEN
IN RIGHT OF THE PROVINCE OF MANITOBA
as represented by The Minister of Conservation,

(hereinafter referred to as "Manitoba"),

OF THE SECOND PART,

- and -

THE MANITOBA HYDRO-ELECTRIC BOARD,

(hereinafter referred to as "Hydro"),

OF THE THIRD PART

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THIS AGREEMENT made as of the “23rd” day of “March”, 2004.

AMONG:

EASTERVILLE COMMUNITY
as represented by the **Community Council**,

(hereinafter referred to as the "**Easterville Community**"),

OF THE FIRST PART,

- and -

HER MAJESTY THE QUEEN
IN RIGHT OF THE PROVINCE OF MANITOBA,
as represented by The Minister of Conservation,

(hereinafter referred to as "**Manitoba**"),

OF THE SECOND PART,

- and -

THE MANITOBA HYDRO-ELECTRIC BOARD,

(hereinafter referred to as "**Hydro**"),

OF THE THIRD PART.

WHEREAS:

- A.** In 1962, **Manitoba** made undertakings to include residents of what is now the **Easterville Community** in the provisions of the **1962 Arrangements** in relation to the development and operation of the **Project**;
- B.** The **Project** affected the water regime of Cedar Lake making it necessary for certain residents to relocate from lands at or near Chemawawin IR 32A to a new community development at Easterville;
- C.** The **Community Council**, on its own behalf and on behalf of the residents of the **Easterville Community**, advanced a claim against **Manitoba** and **Hydro** relating to the effects of the **Project**;

- D.** In November 1990, the **Easterville Community, Chemawawin** and **Hydro** entered into the **1990 Agreement** which resolved issues involving adverse effects of the **Project** on the **Easterville Community** and on the collective rights and interests of the **Community Council** and residents of the **Easterville Community**;
- E.** The **1990 Agreement** also contemplated additional negotiations with **Manitoba** for the purpose of arriving at a comprehensive settlement of all outstanding issues related to the **Project** and the **1962 Arrangements**;
- F.** Negotiations among the **Easterville Community, Manitoba** and **Hydro** resulted in the execution of the **Agreement in Principle** in April 2000, which set out principles and understandings to guide and govern the negotiation of an agreement which would:
- (a) resolve the grievances advanced by the **Community Council** on its own behalf and on behalf of the residents of the **Easterville Community**,
 - (b) fully and finally resolve and conclude all issues and claims, between and among the **Parties** in relation to and arising out of the **Project**, and the **1962 Letter of Intent**,
 - (c) lay the foundation for the cooperative management of lands and waters within the **Cedar Lake Resource Management Area**; and
- G.** As a result of those negotiations among the **Easterville Community, Manitoba** and **Hydro** pursuant to the **Agreement in Principle**, the **Parties** are entering into this **Agreement**;

NOW THEREFORE the **Parties** agree as follows:

ARTICLE 1

1.0 AGREEMENT AND INTERPRETATION

1.1 AGREEMENT

1.1.1 Contents. This **Agreement** consists of Articles 1 through 9 and includes the following schedules which are attached to this **Agreement**:

- (a) Schedule 3.1 Form of **Project Easement Agreement**;
- (b) Schedule 4.1 **Community Lands** and **Community Boundary Expansion Site**;
- (c) Schedule 4.2 Form of **Land Use Permit**;
- (d) Schedule 4.3 Survey Instructions;
- (e) Schedule 4.4 Form of **Council Resolution**;
- (f) Schedule 5.1 Article 13 of the Chemawawin Comprehensive Forebay Agreement;
- (g) Schedule 6.1 **Fully Compensated Zone**;
- (h) Schedule 6.2 **Pre-Determined Compensation Zones**;
- (i) Schedule 6.3 Method of Calculation of Water Levels and Sample Calculation of Pre-Determined Compensation;
- (j) Schedule 7.1 Certificates of Independent Advice; and
- (k) Schedule 8.1 Ballot Question.

1.1.2 Maps. Maps referred to in and attached to a Schedule form part of and are included in that Schedule.

1.2 INTERPRETATION

1.2.1 Definitions. In this **Agreement**, the following words and phrases, when capitalized and printed in bold type, whether in the plural, the singular or the possessive, have the following meanings:

- (a) **1962 Arrangements** means those arrangements among **Manitoba, Hydro, Canada** and **Chemawawin** related to the taking and use of certain **Reserve** lands for water storage and the anticipated effects of the development and operation of the **Project** evidenced in documents which include: a letter dated June 7, 1962 sent to **Chemawawin** by the Grand Rapids Forebay Administration Committee, on behalf of **Manitoba** and **Hydro**; certain Council Resolutions dated June 14, 1962 and April 12, 1965; and Privy Council Order 1962-1617 dated November 15, 1962;
- (b) **1962 Letter of Intent** means the letter dated June 7, 1962 sent to **Chemawawin** by the Grand Rapids Forebay Administration Committee, on behalf of **Manitoba** and **Hydro**, which forms part of the **1962 Arrangements**;
- (c) **1990 Agreement** means the settlement agreement dated November 9, 1990 among **Chemawawin, Hydro** and the **Easterville Community**;
- (d) **Adverse Effects** means the direct or indirect negative consequences of the **Project** or the operation thereof by **Hydro**, which consequences impact on or change the physical, chemical or biological characteristics of the environment and which consequences include, without limitation, risks or injuries to the health, safety, well-being, comfort or enjoyment of life by the **Easterville Community** or its residents, and which consequences impact on interests in and the exercise of rights in relation to lands, pursuits, activities, opportunities, lifestyles and assets of the **Easterville Community** or its residents;
- (e) **Agreement** means this Easterville Community Forebay Agreement, including all schedules listed in subsection 1.1.1;
- (f) **Agreement in Principle** means the agreement in principle among the **Easterville Community, Hydro** and **Manitoba** executed by the **Easterville Community** in November 1999, by **Hydro** in November 1999 and by **Manitoba** in April 2000;

- (g) **Canada** means Her Majesty the Queen in Right of Canada;
- (h) **Cedar Lake Gauge** means Water Survey of Canada Gauging Station No. 05KL005 Cedar Lake near Oleson Point, or such replacement gauge as may be established in accordance with the terms of this **Agreement**;
- (i) **Cedar Lake Resource Management Area** means the area established under subsection 13.2.1 of the **Chemawawin Comprehensive Forebay Agreement**, which is depicted in Schedule 13.1 of the **Chemawawin Comprehensive Forebay Agreement**, subject to amendments made in accordance with subsection 13.2.2 of the **Chemawawin Comprehensive Forebay Agreement**;
- (j) **Cedar Lake Resource Management Board** means the Cedar Lake Resource Management Board established under subsection 13.3.1 of the **Chemawawin Comprehensive Forebay Agreement**;
- (k) **Chemawawin** means Chemawawin Cree Nation, a "band" within the meaning of the *Indian Act* (Canada);
- (l) **Chemawawin Comprehensive Forebay Agreement** means the Agreement entered into among **Chemawawin, Hydro** and **Manitoba** dated January 16, 2004;
- (m) **Community Boundary Expansion Site** means the parcel of land totalling approximately 1200 acres that is described in Part 3 of Schedule 4.1 and which is the subject of section 4.4;
- (n) **Community Council** means the Mayor and Council of the **Easterville Community** elected and in office pursuant to *The Northern Affairs Act* (Manitoba);
- (o) **Community Development Sites** means the parcels of land totalling approximately 275 acres that are described in Part 2 of Schedule 4.1 and which are the subject of sections 4.3 and 4.6;

- (p) **Community Lands** means the **Community Development Sites** and the **Individual Selections** all of which are described in Schedule 4.1 and are the subject of Article 4;
- (q) **Community Nominee** means an entity entitled to hold an interest in the **Community Development Sites** and will be either:
- an incorporated **Easterville Community** Association, or some other corporate entity on behalf of residents of the **Easterville Community**;
- whose Board of Directors consist of the **Community Council**;
- (r) **Consumer Price Index** means the monthly publication by Statistics Canada of statistical data related to the change in price of goods and services (all items excluding alcoholic beverages and tobacco products) for the Province of Manitoba;
- (s) **Council Resolution** means a resolution of the **Community Council**;
- (t) **Daily Average Water Levels** means the arithmetic average of readings of water levels recorded in a day at the **Cedar Lake Gauge** and, where relevant, adjusted to eliminate the effects of wind, or a valid representative substitute for such readings, if such readings are unavailable or demonstrably in error;
- (u) **Date of this Agreement** means the date this **Agreement** has been executed by the last **Party**;
- (v) **Development Plan** means a development plan as defined in *The Planning Act* (Manitoba) or any similar plan or instrument adopted under successor legislation;
- (w) **Easement Line** means a line established in accordance with Article 3 demarcating the upper boundary of the land that is to be subject to a **Project Easement**;

- (x) **Easterville Community** means the Community of Easterville, an unincorporated community established under *The Northern Affairs Act* (Manitoba), which is represented by the **Community Council**;
- (y) **Fish** means fish as defined in the *Fisheries Act* (Canada);
- (z) **Fully Compensated Zone** means the zone which is shown graphically and described in Article 6 and in Schedule 6.1;
- (aa) **Hydro** means The Manitoba Hydro-Electric Board;
- (bb) **Individual Selections** means those parcels of land described in Part 1 of Schedule 4.1, which have been selected by **Selectors** and which are the subject of section 4.2;
- (cc) **Land Use Permit** means a permit issued pursuant to subsection 4.2.1 or subsection 4.3.1 substantially in the form of Schedule 4.2;
- (dd) **Land Use Plan** means a plan developed by the **Cedar Lake Resource Management Board** in accordance with subsection 13.6.5 of the **Chemawawin Comprehensive Forebay Agreement**;
- (ee) **Manitoba** means Her Majesty the Queen in Right of Manitoba;
- (ff) **Member** means a person who, at the relevant time, is a member of **Chemawawin** pursuant to the *Indian Act* (Canada);
- (gg) **Municipality** means a city, town, village, rural municipality, local government district or other like municipal organization and includes a community under *The Northern Affairs Act* (Manitoba);
- (hh) **Ordinary High Water Mark** (or **OHWM**) means a line defined by the normal high water mark of a water body, whether regulated or unregulated, determined by

plant growth and soil conditions observed in the field. The Ordinary High Water Mark will be the limit or edge of a non-tidal body of water, where the bed is the land so long covered by water as to wrest it from vegetation, or as to mark a distinct character on the vegetation where it extends into the water, or upon the soil itself;

- (ii) **Parties** means **Manitoba, Hydro** and the **Easterville Community**;
- (jj) **Party** means, as the context requires, any one of **Manitoba, Hydro** or the **Easterville Community**;
- (kk) **Pre-Determined Compensation Zones** means the zones which are shown graphically and described in Article 6 and Schedule 6.2;
- (ll) **Project** means the undertaking commonly known as the Grand Rapids Hydro-Electric Generating Station and all related and ancillary works existing as of the **Date of this Agreement**, including, without limiting the generality of the foregoing, the works and operations described in the **Water Power Licence**;
- (mm) **Project Easement** means the rights and privileges granted to **Hydro** and reserved to **Manitoba** under a **Project Easement Agreement**;
- (nn) **Project Easement Agreement** means an agreement which grants to **Hydro** and reserves to **Manitoba** the limited rights and privileges to regulate the flow of and to inundate and store water on or over certain lands sufficient to accommodate a maximum **Wind Eliminated Water Level** of 842 feet A.S.L. immediately upstream of the Grand Rapids Generating Station, and to affect from time to time certain lands to a level at or about 848 feet A.S.L., which will substantially be in the form of Schedule 3.1;
- (oo) **Reserve** has the same meaning as in the *Indian Act (Canada)*, but is restricted to those reserves set apart for the use and benefit of **Chemawawin**;

- (pp) **Resources** includes **Fish, Wildlife**, forests, plants, lands and waters in the **Cedar Lake Resource Management Area**;
- (qq) **Resource Management Plan** means a plan developed by the **Cedar Lake Resource Management Board** in accordance with subsection 13.6.2 of the **Chemawawin Comprehensive Forebay Agreement**;
- (rr) **Selector** means a person who:
 - (i) is eighteen (18) years of age or older as of June 30, 2000;
 - (ii) is not an Indian within the meaning of the *Indian Act* (Canada); and
 - (iii) is ordinarily resident within the boundaries of the community of Easterville, as established pursuant to *The Northern Affairs Act* (Manitoba);
- (ss) **Water Power Licence** means the Final Licence for the Development of Water Power, Grand Rapids Site, Saskatchewan River, issued May 30, 1975;
- (tt) **Wildlife** means wildlife as defined in *The Wildlife Act* (Manitoba); and
- (uu) **Wind Eliminated Water Levels** means water levels which have had the effects of wind removed by using a seven day moving mean of the **Daily Average Water Levels** in accordance with the method of calculation set forth in Schedule 6.3.

1.2.2 Use of Definitions. Except for use in this **Agreement**, these definitions are without prejudice to, and are not binding upon, any of the **Parties**.

1.2.3 Statutory References. The following legislation is referred to in this **Agreement** and, unless otherwise specifically provided, when described by the title set out in this subsection, the legislation will be interpreted to mean the legislation as cited in this subsection:

- (a) Acts of the Parliament of Canada:

Fisheries Act, R.S.C. 1985, c. F-14,
Indian Act, R.S.C. 1985, c. I-5;

(b) Acts of the Legislature of Manitoba:

The Arbitration Act, C.C.S.M. c. A120,
The Buildings and Mobile Homes Act, C.C.S.M. c. B93,
The Crown Lands Act, C.C.S.M., c. C340,
The Forest Act, C.C.S.M. c. F150,
The Freedom of Information and Protection of Privacy Act, C.C.S.M. c. F175,
The Highways and Transportation Act, C.C.S.M. c. H40,
The Highways Protection Act, C.C.S.M. c. H50,
The Mines and Minerals Act, C.C.S.M. c. M162,
The Northern Affairs Act, C.C.S.M., c. N100,
The Planning Act, C.C.S.M., c. P80,
The Real Property Act, C.C.S.M., c.R30,
The Water Power Act, C.C.S.M., c. W60,
The Wildlife Act, C.C.S.M., c. W130;

(c) Acts constituting part of the Constitution of Canada:

Constitution Act, 1982 being Schedule B to the *Canada Act, 1982* (U.K.) 1982,
 c.11.

1.2.4 Legislation Speaks from Present. All references to legislation referred to in subsection 1.2.3 will include all regulations made in accordance with that legislation and any amendment, re-enactment or replacement from time to time of that legislation.

ARTICLE 2

2.0 PAYMENT AND COSTS

2.1 INTRODUCTION

2.1.1 Introduction. Article 2 provides for a payment to be made to the **Easterville Community** and contains arrangements for the reimbursement of certain costs.

2.2 PAYMENT

2.2.1 Payment. On or before the **Date of this Agreement, Manitoba** and **Hydro** covenant and agree to pay eighty thousand (\$80,000) dollars to the **Easterville Community** by cheque or bank draft payable to the **Easterville Community** for purposes that have been approved pursuant to subsection 2.2.2.

2.2.2 Application of Payment. The payment of \$80,000 under subsection 2.2.1 will be used for appropriate purposes of lasting benefit for the **Easterville Community** and its residents, similar to those purposes set out in the **1990 Agreement** and the Easterville Community Development Trust, which purposes include the following:

- (a) resource rehabilitation and development measures to support increased viability for traditional and commercial resource pursuits and other resource harvesting;
- (b) cultural and social support and development initiatives;
- (c) business and employment development undertakings;
- (d) local community infrastructure and housing development; and
- (e) technical and legal costs related to effective control and utilization of the funds and management of local development challenges and pursuit of rights and responsibilities.

2.2.3 No Per Capita Distribution. For greater certainty the payment made under subsection 2.2.1 may not be used for the purpose of a per capita distribution to residents of the **Easterville Community**.

2.2.4 Interest on Late Payment. If the payment is not made by **Manitoba** and **Hydro** when due in accordance with subsection 2.2.1, it will bear interest at the rate equal to the prime rate established by The Bank of Nova Scotia from time to time plus 5% per annum, compounded monthly.

2.3 COSTS

2.3.1 Past Costs, Fees and Contingency Fees. No past costs or fees, and no contingency fees, bonuses or other similar disbursements arising from negotiation of this **Agreement** or the **Agreement in Principle** are to be paid from the payment made under section 2.2.

2.3.2 Current Costs. The **Easterville Community** has been or will be reimbursed by **Manitoba** and **Hydro** for all reasonable costs incurred in negotiating, ratifying and concluding this **Agreement** and the **Agreement in Principle**, including the costs of legal and consulting services required for the informed participation of the **Easterville Community**.

2.3.3 Limitations. Neither **Manitoba** nor **Hydro** will bear any responsibility for costs incurred by the **Easterville Community**, in negotiating, ratifying and concluding this **Agreement** or the **Agreement in Principle** other than as provided for in this **Agreement**. The responsibilities of **Manitoba** and **Hydro** to reimburse the **Easterville Community** for its reasonable costs under subsection 2.3.2 will not include any costs incurred by the **Easterville Community** in the resolution of any claims it has or may have against **Canada** related to the **Project** or the **1962 Arrangements**.

ARTICLE 3

3.0 EASEMENT LINES AND PROJECT EASEMENTS

3.1 INTRODUCTION

3.1.1 Introduction. Article 3 provides for the process and methodology for the establishment of **Easement Lines** and **Project Easements** on portions of **Community Lands** that are located within the area of the **Water Power Licence** or that are or may be lawfully impacted by the **Project**.

3.2 EASEMENT LINES

3.2.1 Establishment of Easement Lines. In accordance with subsection 3.2.2 and in consultation with **Hydro** and either the **Easterville Community**, or the **Selector**, as the case may be, **Manitoba** will determine **Easement Lines** at or about 848 feet A.S.L. on each parcel of **Community Lands** that is, or will be, held by the **Community Nominee** or a **Selector** in fee simple and that:

- (a) is located within the area of the **Water Power Licence**; or
- (b) is or may be lawfully impacted by the **Project**.

3.2.2 Methodology. **Easement Lines** will be determined in accordance with a process and a methodology that:

- (a) consider the potential effects of the **Project** on the lands, including the effects of flooding, wind setup, wave uprush, erosion and ice conditions;
- (b) are based on a combination of flood and wind events having a probability of occurrence of once every 100 years;

- (c) apply recognized hydraulic engineering methodology in calculating wind setup and wave uprush values; and
- (d) include estimates of erosion based on geotechnical considerations to provide sufficient shoreline offset to accommodate long-term erosion.

3.3 SURVEYS

3.3.1 Explanatory Plan of Easement Lines. As soon as reasonably practicable after the determination of an **Easement Line** in accordance with section 3.2, **Manitoba** will:

- (a) undertake or cause to be undertaken a survey of the **Easement Line** by photogrammetric methods;
- (b) produce or cause to be produced explanatory plans of the **Easement Line**;
- (c) provide copies of the explanatory plans to the **Easterville Community, Hydro**, and either the **Community Nominee** or **Selector**, as the case may be; and
- (d) provide a description of the lands which will be subject to a **Project Easement** to the **Easterville Community, Hydro**, and either the **Community Nominee** or **Selector**, as the case may be.

3.3.2 Demarcation of Easement Lines. Where an **Easement Line** on **Community Lands** is located in an area that is proposed to be developed by the **Community Nominee** or a **Selector**, **Manitoba** will cause the **Easement Line** to be demarcated on the land, by field survey methods, in accordance with Schedule 4.3, as soon as reasonably practicable after receipt of notice in writing from the **Community Nominee**, the **Community Council** or a **Selector** that the area adjacent to the **Easement Line** is proposed to be developed by the **Community Nominee** or a **Selector**.

3.4 PROJECT EASEMENTS

3.4.1 Form of Project Easement Agreement. Each parcel of land for which an **Easement Line** is determined in accordance with section 3.2 will be conveyed subject to a **Project Easement** in favour of **Manitoba** and **Hydro** over that portion of the parcel lying below the applicable **Easement Line**. The **Project Easement Agreement** will be substantially in the form set out in Schedule 3.1.

SCHEDULE 3.1 – FORM OF PROJECT EASEMENT AGREEMENT

THIS AGREEMENT made as of the _____ day of _____, 200*.
AMONG:

HER MAJESTY THE QUEEN
IN RIGHT OF THE PROVINCE OF MANITOBA,
as represented by The Minister of Conservation,
OF THE FIRST PART,

– and –

SELECTOR OR COMMUNITY NOMINEE
(hereinafter referred to as “(Selector or Community Nominee)”),
OF THE SECOND PART,

– and –

THE MANITOBA HYDRO-ELECTRIC BOARD
OF THE THIRD PART.

EASEMENT AGREEMENT

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EASEMENT AGREEMENT

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EASEMENT AGREEMENT

THIS AGREEMENT made as of the _____ day of _____, 200*.
AMONG:

HER MAJESTY THE QUEEN
IN RIGHT OF THE PROVINCE OF MANITOBA,
as represented by The Minister of Conservation,

(hereinafter referred to as "Manitoba")

OF THE FIRST PART,

SELECTOR OR COMMUNITY NOMINEE
(hereinafter referred to as "*(Selector or Community Nominee)*")

OF THE SECOND PART,

THE MANITOBA HYDRO-ELECTRIC BOARD,

(hereinafter referred to as "Hydro")

OF THE THIRD PART,

WHEREAS:

- A. The Minister of Conservation, Manitoba, has been authorized to enter into this Easement Agreement on behalf of Manitoba;
- B. The appropriate officers of Hydro have been authorized to enter into this Easement Agreement on behalf of Hydro;
- C. *The appropriate officers of the Community Nominee have been authorized to enter into this Easement Agreement on behalf of the Community Nominee;*
- C. *The Selector has agreed to enter into this Easement Agreement;*

NOW THEREFORE, in consideration of the mutual terms and conditions in this Easement Agreement, the parties hereby covenant and agree as follows:

ARTICLE 1 – DEFINITIONS

1.1 Definitions.

In this Easement Agreement, unless otherwise specifically provided, the following words and phrases when capitalized, whether in the plural, the singular or the possessive, will have the following meanings:

- a. “ASL” means above sea level;
- b. “Easement” means the interest in land created by this Easement Agreement;
- c. “Easement Agreement” means this agreement;
- d. “Easement Land” means the lands described in section 2.1 of this Easement Agreement;
- e. “Easement Line” means the line establishing the upper boundary of the Easement Land, which line has been established based upon certain processes and methodologies to reflect the margin of the effects of flooding, erosion, ice conditions, wind set-up and wave up-rush on the Easement Land, and which has been approved by the Easterville Community, Manitoba, Hydro, and the (*Selector or Community Nominee*);
- f. “Easterville Community” means the Community of Easterville, an unincorporated community established under *The Northern Affairs Act* (Manitoba), which is represented by the Mayor and Council elected and in office pursuant to *The Northern Affairs Act* (Manitoba);
- g. “Project” means the undertaking commonly known as the Grand Rapids Hydro-Electric Generating Station and all related and ancillary works, including, without limiting the generality of the foregoing, the works and operations as described in the Final Licence for the Development of Water Power, Grand Rapids Site, Saskatchewan River, issued May 30, 1975 and amendments thereto;

- h. “Selected Land” means the parcel of land to be transferred by Manitoba to a (*Selector or Community Nominee*) in fee simple, of which the Easement Land forms part, and which is described as follows:

(Insert Legal Description of Selected Land)

- i. “Wind Eliminated Water Levels” means water levels which have had the effects of wind removed by using a seven day moving mean of the daily average water levels.

ARTICLE 2 – EASEMENT LAND

2.1 Grant of Easement.

Manitoba hereby:

- a. grants to Hydro the right, liberty, privilege and easement in accordance with the terms and conditions in this Easement Agreement; and
- b. reserves to itself out of the transfer to the (*Selector or Community Nominee*) such administration and control as is required to assure to Manitoba the right, liberty, privilege and easement in accordance with the terms and conditions in this Agreement;

with respect to all the land described as:

*[Insert legal description of lands between the
Easement Line and the water boundary
of the parcel of the Selected Land.]*

together with all land that may, through the process of accretion, become part of the Selected Land.

2.2 Easement Granted for the Benefit of Project Structures.

The Easement granted to Hydro and reserved to Manitoba under section 2.1 is for the benefit of the lands on which the structures comprising the Project are located, which constitute the “Dominant Tenement” of the Easement.

2.3 Easement under clause 111(1)(a.1) of *The Real Property Act*.

The Easement granted to Hydro and reserved to Manitoba under section 2.1 is an interest in land and also constitutes a “right for the inundation and storage of water” within the meaning of clause 111(1)(a.1) of *The Real Property Act* (Manitoba). Hydro and Manitoba may file a caveat against the title of any parcel of land held by (*Selector or Community Nominee*) that includes any of the Easement Land, to provide notice of that interest.

2.4 Easement to Hydro to Continue after Transfer to (*Selector or Community Nominee*)

This Easement Agreement and the rights granted to Hydro under this Easement Agreement will come into effect upon the execution of this Easement Agreement and will continue in effect following the transfer in fee simple of administration and control of the Selected Land to (*Selector or Community Nominee*).

2.5 Reservation of Interest by Manitoba to Continue after Transfer to (*Selector or Community Nominee*).

The interest reserved by Manitoba to itself out of the transfer of administration and control to (*Selector or Community Nominee*) of the Selected Land will come into effect upon the transfer in fee simple of the Selected Land to (*Selector or Community Nominee*) and will continue in effect following the transfer in fee simple of the Selected Land to (*Selector or Community Nominee*).

ARTICLE 3 – SCOPE OF EASEMENT

3.1 Rights and Privileges.

Hydro and Manitoba will have the right and privilege during the currency of this Easement Agreement to regulate the flow of, to inundate and store water on or over, and to affect from time to time, the Easement Land in accordance with, and subject to, the provisions of this Easement Agreement; and will and may peaceably hold and enjoy the rights, privileges and easements hereby granted without obstruction, hindrance, molestation or interruption on the part of (*Selector or Community Nominee*).

3.2 Purposes of Easement.

The Easement granted in this Easement Agreement, to regulate the flow of, to inundate and store water on or over, and to affect from time to time, the Easement Land, is solely for purposes related and ancillary to the Project, in accordance with the provisions of this Easement Agreement.

3.3 Limitations.

This Easement Agreement does not grant to Hydro or Manitoba any rights to, or to the use of, the Easement Land, other than as expressly set forth in this Easement Agreement; and (*Selector or Community Nominee*) may use or continue to use the Easement Land in any manner not contrary to the provisions of this Easement Agreement.

3.4 Exclusions from Grant of Easement

Nothing in this Easement Agreement will be deemed to vest in Hydro:

- (a) any title to the casual revenues of the provincial Crown;
- (b) any title to the mines, ores, metals, coal, slate, oil, gas, hydrocarbons, aggregate or other minerals in or under the land comprising the Easement Land;
- (c) any right to prevent the exploitation of such minerals by or with the permission of Manitoba in accordance with *The Mines and Minerals Act* (Manitoba).

ARTICLE 4 – ASSUMPTION OF RIGHTS AND OBLIGATIONS BY MANITOBA

4.1 Assumption by Manitoba.

In the event that Hydro ceases to:

- a. be an agent of Manitoba; or
- b. have effective legal authority and control over the operation of the Project;

and written notice thereof is given to the Easterville Community and all persons with registered interests in the Easement Land, then Manitoba will, effective on the date notice is given, assume all of the rights and obligations of Hydro under this Easement Agreement; but in any such event, the assumption by Manitoba of Hydro's rights and obligations under this Easement Agreement will not relieve Hydro of its obligations under this Easement Agreement.

4.2 Dispute.

If a dispute should arise between Manitoba and Hydro with respect to their respective obligations to the Easterville Community and all persons with a registered interest in the Easement Land under section 4.1, Manitoba will ensure such obligations are met.

**ARTICLE 5 – BANK AND EASEMENT LINE PROTECTION,
MAINTENANCE AND RELATED MATTERS**

5.1 Inspection, Protection and Maintenance by Hydro and (Selector or Community Nominee).

Hydro and (Selector or Community Nominee) will each have the right to inspect, protect and maintain, at their own expense, the banks and shorelines forming part of the Easement Land.

5.2 Inspection, Protection and Maintenance by Hydro.

Subject to Article 6, Hydro will periodically inspect, protect and maintain the banks and shorelines within the Easement Land, to ensure that lands above the Easement Line, and not forming part of the Easement Land, are not damaged or impaired by erosion, slumping or other adverse impacts due to the use of the Easement Land for purposes of the Project.

5.3 Standards.

All bank protection, shoreline or maintenance work on Easement Land, performed under this Easement Agreement, will be done in a workmanlike fashion and in accordance with applicable engineering standards and with all applicable laws.

5.4 Storage of Vehicles, Equipment and Other Chattels.

Except while work permitted under this Easement Agreement is in progress, Hydro, its agents, employees, contractors and sub-contractors will not leave, park or store any vehicles, equipment or other chattels on the Easement Land.

5.5 Damage caused by (Selector or Community Nominee).

Where damage is caused to bank protection put in place by Hydro, or like works constructed or placed by Hydro on the Easement Land, due to the negligence or deliberate act

of (*Selector or Community Nominee*), (*Selector or Community Nominee*) will, at its expense, restore such works to the reasonable satisfaction of Hydro.

5.6 Removal of Timber.

Hydro, its employees, agents, contractors and sub-contractors may fell, cut, trim, or remove any trees or parts thereof, on or from the Easement Land below an elevation of 842 feet ASL. Above that level, Hydro may request permission of the (*Selector or Community Nominee*), such permission not to be unreasonably withheld, to cut or remove trees or timber, subject to all applicable laws.

5.7 Waste.

Hydro, its agents, employees, contractors and sub-contractors will not commit or permit the commission of any waste, spoilage or destruction on the Easement Land. Any waste, spoilage or destruction on the Easement Land as a result of the regulation of the flow of, the inundation and storage of water on or over, and the affecting from time to time, of the Easement Land permitted under this Easement Agreement will not be a contravention of this section 5.7.

5.8 Removal of Debris or Waste Material.

Hydro will promptly remove debris or waste material placed or caused to be placed on the Easement Land by Hydro works or operations (other than the deposit of debris and waste as a result of the regulation of the flow of, the inundation and storage of water on or over, and the affecting from time to time, of the Easement Land permitted under this Easement Agreement); and in any event not later than seven (7) days after receipt of a written request to do so from (*Selector or Community Nominee*).

5.9 Disposal of Material.

Hydro will dispose of any material excavated or removed from the Easement Land in connection with any work permitted under this Easement Agreement or any work otherwise approved in writing by (*Selector or Community Nominee*), in such location as may reasonably be directed by (*Selector or Community Nominee*). If (*Selector or Community Nominee*) has not provided such direction within fourteen (14) days of a request by Hydro for such direction, or in the event of an emergency, Hydro may dispose of any material excavated or removed from the Easement Land at a location off the lands held by (*Selector or Community Nominee*). Any such disposal will be in compliance with all applicable laws and regulations.

5.10 Location and Restoration of Easement Line.

In order that construction or other activities within the Easement Land or near the Easement Line can be appropriately located, Hydro will, if requested and reasonably required by (*Selector or Community Nominee*):

- a. locate or restore the Easement Line;
- b. establish or restore cut lines associated with the Easement Line; and
- c. place, check or replace survey monuments.

5.11 Restoration of Survey Monuments by Hydro.

Hydro will ensure that all legal or control survey monuments are protected and not disturbed, damaged or destroyed in the course of any of its activities pursuant to this Easement Agreement. Where any monuments have been or are disturbed, damaged or destroyed as a result of Hydro activities or works related to the Project, including Project operations, Hydro will at its expense have such monuments replaced by a qualified Land Surveyor. This section 5.11 does not apply to legal or control survey monuments which have been lawfully inundated as of the date of this Easement Agreement.

5.12 Restoration of Survey Monuments by (*Selector or Community Nominee*).

Where survey monuments are disturbed as a result of deliberate or negligent actions of (*Selector or Community Nominee*), it will be the responsibility of (*Selector or Community Nominee*) to restore or replace such monuments.

5.13 Non-Interference by Hydro.

Hydro will, insofar as it is reasonably practical to do so, conduct all work so as not to interfere with the ordinary use or uses of either the Easement Land or other lands held by the (*Selector or Community Nominee*) adjacent to the Easement Land.

5.14 Approvals

Any activities of Hydro permitted or required under Article 5 will be:

- (a) undertaken by Hydro in accordance with all applicable laws; and

- (b) subject to and conditional upon Hydro obtaining all necessary approvals, licenses and permits from all governmental authorities required in connection with such activities.

5.15 Force Majeure

Whenever and to the extent that any party shall be unable to fulfill, or shall be delayed or restricted in the fulfillment of, any obligation under Article 5 in respect of the doing of any work by reason of such party being unable to obtain the material, goods, equipment, service, utility or labour required to enable it to fulfill such obligation or by reason of any statute, law or Order-In-Council or any regulation or order passed or made pursuant thereto or by reason of the order or direction of any administrator, controller or board, or any governmental department or officer or other authority or by reason of not being able to obtain any permission or authority required thereby, or by reason of any other cause beyond its reasonable control whether of the foregoing character or not, such party shall be entitled to extend the time for fulfillment of such obligation by a time equal to the duration of such delay or restriction, and the other parties shall not be entitled to compensation for any inconvenience, nuisance or discomfort thereby occasioned.

ARTICLE 6 – ACCESS TO EASEMENT LAND

6.1 Easement for Access.

Subject to sections 6.2 to 6.4 inclusive, Hydro will have the right and privilege during the currency of this Easement Agreement to access the Easement Land over and upon the lands held by the (*Selector or Community Nominee*), with or without vehicles, machinery and equipment for such inspections, bank protection, maintenance and other purposes authorized by this Easement Agreement, as Hydro at any time deems necessary or expedient.

6.2 Notice for Access.

Notice requirements for access will be as follows:

- a. except in the case of an emergency, Hydro will give (*Selector or Community Nominee*) not less than thirty (30) days written notice of the nature of bank protection, maintenance or other work to be performed on the Easement Land,

and not less than ten (10) days written notice of inspections on Easement Land, or such other periods of notice as may be agreed upon by Hydro and (*Selector or Community Nominee*) in writing; and

- b. in the event of an emergency, Hydro will, as soon as possible after the need is identified, give (*Selector or Community Nominee*) notice by telephone and, where a facsimile number is available, by facsimile, of the nature of the work to be performed on the Easement Land.

6.3 Other Means of Access.

Hydro will, where it is reasonable and practical to do so, enter upon or exit from the Easement Land for purposes authorized by this Easement Agreement by means that do not involve crossing the lands held by (*Selector or Community Nominee*). Where, in the opinion of Hydro, it is impossible or impractical to enter upon or exit from the Easement Land for purposes authorized under this Easement Agreement, except across the lands held by (*Selector or Community Nominee*), the notice under section 6.2 will include:

- a. the proposed route across the lands held by (*Selector or Community Nominee*), which will be by means of existing roads, except where demonstrably impractical;
- b. the earliest contemplated entry date; and
- c. the estimated exit date.

6.4 Objection by (*Selector or Community Nominee*) to Proposed Means of Access.

(*Selector or Community Nominee*) may, within seven (7) days of receipt of a notice under section 6.3, object to the proposed access by notifying Hydro in writing of its objections. Promptly after Hydro's receipt of such a notice by (*Selector or Community Nominee*), (*Selector or Community Nominee*) and Hydro will use their best efforts to resolve their differences, in the interests of both (*Selector or Community Nominee*) and Hydro. In the event those differences cannot, in the opinion of either (*Selector or Community Nominee*) or Hydro, be resolved within a reasonable time, either party may refer the matter to arbitration in accordance with *The Arbitration Act* (Manitoba). Except in the event of an emergency, Hydro will refrain from use of the proposed access until the application or action is conclusively disposed of by arbitration.

6.5 Non-Interference by (Selector or Community Nominee).

(Selector or Community Nominee) covenants that it will take all reasonable steps to ensure that Hydro is able to exercise its rights of entry and exit as provided for in this Easement Agreement, without hindrance or interference.

**ARTICLE 7 – PERMANENT WORKS, BUILDINGS, STRUCTURES AND IMPROVEMENTS
ON EASEMENT LAND**

7.1 Limitation on Construction by Hydro.

Hydro will not construct any permanent work, building, structure or improvement on the Easement Land, other than works in the nature of bank protection and shoreline maintenance or related work, without the prior written consent of (Selector or Community Nominee).

7.2 Construction by (Selector or Community Nominee).

(Selector or Community Nominee) will not construct any permanent work, building, structure or improvement upon the Easement Land, which is or is not inundated, without the prior written consent of Hydro, which consent will not be unreasonably withheld.

ARTICLE 8 – ADDITIONAL EASEMENT TERMS

8.1 Hydro to Control Flow.

Hydro will, to the extent it is possible to do so and to the extent it is within the control and authority of Hydro, control the flow of water on the regulated waterways so as to ensure that Wind Eliminated Water Levels, do not exceed 842 feet A.S.L. measured immediately upstream of the Grand Rapids Hydro-Electric Generating Station.

ARTICLE 9 – ASSIGNMENT

9.1 Assignment or Encumbrance by Hydro.

Subject to Article 4 of this Easement Agreement, Hydro may assign or encumber its rights under this Easement Agreement. Promptly upon any such assignment, Hydro will give

written notice to (*Selector or Community Nominee*). Hydro will remain liable for the performance of all of Hydro's covenants in the event of such assignment or encumbrance.

9.2 Assignment or Encumbrance by Manitoba.

Manitoba may assign or encumber its rights or assign its obligations, under this Easement Agreement. Promptly upon any such assignment or encumbrance, Manitoba will give written notice to (*Selector or Community Nominee*). Manitoba will remain liable for the performance of all of Manitoba's covenants in the event of such assignment or encumbrance, including those obligations of Hydro it is required to assume pursuant to this Easement Agreement.

9.3 Assignment by (*Selector or Community Nominee*).

(*Selector or Community Nominee*) will not dispose of or alienate its interest in the Easement Land, except subject to this Easement Agreement. No alienation of the Easement Land will be permitted unless there are reservations in favour of Manitoba and Hydro of all of the rights and privileges to which Manitoba and Hydro are entitled under this Easement Agreement, including this provision in a form which binds assignees and successors in interest.

ARTICLE 10 – TAXES, LEVIES AND CHARGES

10.1 No Taxes, Levies or Charges.

The Easement hereby granted will be exercisable by Hydro without charge, rate, levy, assessment, licence, or fee or tax exigible by or payable to (*Selector or Community Nominee*) in respect thereof, and this section 10.1 will be a full and sufficient exemption from any such charges.

10.2 Federal and Provincial Tax Excepted.

Section 10.1 is not intended to exempt Hydro from any applicable federal or provincial tax.

10.3 Indemnity of Hydro Regarding Levies and Charges.

Hydro will be responsible for, and will indemnify (*Selector or Community Nominee*) with respect to any levies or charges assessed against the interest of Hydro in the Easement Land, or related to the use of the Easement Land by Hydro, its agents, employees, contractors and

sub-contractors, where any such levies or charges are assessed pursuant to the laws of the Province of Manitoba, or are not within the scope of the provisions of section 10.1.

ARTICLE 11 – WARRANTIES OF POWER AND AUTHORITY

11.1 Warranty of Hydro.

Hydro warrants that it has full power and authority to enter into and be bound by this Easement Agreement, and that it is in compliance with all statutory requirements and Hydro by-laws in connection with the execution of this Easement Agreement.

11.2 Warranty of Manitoba.

Manitoba warrants that it has full power and authority to enter into and be bound by this Easement Agreement.

11.3 Warranty of Community Nominee.

The Community Nominee *warrants that it has full power and authority to enter into and be bound by this Easement Agreement.*

11.4 Warranty of (Selector or Community Nominee) re: Independent Legal Advice.

(Selector or Community Nominee) acknowledges that the Easterville Community has been independently advised by legal counsel and advisors of its choice in relation to the provisions of this Easement Agreement.

ARTICLE 12 – WAIVER AND CORRECTION OF BREACH

12.1 Waiver by (Selector or Community Nominee).

No waiver of any breach, by or on behalf of *(Selector or Community Nominee)*, will take place or be binding unless the same be expressed in writing by *(Selector or appropriate officers of the Community Nominee)*, and any waiver so expressed will extend only to the particular breach to which such waiver specifically relates, and will not be deemed to be a general waiver, or to limit or affect the rights of *(Selector or Community Nominee)* with respect to any future or other breach.

12.2 Waiver by Hydro.

No waiver of any breach, by or on behalf of Hydro, will take place or be binding unless the same be expressed in writing over the signature of the Chair, President or Vice President of Hydro, and any waiver so expressed will extend only to the particular breach to which such waiver specifically relates, and will not be deemed to be a general waiver, or to limit or affect the rights of Hydro with respect to any future or other breach.

12.3 Waiver by Manitoba.

No waiver of any breach, by or on behalf of Manitoba, will take place or be binding unless the same be expressed in writing over the signature of the Minister of the Government of Manitoba responsible for Hydro or Conservation, and any waiver so expressed will extend only to the particular breach to which such waiver specifically relates, and will not be deemed to be a general waiver, or to limit or affect the rights of Manitoba with respect to any future or other breach.

ARTICLE 13 – LIABILITIES AND INDEMNIFICATION

13.1 Indemnity by Hydro re: Third Party Claims.

Hydro will be responsible for and, at all times hereafter, will indemnify and save harmless (*Selector or Community Nominee*) from and against all and any losses, claims, actions, damages, liabilities and expenses in connection with:

- a. all actions, claims, and demands that may be made against (*Selector or Community Nominee*) by reason of any act or omission by Hydro, in the exercise or purported exercise of the rights granted by this Easement Agreement, or occasioned by or attributable to anything done or omitted to be done by Hydro, its agents, employees, contractors or sub-contractors in the exercise or purported exercise of the rights granted by this Easement Agreement;
- b. any claims of any kind for loss, injury or damage to persons or property as a result of the presence or operation of vehicles, equipment or chattels of Hydro, its agents, employees, contractors or sub-contractors, on the Easement Land or access routes thereto; and
- c. any actual or purported liens, encumbrances or charges which may attach to the Easement Land under the laws in force in the Province of Manitoba, where such

liens, encumbrances or charges arise from the acts or omissions of Hydro, its agents, employees, contractors or sub-contractors;

provided that such indemnity shall not extend to or include any claims by any third party due in whole or in part from the (*Selector or Community Nominee*) granting, or purporting to grant, any rights in the Easement Land inconsistent with Hydro's rights hereunder.

13.2 Limitation on Indemnity by Hydro regarding Third Party Claims

The obligations of Hydro in connection with the indemnities referred to in section 13.1 are conditional upon the (*Selector or Community Nominee*):

- (a) forthwith, upon becoming aware of such claim, giving notice to Hydro;
- (b) supporting any application by Hydro to be named as a party thereto; and
- (c) first having received from Hydro its consent to the terms of any settlement whether or not such settlement is submitted to a court of competent jurisdiction to be made an order of that Court.

13.3 Compensation by Hydro Regarding Hydro Acts.

Except as provided in section 13.4, Hydro will be liable to compensate (*Selector or Community Nominee*), and any persons claiming through or under (*Selector or Community Nominee*), for any and all damage done on lands held by (*Selector or Community Nominee*) to any property, real or personal, of (*Selector or Community Nominee*), or any person claiming through or under (*Selector or Community Nominee*), caused by Hydro, its agents, employees, contractors or sub-contractors;

13.4 Limitation of Hydro's Liability under Section 13.3.

Hydro and Manitoba will not be liable to (*Selector or Community Nominee*), or any person claiming through or under (*Selector or Community Nominee*), with respect to any loss, damage, or injury to persons or property, arising out of their respective use of the Easement Land for any purpose authorized by this Easement Agreement, including, regulating the flow of, inundating and storing water on or over, or affecting from time to time, the Easement Land,

within the terms and conditions prescribed in this Easement Agreement; but nothing herein will exculpate Hydro for any loss, damage or injury to persons or property, arising from the breach of any provision of this Easement Agreement or arising from the negligence or wilful misconduct of Hydro, its agents, employees, contractors and sub-contractors.

ARTICLE 14 – GENERAL PROVISIONS

14.1 Interpretation.

The division of this Easement Agreement into articles and sections is for convenience of reference only and will not affect the construction or interpretation of this Easement Agreement. Headings used in this Easement Agreement are for general guidance only and do not have substantive meaning so as to modify the text or the provisions of this Easement Agreement.

14.2 Extended Meanings.

Words importing the singular number include the plural and vice versa as the context may require. Words importing persons will include firms, governments and corporations, and vice versa, as the context may require.

14.3 Reference to Agreement.

The terms “herein” and any similar expressions refer to this Easement Agreement and not to any particular article, paragraph or other portion of this Easement Agreement.

14.4 Metric Measure.

Except where the original document, data or measuring device was in Imperial, and subject to any legislative requirement, in the event of a conflict between metric and Imperial measure, metric measure will prevail.

14.5 Further Assurances.

Each of the parties to this Easement Agreement will, from time to time, at another party's request and expense, and without further consideration, execute and deliver such other instruments of transfer, conveyance and assignment, and take such further action as the other may require, to complete more effectively any matter provided for in this Easement Agreement.

14.6 Enurement.

This Easement Agreement will enure to the benefit of, and be binding upon, the parties to this Easement Agreement and their respective heirs, successors and assigns.

14.7 Prohibited Assignment.

No part of this Easement Agreement may be assigned or otherwise transferred except as expressly provided for in this Easement Agreement.

14.8 Notice.

Whenever in this Easement Agreement it is required or permitted that notice be given by any party to this Easement Agreement to or on any other party to this Easement Agreement, such notice will be given in writing and forwarded by registered mail or transmitted by facsimile and confirmed by telephone, addressed as follows:

- a. to (*Selector or Community Nominee*) at:

(insert address)

- b. to Hydro at the office of the General Counsel of Manitoba Hydro

- c. to Manitoba at the office of the Deputy Minister of Conservation; and

A party whose address changes will promptly notify each other party of such change.

SIGNED, SEALED AND DELIVERED this date of , 200*

HER MAJESTY THE QUEEN IN THE
RIGHT OF THE PROVINCE OF
MANITOBA

Per:

Minister of Conservation

THE MANITOBA HYDRO-ELECTRIC
BOARD

Per:

Per:

(SELECTOR) OR (COMMUNITY
NOMINEE)

Per:

Per:

ARTICLE 4

4.0 COMMUNITY LANDS AND THE EXPANSION OF COMMUNITY BOUNDARY

4.1 INTRODUCTION

4.1.1 Introduction. Article 4 provides for the identification and use of **Community Lands**, consisting of:

- (a) **Individual Selections** which are identified in Part 1 of Schedule 4.1, being parcels of Crown (Manitoba) lands identified by **Selectors** from within the **Cedar Lake Resource Management Area**;
- (b) the **Community Development Sites** which are described in Part 2 of Schedule 4.1, being areas of Crown (Manitoba) lands identified by the **Easterville Community** from within the **Cedar Lake Resource Management Area**; and

the identification of the **Community Boundary Expansion Site** which is described in Part 3 of Schedule 4.1, being the parcel of Crown (Manitoba) land identified by the **Easterville Community** from within the **Cedar Lake Resource Management Area**.

4.2 INDIVIDUAL SELECTIONS

4.2.1 Issuance of Land Use Permits. As soon as reasonably practicable after the **Date of this Agreement**, **Manitoba** will issue a **Land Use Permit** in the form attached as Schedule 4.2 to each **Selector** for that **Selector's Individual Selection** in accordance with the selections set out in Part 1 of Schedule 4.1.

4.2.2 Use of Individual Selections. The use of each **Individual Selection** is restricted to the use identified in Schedule 4.1 for that parcel and will be a condition of the **Land Use Permit** issued to the **Selector**.

4.2.3 Effect of Non-Conforming Use. **Manitoba** may cancel a **Land Use Permit** issued under subsection 4.2.1 and will not be required to survey and transfer the parcel in fee simple to a **Selector** as provided for in section 4.5 where:

- (a) the **Individual Selection** is not being used for the purpose identified for that parcel in Part 1 of Schedule 4.1 within ten (10) years from the date the **Land Use Permit** is first issued for that parcel; or
- (b) the **Individual Selection** is being used for a purpose other than that identified for that parcel in Part 1 of Schedule 4.1.

4.2.4 Renewable. Subject to subsections 4.2.3 and 4.2.5, **Land Use Permits** issued under subsection 4.2.1 will be renewable annually without fee.

4.2.5 Fees. After ten years from the date a **Land Use Permit** was first issued for a parcel under subsection 4.2.1, **Manitoba** may charge fees in accordance with any law or policy applying generally to land use permits.

4.2.6 Land Use Permits Subject to Lawful Use by Hydro. All **Land Use Permits** issued by **Manitoba** under subsection 4.2.1 will be subject to the condition that **Hydro** will have the right to use the lands for **Project** purposes in accordance with its **Water Power Licence**.

4.2.7 Request for Transfer in Fee Simple. A **Selector** to whom a **Land Use Permit** has been issued under subsection 4.2.1 may, subject to subsection 4.2.3, apply in writing to **Manitoba** requesting that the parcel for which the **Land Use Permit** has been issued be transferred by **Manitoba** to the **Selector** in fee simple, subject to any required **Project Easements**, in which case the provisions of section 4.5 will apply.

4.3 LAND USE PERMIT FOR COMMUNITY DEVELOPMENT SITES

4.3.1 Issuance of Land Use Permit. As soon as reasonably practicable following the **Date of this Agreement**, **Manitoba** will issue **Land Use Permits** in the form attached as Schedule 4.2 to the **Community Nominee** for the **Community Development Sites**.

4.3.2 Renewable. Subject to subsection 4.3.3, **Land Use Permits** issued under subsection 4.3.1 will be renewable annually without fee.

4.3.3 Fees. After ten years from the date a **Land Use Permit** was first issued for a **Community Development Site** under subsection 4.3.1, **Manitoba** may charge fees in accordance with any law or policy applying generally to land use permits.

4.3.4 Land Use Permits subject to Lawful use of Lands by Hydro. All **Land Use Permits** issued by **Manitoba** under subsection 4.3.1 will be subject to the condition that **Hydro** will have the right to use the lands for **Project** purposes in accordance with its **Water Power Licence**.

4.3.5 Request for Transfer in Fee Simple. Following the issuance of a **Land Use Permit** under subsection 4.3.1, the **Community Council** may apply in writing to **Manitoba** requesting that a **Community Development Site** be transferred by **Manitoba** to the **Community Nominee** in fee simple, subject to any required **Project Easement**, in which case the provisions of section 4.5 will apply.

4.4 COMMUNITY BOUNDARY EXPANSION SITE

4.4.1 Crown Land Reservation. **Manitoba** will withdraw the parcel of land identified in Part 3 of Schedule 4.1 as Site 21 from disposition and any disposition of Site 21 will be limited to those dispositions which have been authorized and approved by the **Community Council**.

4.4.2 Expansion of Community Boundary. **Manitoba** will expand the official boundary of the **Easterville Community** to include Site 21.

4.5 SURVEYS AND PROCESS FOR TRANSFER

4.5.1 Surveys. Upon the receipt of a request under subsection 4.2.7 or 4.3.5, **Manitoba** will:

- (a) with respect to **Individual Selections**, determine that the selection:

- (i) has been used for the purpose identified for that parcel in Part 1 of Schedule 4.1 within ten (10) years from the date the **Land Use Permit** was first issued for that parcel, and
 - (ii) is not being used for a purpose other than that identified for that parcel in Part 1 of Schedule 4.1;
- (b) initiate legal surveys of the boundaries of the relevant parcel within such reasonable time period as may be determined taking into account the then current volume of survey work being done by **Manitoba** and whether the **Selector** or the Easterville **Community** has proposed developing the relevant parcel;
- (c) advise the **Selector** or the **Easterville Community** of the date on which legal surveys will commence on the relevant parcel; and
- (d) complete the surveys in accordance with the survey instructions set out in Schedule 4.3.

4.5.2 Water Boundary of Parcel. Subject to subsections 4.5.3 and 4.5.4, the water body boundary for the **Community Lands** will be the **Ordinary High Water Mark** as it prevails after the **Project**.

4.5.3 Water Boundary of Lands subject to Project Easement. Where the parcel of **Community Lands** is adjacent to a water body that is affected by the **Project**, the parcel will be transferred subject to a **Project Easement** in accordance with Article 3.

4.5.4 Water Boundary of Lands not Subject to Project Easement. Where the parcel of **Community Lands** is not adjacent to a water body that is affected by the **Project**, the parcel will be subject to the condition that neither **Manitoba** nor **Hydro** will be liable for the effects of raising or lowering water levels adjacent to that parcel, and section 13.1 of *The Crown Lands Act* (Manitoba) will apply with necessary modifications.

4.5.5 Registration of Transfer of Title. Subject to subsections 4.5.6 and 4.5.7, upon:

- (a) completion of the legal survey of a parcel of **Community Lands**; and
- (b) in respect of the **Community Development Sites**, confirmation by **Easterville Community** by **Council Resolution** substantially in the form attached as Schedule 4.4 that such parcel is the parcel to be transferred pursuant to this **Agreement**;

Manitoba will register, in the appropriate Land Titles Office, a transfer to the **Selector** or the **Community Nominee**, as the case may be, of fee simple title in relation to that parcel, subject to any required **Project Easement**.

4.5.6 Reservations to Manitoba. **Manitoba** will reserve out of each parcel of **Community Lands** those reservations contained in clauses 4(1)(b), (c), (d), (e) and (f) of *The Crown Lands Act* (Manitoba). The reservation contained in clause 4(1)(a) of *The Crown Lands Act* (Manitoba) will not be reserved to **Manitoba**.

4.5.7 Costs of Surveys and Transfers. Where a request for transfer in fee simple title is made under subsection 4.2.7 or 4.3.5 within ten years of the date on which the **Land Use Permit** was first issued for that parcel, **Manitoba** will complete all surveys, transfers and registrations of title for that parcel at no cost to the **Easterville Community**, a **Community Nominee** or a **Selector**, including payment of any land transfer tax which may otherwise be payable.

4.5.8 Costs Chargeable. Should a **Community Nominee** or a **Selector** decline to accept fee simple title of any parcel of **Community Lands** after the commencement of the legal survey for such parcel, the cost of the survey and the registration of title, if incurred, plus other reasonable costs, will be paid by the **Community Nominee** or the **Selector**, as the case may be, on demand.

4.6 USE OF COMMUNITY DEVELOPMENT SITES

4.6.1 Use of Community Development Sites. The **Community Development Sites** will be used for community purposes, which may include uses of the land as authorized by the **Community Council** in accordance with subsections 4.6.2 to 4.6.6 inclusive.

4.6.2 Application for Use by Individuals. An individual may apply in writing to the **Community Council**, requesting the use of a parcel of land within a **Community Development Site**.

4.6.3 Content of Application. Applications made under subsection 4.6.2 will identify the proposed use of the parcel.

4.6.4 Authorization of Use. Upon receipt of an application under subsection 4.6.2, the **Community Council** will consider and advise the applicant of its decision within ninety (90) days, and may authorize an identified use of a parcel by the applicant for a prescribed period of time.

4.6.5 Cancellation of Authorized Use. The **Community Council** may cancel any use it has authorized under subsection 4.6.4 where:

- (a) a parcel is not being used for the purpose authorized in accordance with subsection 4.6.4 within a prescribed period of time from the date of such authorization; or
- (b) the parcel is being used for a purpose other than the purpose authorized by the **Community Council**.

4.6.6 Reversion. Where the use of a parcel of land is cancelled pursuant to subsection 4.6.5, the parcel will revert to the **Community Nominee** as part of the **Community Development Site**.

4.7 USE OF COMMUNITY BOUNDARY EXPANSION SITE

4.7.1 Use of Community Boundary Expansion Site. The **Community Boundary Expansion Site** will be used for community purposes approved and authorized by the **Community Council** in accordance with subsections 4.7.2 to 4.7.4 inclusive.

4.7.2 Applications for Use by Individuals. An individual may apply in writing to the **Community Council**, requesting the use of a parcel of land within the **Community Boundary Expansion Site**. The application may be for purchase or lease, or for a Crown land use permit.

4.7.3 Contents of Application. Applications made under subsection 4.7.2 will identify the proposed use of the parcel and include details regarding any required means of access or municipal services.

4.7.4 Authorization of Use. Applications approved by the **Community Council** will be forwarded to **Manitoba** for consideration and approval in accordance with land use policies applicable in the **Easterville Community**.

SCHEDULE 4.1 - COMMUNITY LANDS AND COMMUNITY BOUNDARY EXPANSION SITE

MAP 4.1.0 COMMUNITY LAND SELECTIONS AND COMMUNITY BOUNDARY EXPANSION SITE

PART 1 - INDIVIDUAL SELECTIONS

MAP	SITE	NAME	AREA (acres)	PROPOSED USE	GENERAL LOCATION
4.1.1	3	[REDACTED]	5	Cabin	South shore of Cedar Lake, approximately 3 Kms. west of Easterville
4.1.2	1	[REDACTED]	5	Cabin	East shore of Cedar Lake, northwest of Rabbit Point
	4	[REDACTED]	4	Cabin	Northwest shore of island east of Boggy Island, southwest of Rabbit Point
	5	[REDACTED]	5	Cabin	North shore of island east of Kakakenowuchewun Point
	9	[REDACTED]	5	Cabin	North shore of Boggy Island
	13	[REDACTED]	5	Cabin	East shore of Cedar Lake, northwest of Rabbit Point
	14	[REDACTED]	5	Cabin	South shore of island east of Kakakenowuchewun Point
	15	[REDACTED]	5	Cabin	South shore of island due east of Rabbit Point
	16	[REDACTED]	5	Cabin	Isthmus east of Kakakenowuchewun Point
4.1.3	12	[REDACTED]	5	Cabin	Southern shore of unnamed island, south of Kokkookuhoo Island, west of Asoowunan Channel
4.1.4	7	[REDACTED]	2.2	Cabin	Southeast shore of the largest of the Fort Islands
	8	[REDACTED]	4.4	Cabin	East shore of the largest of the Fort Islands
4.1.5	17	[REDACTED]	5 50	Cabin Fishing lodge	Poplar Point
4.1.6	11	[REDACTED]	5 250	Cabin Wild Rice Farm	South shore of Cedar Lake, southeast of Poplar point, east of Kaneaskweyak Island.
4.1.7	2	[REDACTED]	5	Cabin	Island southeast of Kaneaskweyak Island, west of the Old Post
	6	[REDACTED]	5	Cabin	North side of bay on south shore of Cedar Lake, south of Kaneaskweyak Island, west of the Old Post.

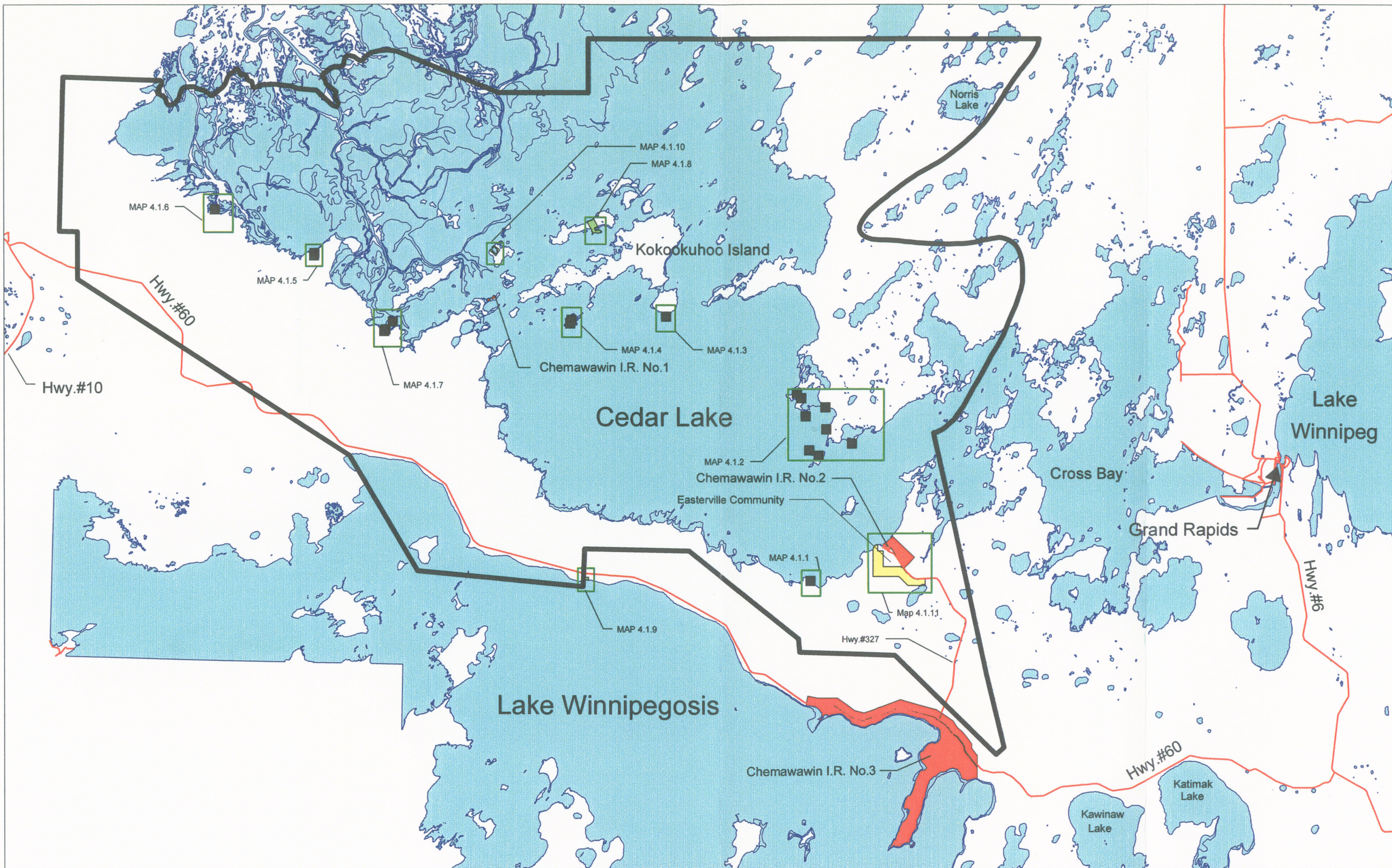
	10		5	Cabin	South side of bay on south shore of Cedar Lake, south of Kaneaskweyak Island, west of the Old Post
Total	17		380.6		

PART 2 – EASTERVILLE COMMUNITY DEVELOPMENT SITES

MAP	SITE	NAME	AREA	PROPOSED USE	GENERAL LOCATION
4.1.8	18	Community Selection	200	Community lands	Kaniawakak Island
4.1.9	19	Community Selection	25	Community lands	Lake Winnipegosis
4.1.10	20	Community Selection	50	Community lands	Unnamed Island North of the Old Post
Total	3		275		

PART 3 – COMMUNITY BOUNDARY EXPANSION SITE

MAP	SITE	NAME	AREA	PROPOSED USE	GENERAL LOCATION
4.1.11	21	Community Selection	1200	Community lands	West and south of Easterville Community



Scale 1:375 000



Legend

- Inset Map Locations
- Easterville Community Development Sites
- Easterville Community Boundary Expansion Site
- Individual Resident Selections
- Provincial Road
- Cedar Lake Resource Management Area Boundary

EASTERVILLE COMMUNITY LAND SELECTIONS AND COMMUNITY BOUNDARY EXPANSION SITE

Notes:

Mapping is based on information taken from the National Topographic System map sheet numbers NTS 63F, and 63G. Used by permission of Manitoba Hydro through Her Majesty the Queen in Right of Canada with permission of Energy, Mines, and Resources Canada.

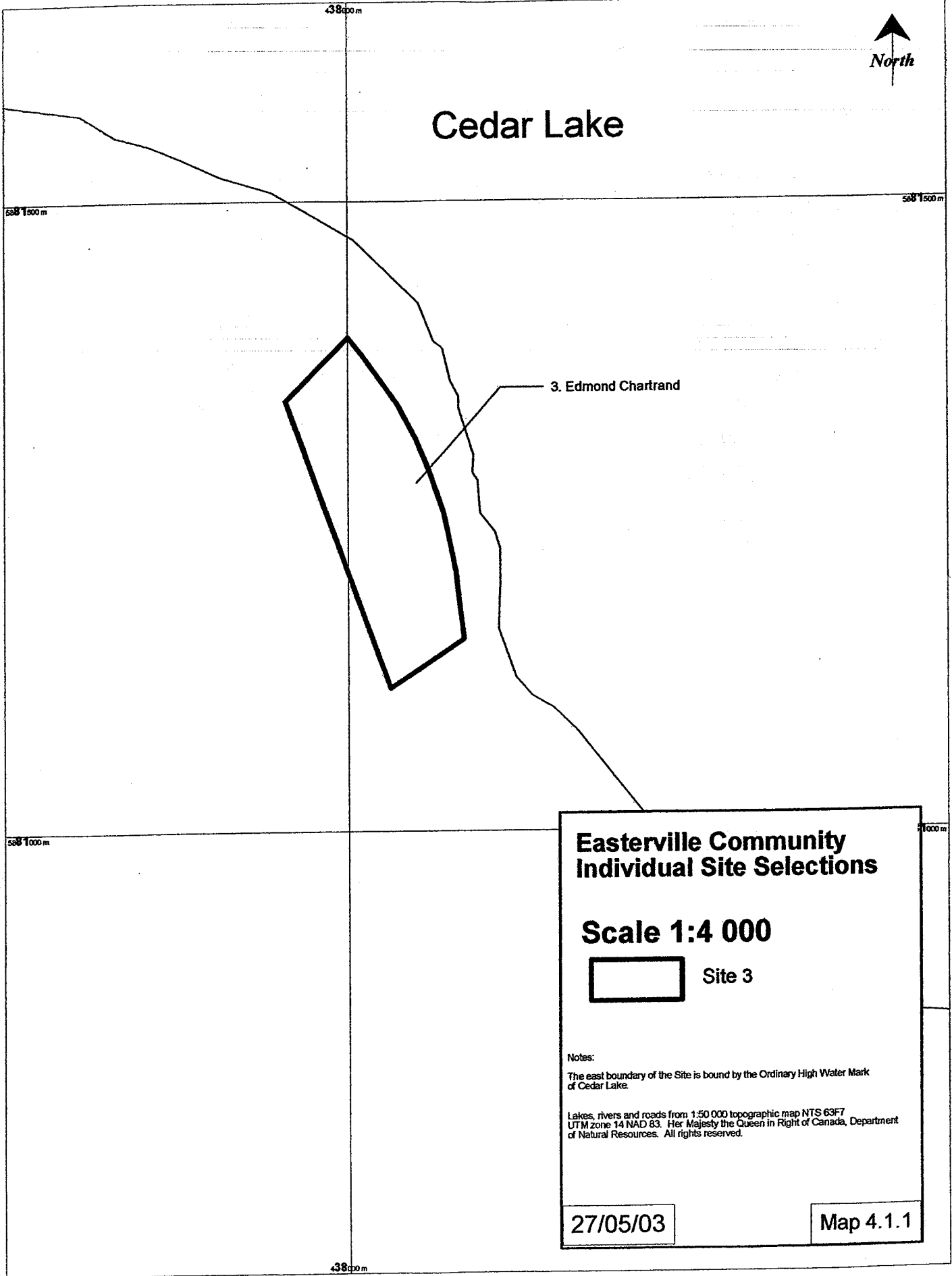
North American Datum (NAD) 83, Zone 14 Universal Transverse Mercator (UTM) Coordinates.

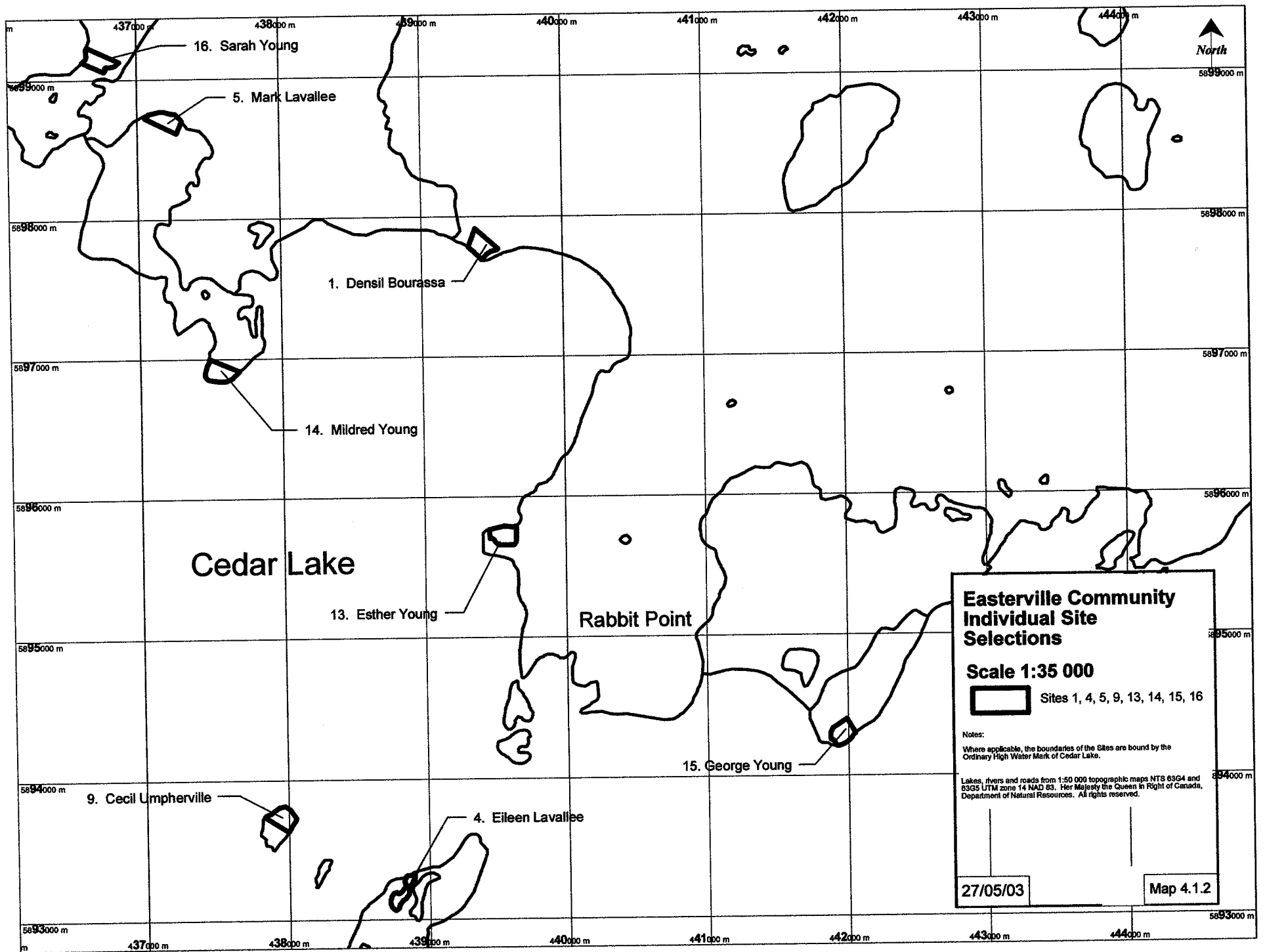
Prepared by:
Hobbs & Associates Ltd.
for Easterville Community Council
April, 2003

MAP 4.1.0



Cedar Lake






Cedar Lake

Rabbit Point

**Easterville Community
Individual Site
Selections**

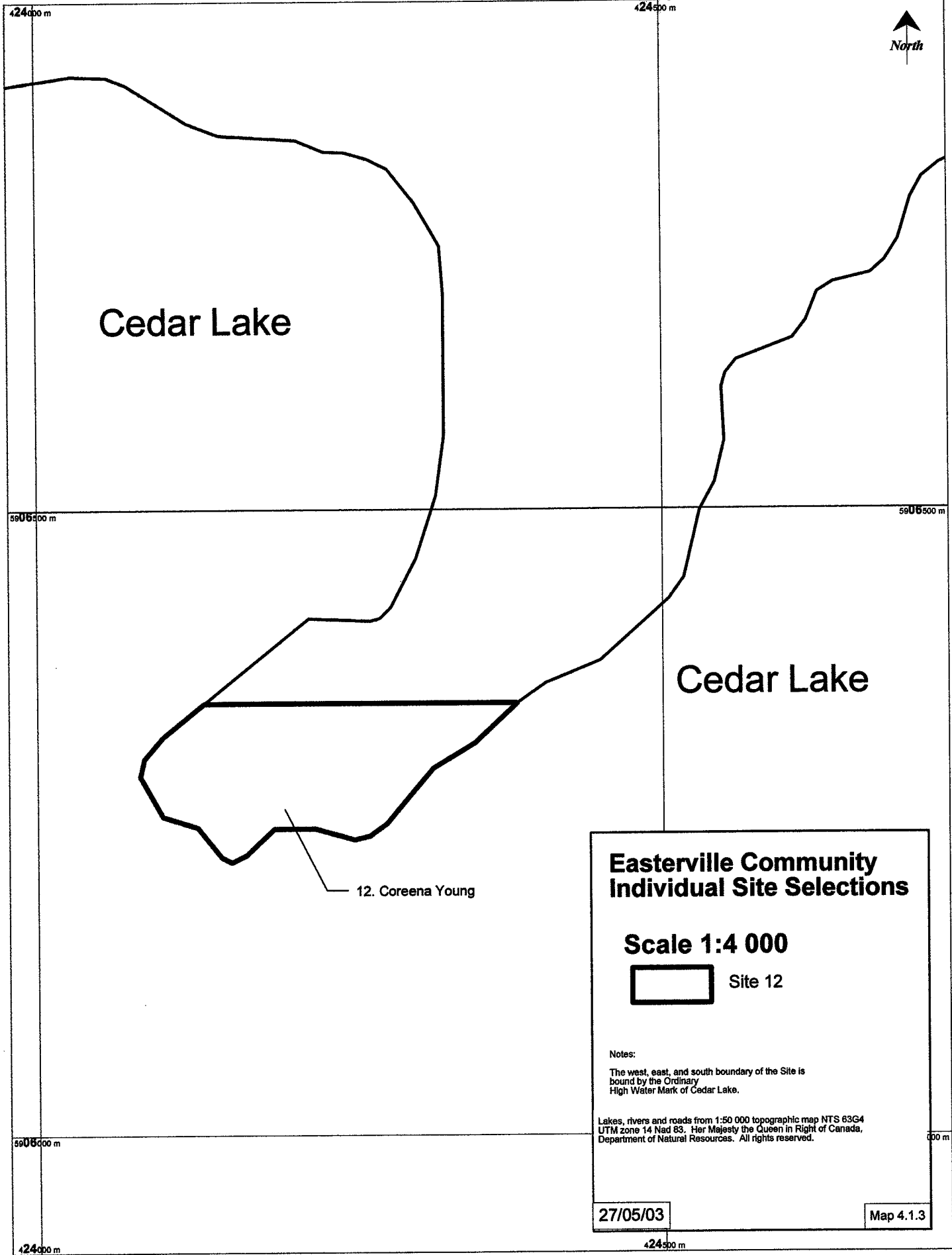
Scale 1:35 000

 Sites 1, 4, 5, 9, 13, 14, 15, 16

Notes:
Where applicable, the boundaries of the Sites are bound by the Ordinary High Water Mark of Cedar Lake.

Lakes, rivers and roads from 1:50 000 topographic maps NTS 63G4 and 63G5 UTM zone 14 NAD 83. Her Majesty the Queen in Right of Canada, Department of Natural Resources. All rights reserved.

27/05/03 Map 4.1.2



Cedar Lake



Cedar Lake

12. Coreena Young

Easterville Community Individual Site Selections

Scale 1:4 000

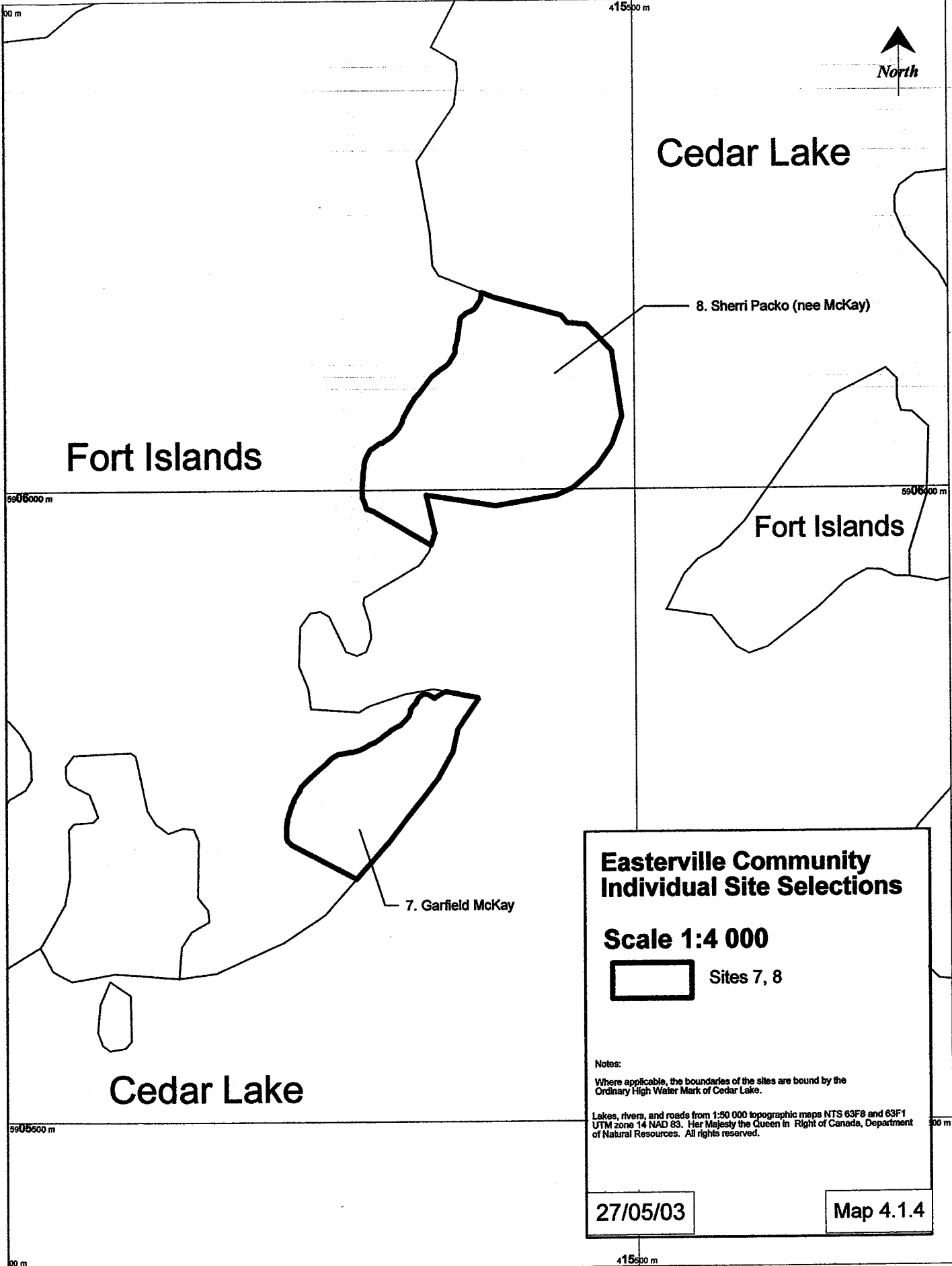


Notes:
The west, east, and south boundary of the Site is bound by the Ordinary High Water Mark of Cedar Lake.

Lakes, rivers and roads from 1:50 000 topographic map NTS 63G4 UTM zone 14 Nad 83. Her Majesty the Queen in Right of Canada, Department of Natural Resources. All rights reserved.

27/05/03

Map 4.1.3



Cedar Lake

8. Sherri Packo (nee McKay)

Fort Islands

Fort Islands

7. Garfield McKay

Cedar Lake

Easterville Community Individual Site Selections

Scale 1:4 000

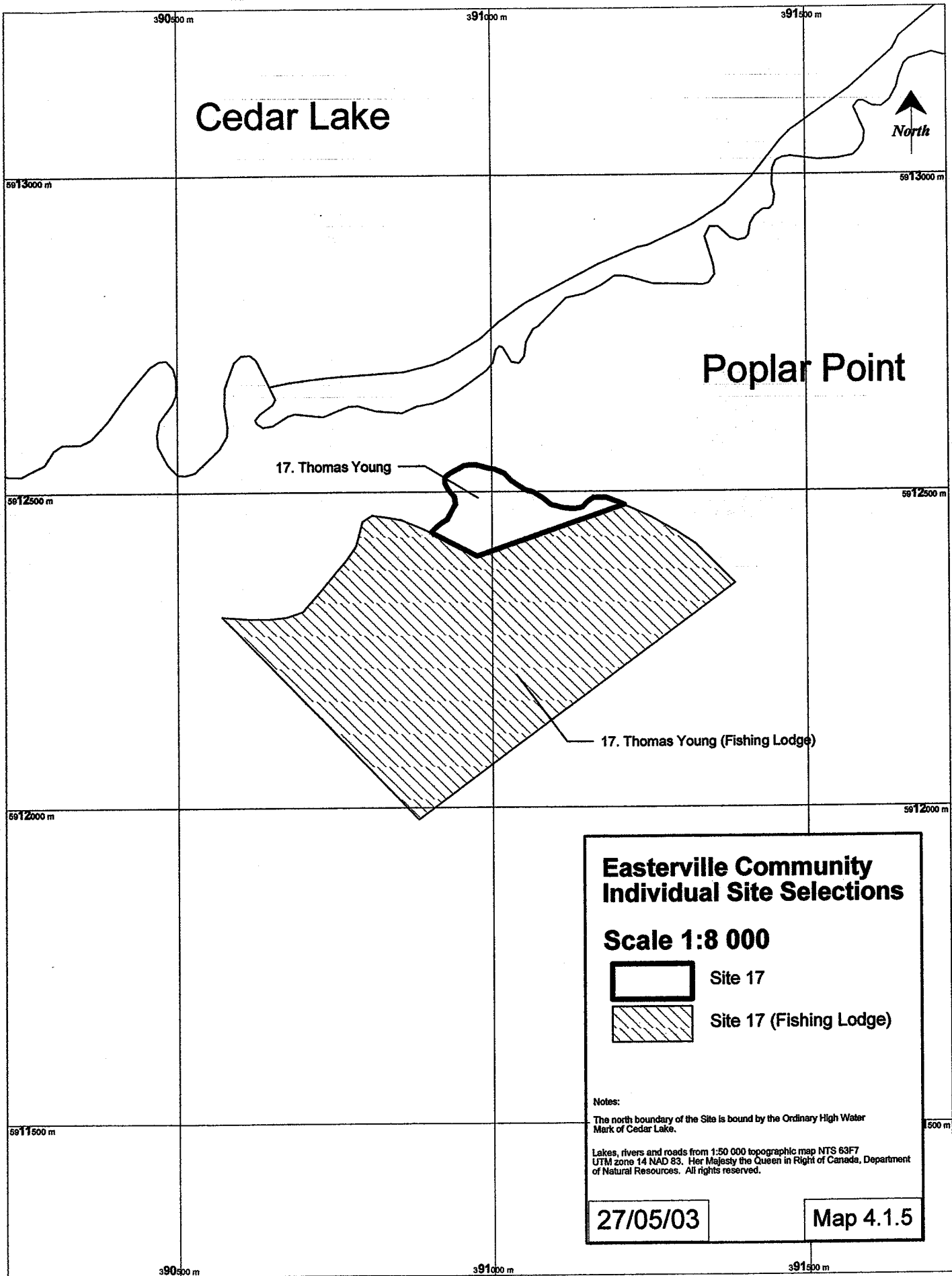
 Sites 7, 8

Notes:
Where applicable, the boundaries of the sites are bound by the Ordinary High Water Mark of Cedar Lake.

Lakes, rivers, and roads from 1:50 000 topographic maps NTS 63F8 and 63F1 UTM zone 14 NAD 83. Her Majesty the Queen in Right of Canada, Department of Natural Resources. All rights reserved.

27/05/03

Map 4.1.4



Cedar Lake



Poplar Point

17. Thomas Young

17. Thomas Young (Fishing Lodge)

**Easterville Community
Individual Site Selections**

Scale 1:8 000



Site 17



Site 17 (Fishing Lodge)

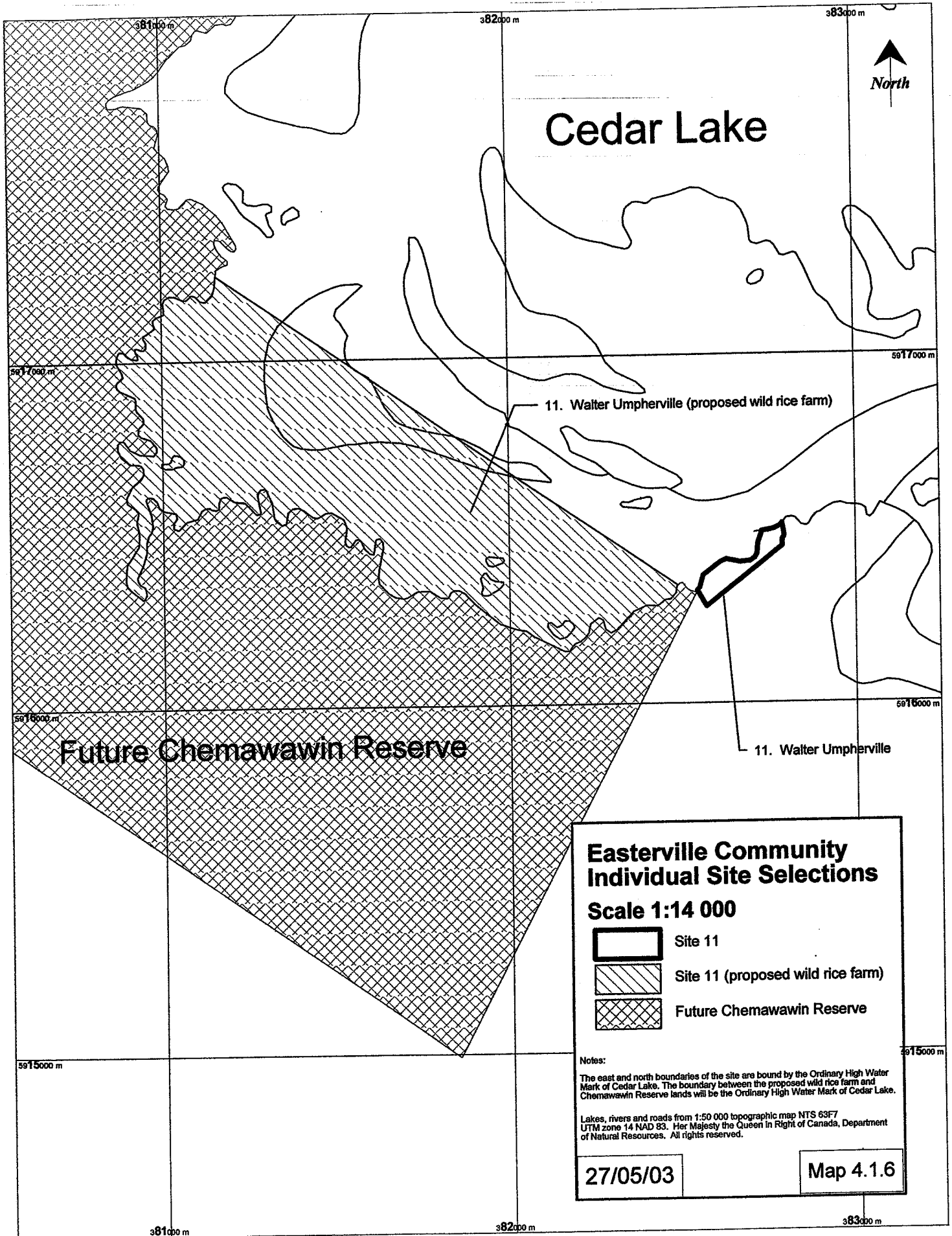
Notes:

The north boundary of the Site is bound by the Ordinary High Water Mark of Cedar Lake.

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27/05/03

Map 4.1.5



Cedar Lake






11. Walter Umpherville (proposed wild rice farm)

Future Chemawawin Reserve

11. Walter Umpherville

Easterville Community Individual Site Selections

Scale 1:14 000

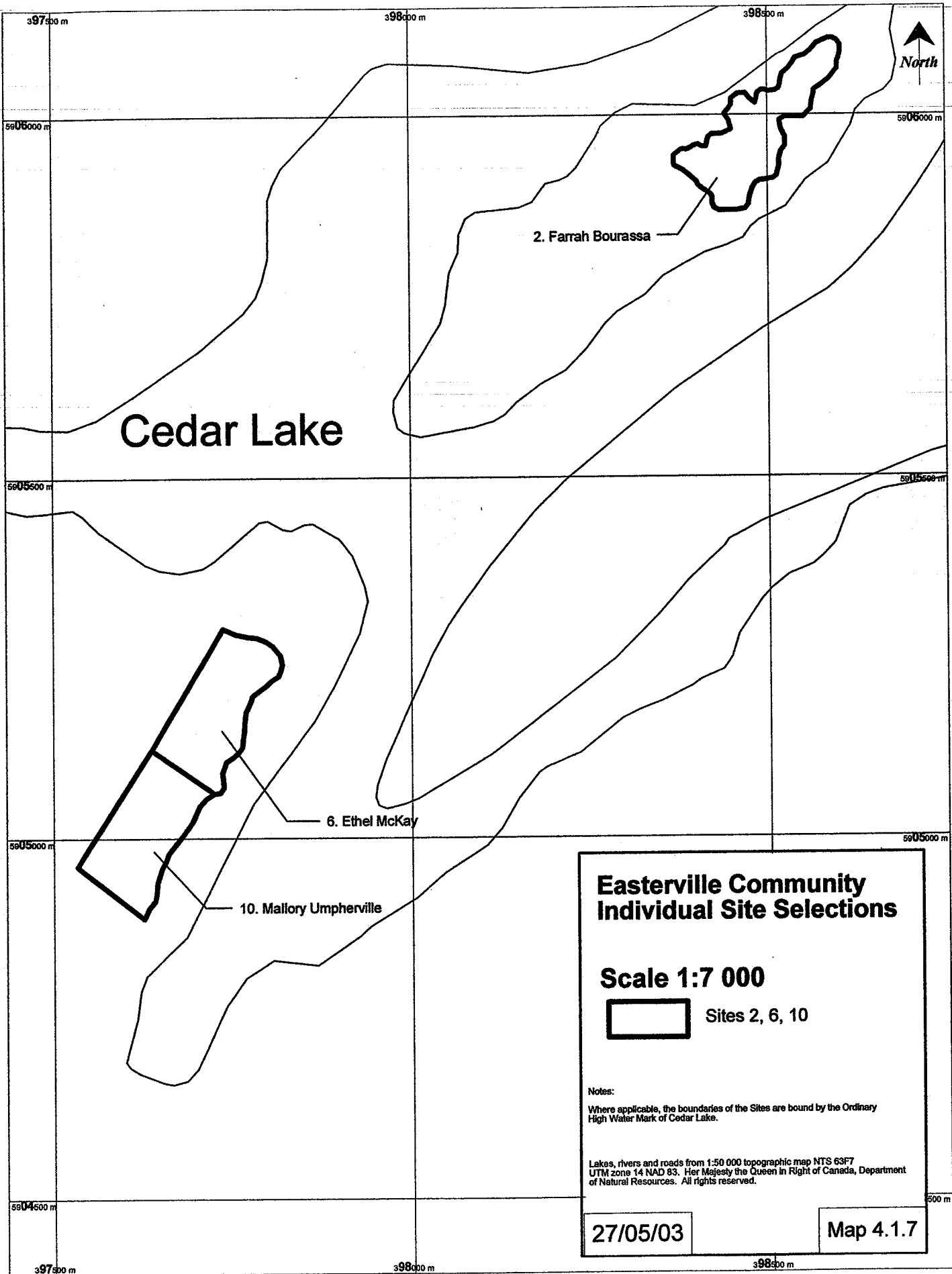
-  Site 11
-  Site 11 (proposed wild rice farm)
-  Future Chemawawin Reserve

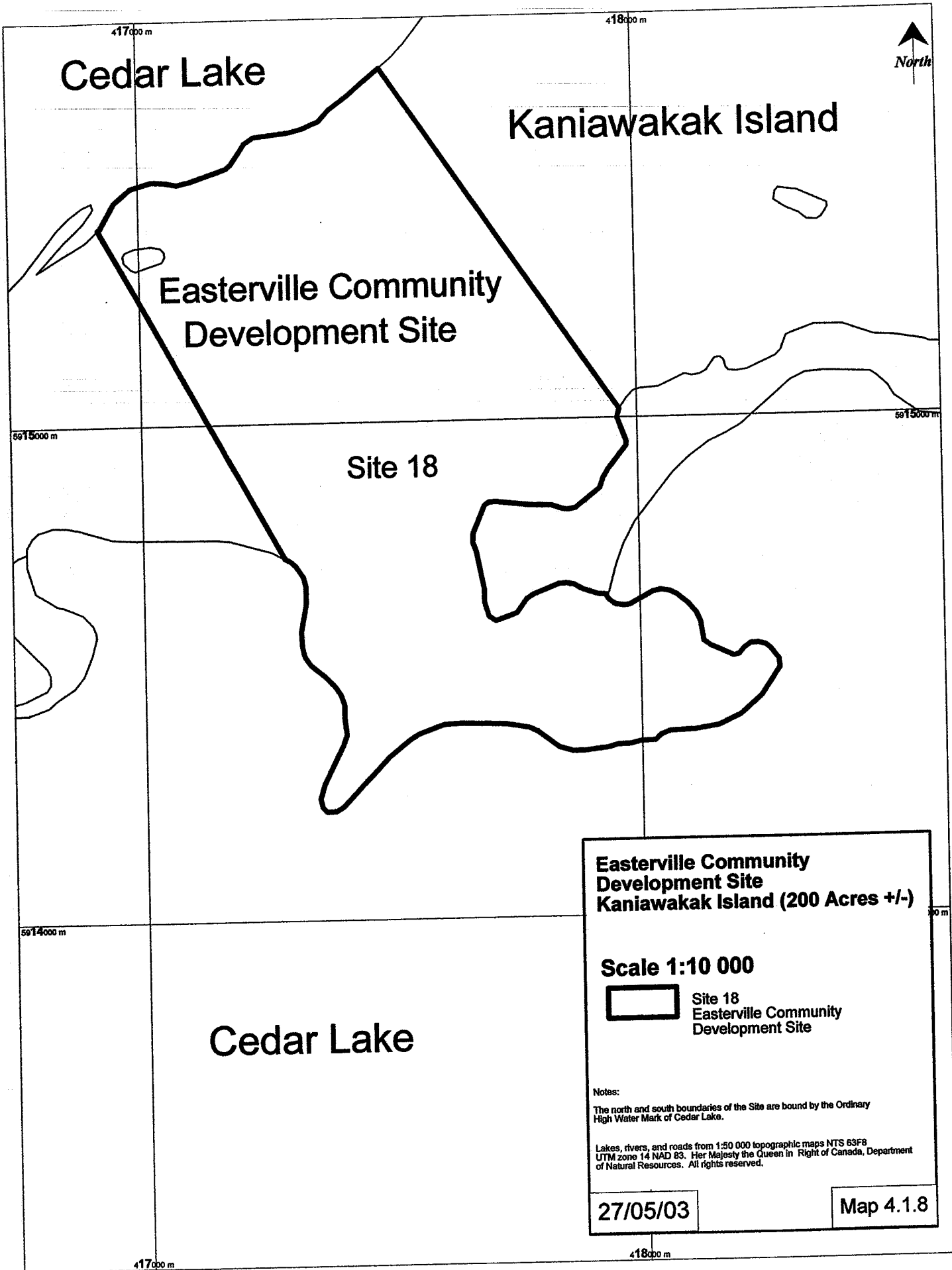
Notes:
 The east and north boundaries of the site are bound by the Ordinary High Water Mark of Cedar Lake. The boundary between the proposed wild rice farm and Chemawawin Reserve lands will be the Ordinary High Water Mark of Cedar Lake.

Lakes, rivers and roads from 1:50 000 topographic map NTS 63F7 UTM zone 14 NAD 83. Her Majesty the Queen in Right of Canada, Department of Natural Resources. All rights reserved.

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Map 4.1.6





Cedar Lake

Kaniawakak Island

Easterville Community
Development Site

Site 18

Cedar Lake

**Easterville Community
Development Site
Kaniawakak Island (200 Acres +/-)**

Scale 1:10 000



Site 18
Easterville Community
Development Site

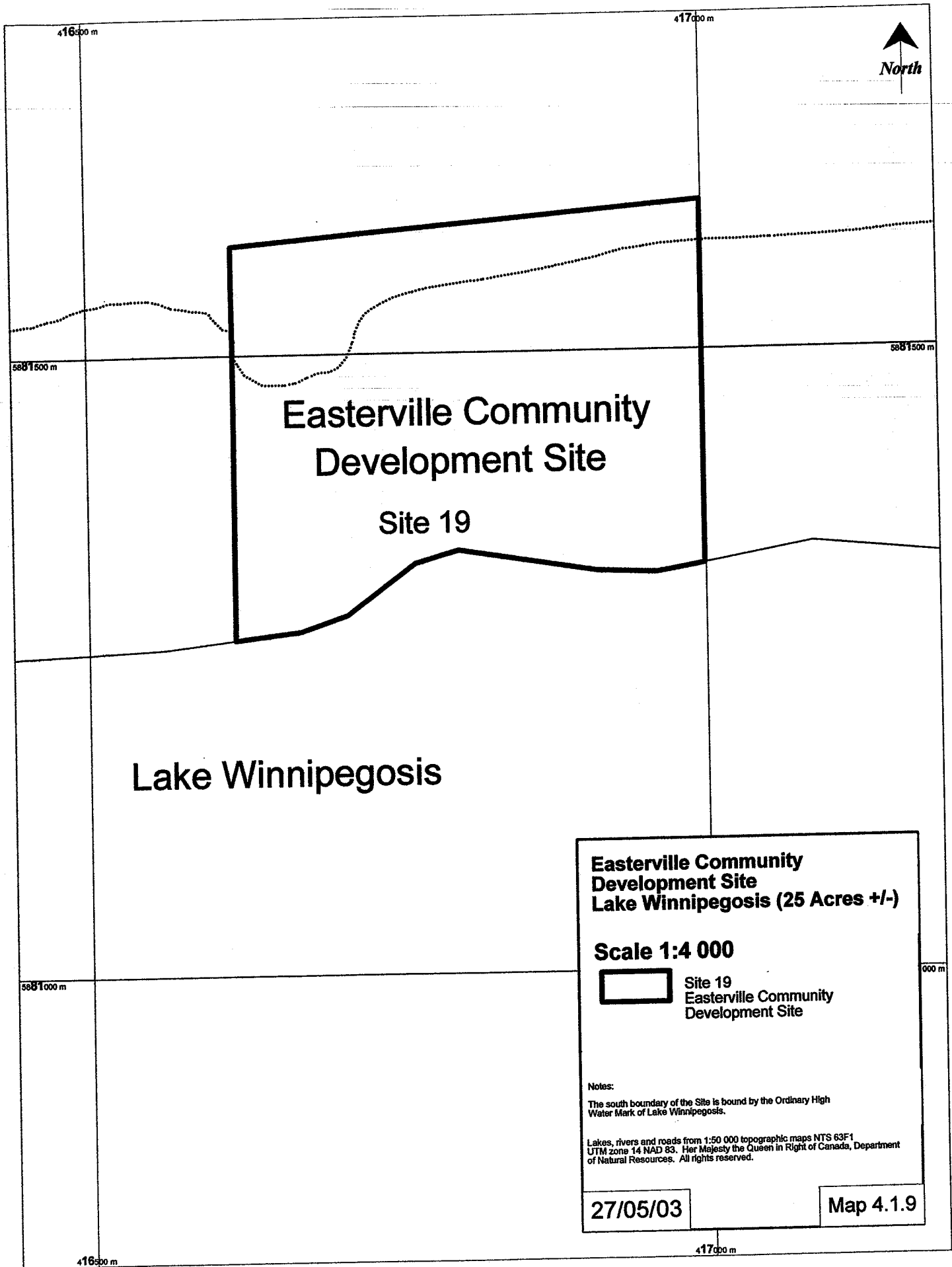
Notes:

The north and south boundaries of the Site are bound by the Ordinary High Water Mark of Cedar Lake.

Lakes, rivers, and roads from 1:50 000 topographic maps NTS 63F8 UTM zone 14 NAD 83. Her Majesty the Queen in Right of Canada, Department of Natural Resources. All rights reserved.

27/05/03

Map 4.1.8



**Easterville Community
Development Site**

Site 19

Lake Winnipegosis

**Easterville Community
Development Site
Lake Winnipegosis (25 Acres +/-)**

Scale 1:4 000

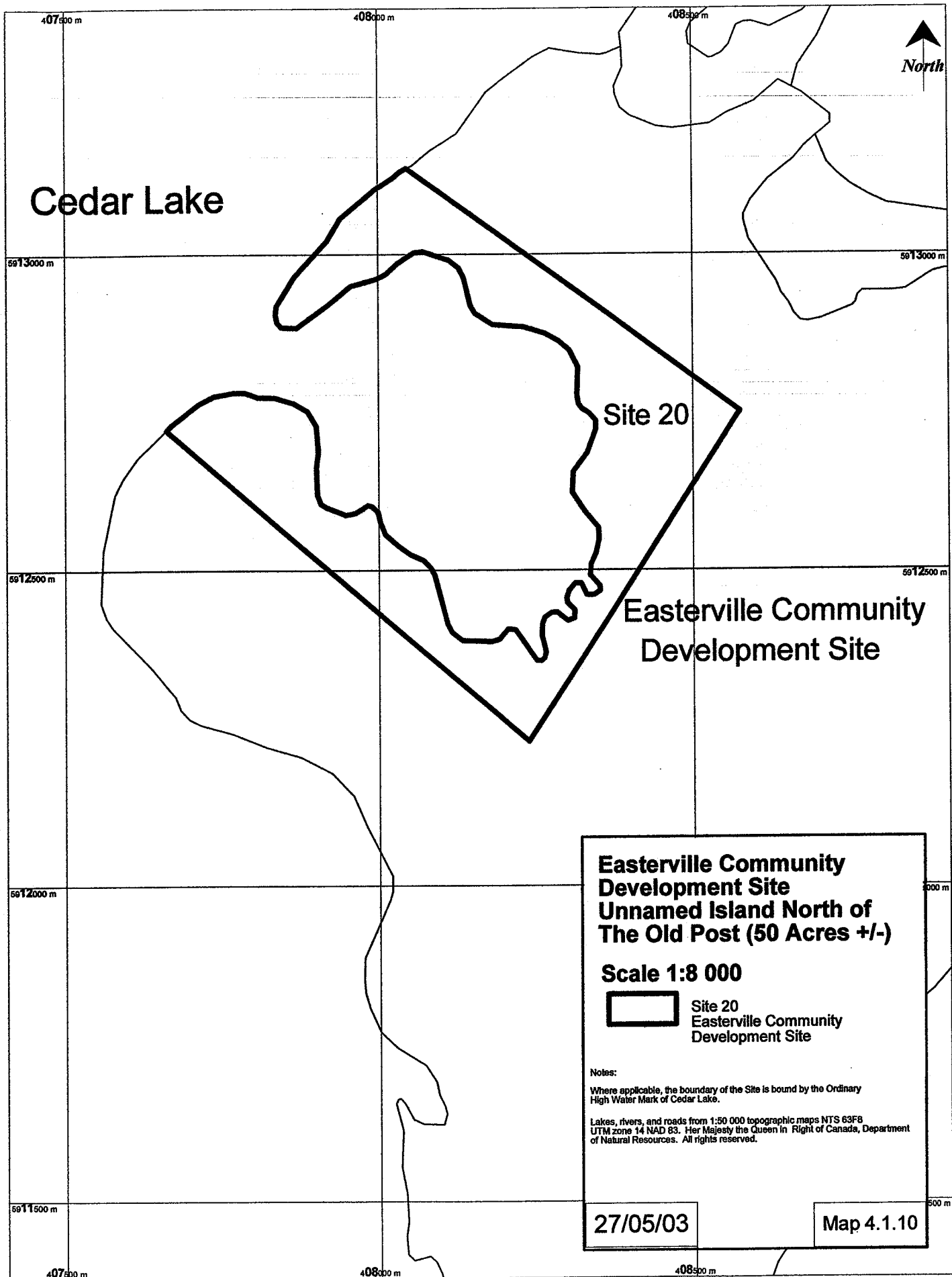
 **Site 19
Easterville Community
Development Site**

Notes:
The south boundary of the Site is bound by the Ordinary High
Water Mark of Lake Winnipegosis.

Lakes, rivers and roads from 1:50 000 topographic maps NTS 63F1
UTM zone 14 NAD 83. Her Majesty the Queen in Right of Canada, Department
of Natural Resources. All rights reserved.

27/05/03

Map 4.1.9



Cedar Lake



445000 m

450000 m

5885000 m

5885000 m

LR No. 2

Easterville
Community

Highway # 327

Easterville Community
Boundary Expansion Site

5880000 m

5880000 m

**Easterville Community
Boundary Expansion Site
(1200 Acres +/-)**

Scale 1:40 000



Easterville Community Boundary
Expansion Site (Site 21)

Easterville Community

Chemawawin Cree Nation
Reserve Lands

Notes:

Where applicable, the north boundary of the Site is bound by the Ordinary High Water Mark of Cedar Lake.

Actual boundaries of LR, No.2 may not necessarily reflect what is depicted on this map. Refer to Plan 6270 PLTO (CLSR 62804) for actual survey boundaries.

Lakes, rivers and roads from 1:50 000 topographic map NTS 63G4 UTM zone 14 Nad 83. Her Majesty the Queen in Right of Canada, Department of Natural Resources. All rights reserved.

27/05/03

Map 4.1.11

445000 m

450000 m

SCHEDULE 4.2 - FORM OF LAND USE PERMIT

Crown Land Permit

Manitoba
Conservation



EFFECTIVE FROM

TO

TAXING AUTHORITY

REGION

[Name of Permittee]
[Address of Permittee]

Permit

SECTION 1.00 – STATUTORY REFERENCES

- 1.01 The following Acts are referred to in this Permit, and when described by the title set out in this subsection, they shall be interpreted to mean the Act including all regulations made in accordance with that Act and any amendment, re-enactment or replacement from time to time of that Act:

The Buildings and Mobile Homes Act, C.C.S.M. c. B93
The Crown Lands Act, C.C.S.M. c. C340
The Forest Act, C.C.S.M. c. F150
The Highways and Transportation Act, C.C.S.M. c. H40
The Highways Protection Act, C.C.S.M. c. H50
The Mines and Minerals Act, C.C.S.M. c. M162.
The Water Power Act, C.C.S.M. c. W60

SECTION 2.00 – PERMIT LAND

- 2.01 The Permit Land consists of the Manitoba Crown land identified on the Map attached as Schedule “A” located within Section _____, Township _____, Range _____, without reserving to the Crown a strip of land one and one-half chains (99 feet) in width from the ordinary high water mark as ordinarily reserved to the Crown under clause 4(1)(a) of *The Crown Lands Act*, but reserving to the Crown all other reservations contained in subsection 4(1) of *The Crown Lands Act*.

SECTION 3.00 – EXCLUSIVE USE FOR AUTHORIZED PURPOSES

- 3.01 Subject to the interests set out in section 4.00 and subject to the conditions set out in section 5.00, Manitoba hereby provides the Permittee the exclusive right to use and occupy the Permit Land, free and clear of all encumbrances, reservations, caveats, estates, rights and interests, in favour of any person, for the following purpose:

(insert authorized use)

(for Community Development Sites) the land is to be used for community purposes as set out in Article 4.6 of the Easterville Community Forebay Agreement, dated _____ .)

SECTION 4.00 – OTHER INTERESTS

- 4.01 The exclusive right to use and occupy the Permit Land set out in subsection 3.01 is provided by Manitoba to the Permittee, subject to the following existing third party interests:

(Include a description of all third party interests, including any mining interests. Insert “nil” if there are no third party interests.)

[Include subsection 4.02, 4.03 and 4.04 for Permit Land on Developed Waterway]

- 4.02 The exclusive right to use and occupy the Permit Land set out in section 3.00 is provided by Manitoba to the Permittee, subject to the requirements of *The Water Power Act* and the right and privilege of Manitoba and Hydro in perpetuity, without charge or cost of any kind whatsoever, to Manitoba or Hydro, to regulate the flow of and inundate and store water on or over, and to affect from time to time, the Permit Land consistent with Hydro’s operation of the Grand Rapids Hydro-Electric Generating Station at an elevation not to exceed 842 feet A.S.L. measured immediately upstream of the Grand Rapids Hydro-Electric Generating Station, without obstruction, hindrance, molestation or interruption on the part of the Permittee or any person claiming by, through or under the Permittee.
- 4.03 The Permittee may provide notice in writing to Manitoba requesting that Manitoba identify elevation and set back requirements for development or construction on the Permit Land.
- 4.04 Manitoba will, as soon as practicable after receiving notice under subsection 4.03, and after consultation with Hydro, advise the Permittee in writing of the elevation and set back requirements for development and construction, with those requirements designed to take into account the effects of flooding, wind setup, wave uprush, erosion and ice conditions.

SECTION 5.00 – CONDITIONS

- 5.01 The exclusive right to use and occupy the Permit Land set out in section 3.00 is provided by Manitoba to the Permittee, subject to the following conditions:

- a. **Compliance with Laws** – The Permittee shall, at the Permittee’s expense, promptly observe, perform, execute and comply with all municipal, provincial or federal laws, orders and regulations that have application to the Permittee and the Permit Land; and without limiting the generality of the foregoing:
- i. **Construction** – Any structure constructed on the Permit Land by the Permittee shall be constructed in accordance with The Manitoba Building Code established pursuant to *The Buildings and Mobile Homes Act*, applicable municipal by-laws and regulations,
 - ii. **Highway Protection** – The Permittee shall not erect, build, or place or cause to be erected, built or placed, a structure or fixture on, under, or above the surface of the ground, within 125 feet of a department road outside a city, town or village or such further distance as determined by The Highway Traffic Board in accordance with *The Highways Protection Act*, or plant or place or cause to be planted or placed, any tree, shrub or hedge upon or within 50 feet of a departmental road outside a city, town, village or unincorporated village district, in accordance with *The Highways and Transportation Act*,
 - iii. **Environmental Laws** – The Permittee shall comply with all laws and guidelines respecting environmental matters, and in the event that the Permittee contributes to any detrimental biophysical environmental change to the Permit Land, contrary to such laws or guidelines, the Permittee will remedy such damage, at the Permittee’s expense,
 - iv. **Timber** – The Permittee shall not cut or remove timber from the Permit Land without a licence or permit from the Forestry Branch of Manitoba pursuant to *The Forest Act*, and
 - v. **Sand and Gravel** – The Permittee shall not remove, explore for, mine or produce quarry minerals, including sand, gravel and clay from the Permit Land without obtaining a quarry permit or quarry lease from the Director of Mines for Manitoba pursuant to *The Mines and Minerals Act*,
- b. **Other Natural Resources** - The Permittee shall not remove soil or any other natural resources from the Permit Land without the prior written permission of Manitoba;
- c. **Waste** – The Permittee shall not commit or permit the commission of any voluntary waste, spoilage or destruction, nor dump any rubbish or any other matter of an offensive nature anywhere on the Permit Land, except in a designated dump area or as directed by Manitoba;
- d. **Access to Permit Land** – Manitoba and any employee, officer or agent of Manitoba, including the Royal Canadian Mounted Police, shall be entitled to enter onto the Permit Land as required to enforce the conditions of this Permit and municipal, provincial or federal laws, orders and regulations;

- e. **Control Survey Monuments** – The Permittee will ensure that all legal or control survey monuments are protected and not disturbed, damaged or destroyed, and will replace, at its expense, any monuments that are disturbed, damaged or destroyed, by a duly qualified Land Surveyor, to the satisfaction of Manitoba, and shall not interfere with the survey work conducted by Manitoba;
- f. **Indemnification** – The Permittee shall at all times save harmless and indemnify and keep Manitoba indemnified against and be responsible for all claims, demands, actions, suits and other legal proceedings brought against Manitoba by reason or arising out of:
 - i. any exercise by the Permittee of its rights pursuant to this Permit, including any use and development on the Permit Land, or
 - ii. any act or omission on the part of the Permittee in respect of or in relation to the carrying on of any activities permitted by this Permit;
- g. **Liability in Respect of Mining Operations** – Manitoba shall not be liable in any way for injury or damage that is caused to the surface of the Permit Land as a result of mining operations on the Permit Land or adjacent land;
- h. **Conduct of Mining Operations** – Any third party with an interest in mines and minerals may exercise its rights in mines and minerals in accordance with *The Mines and Minerals Act*;
- i. **Services** – The issuing of this Permit does not imply that Manitoba will provide any services;
- j. **Assignment** – The Permittee may, with the written permission of Manitoba, assign this Permit;
- k. **Notice** – Notice affecting the Permittee or Manitoba will be sufficiently served, if mailed by regular mail to the applicable address for that party, as follows:

To: Permittee
[insert address]

To: Manitoba
Manitoba Conservation Lands Branch
Box 20 000
123 Main Street
Neepawa, Manitoba R0J 1H0
Attn: Director of Lands

SCHEDULE 4.3 - SURVEY INSTRUCTIONS

A. LEGAL SURVEYS OF PARCEL BOUNDARIES AND EXCLUSIONS

1. General:

- (a) To conduct surveys as required, prepare plans and survey reports of lands in accordance with Land Titles Office guidelines and these survey instructions;
- (b) To prepare parcel plans of areas at a suitable scale not less than 1:20,000;
- (c) To prepare plans of **Easement Lines** at a suitable scale not less than 1:20,000; and
- (d) To prepare plans of easements at a suitable scale not less than 1:20,000.

2. Surveys of Parcel Boundaries and Exclusions:

(a) Datum:

UTM grid line values referred to in parcel descriptions are referenced to North American Datum 1983.

(b) Bearings:

Bearings will be derived from the control and referenced to the Central Meridian of U.T.M. Zone 14. Bearings, not angles, will show on all surveyed boundaries.

(c) Monuments:

Monuments along surveyed boundaries will be inter-visible and the maximum distance between each will be 1 km. The monuments will be 0.025 m x 0.025 m x 0.914 m iron posts set a minimum of 0.8 m in overburden or short iron rock posts which will be cemented into place. Ties will be shown to all permanent water bodies.

(d) Ancillary Monumentation:

Mark the monument with ancillary monumentation at intervals of approximately 1 km, at a principal corner, or where the perimeter of a parcel is less than 1 km or the parcel is an island, mark at least one monument. Ancillary monumentation may be a T-iron marker post, a wooden reference post (being a minimum 1.2 m in length above ground, 10 cm square and bevelled at the top), or a minimum of two durable bearing trees (properly blazed, marked and located within 20 m of the monument).

(e) Cut Lines:

The inland boundary will be surveyed on true line and line cut to ensure a visible skyline.

(f) Enclosed Parcels:

Enclosed parcels will be identified by letter with areas of each shown.

(g) Control:

Global Positioning System control will be expanded as required to accommodate plotting the **OHWM** and to provide additional coordinate control, all to be referenced to the closest available Control Monument. These monuments and values will be shown on the Plan. The Global Positioning System process will exceed third order accuracies.

(h) **OHWM** Boundaries:

All pertinent **OHWM** boundaries may be plotted from aerial photography in accordance with Land Titles Office guidelines.

(i) Road Allowances:

All projected or surveyed road allowances contained within the bounds of lands described in this **Agreement** will form part of the said lands.

(j) Water Beds:

The beds of all water bodies located fully within the bounds of lands described in this **Agreement** will form part of said lands excepting those water bodies which are specifically excluded herein. The beds of all water bodies which may be determined to intersect the boundaries of said lands will be excluded therefrom.

(k) Bench Marks:

Bench Marks will be identified in the Plan Notes with supporting Bench Marks placed at suitable locations and shown on the Plan.

(l) Survey Reports:

Written survey reports will be compiled by the surveyor-in-charge for each survey completed. These reports will speak to experiences and occurrences encountered during the course of the field survey such as those cited in the Manitoba Regional Surveyor's Directive No. 13 entitled DIRECTIVE FOR STANDARDS OF REPORT WRITING, dated June 1987.

(m) Exclusions:

Excluded lands for public purposes will be surveyed with all boundary lines to be line cut to ensure a visible skyline. The Plan will show bearings and distances along these boundaries of the excluded lands.

B. SURVEYS OF EASEMENT LINES

(a) Explanatory Plan(s) of **Easement Lines**:

The location of **Easement Lines**, as shown on Explanatory Plan(s) of **Easement Lines**, has been based on the process and methodology for geotechnical studies pursuant to the Canada-Manitoba Northlands Agreement.

(b) Reference to Parcel Boundaries:

Easement Lines as shown on Explanatory Plan(s) of **Easement Lines** will be referenced on Plan(s) of Easement to monuments placed at the intersection of **Easement Lines** with Parcel Boundaries or a single monument where the Parcel is an island in accordance with requirements for Monuments and Ancillary Monumentation described in this Schedule.

(c) On-the-Ground Surveys:

Where field surveys defining all or part of the **Easement Lines** are required under this **Agreement**, final field location of the survey monuments will be determined by the Surveyor-in-Charge carrying out the survey, in consultation with representatives of **Hydro** and the **Easterville Community**, and where applicable, the **Selector**.

Where this consultation results in an adjustment to an **Easement Line** from the location shown on the Explanatory Plan of **Easement Lines**, the Surveyor-in-Charge will note in the surveyor's report the technical reason for which the adjustment was made.

SCHEDULE 4.4 - FORM OF COUNCIL RESOLUTION

WHEREAS:

- A. In 1962, Her Majesty the Queen in right of Manitoba ("Manitoba") and The Manitoba Hydro-Electric Board ("Manitoba Hydro") made undertakings to include residents of Easterville within provisions made in a letter dated June 7, 1962 sent to Chemawawin Cree Nation by the Grand Rapids Forebay Administration Committee, on behalf of Manitoba and Manitoba Hydro in relation to the development and operation of the Grand Rapids Hydro-Electric Project (the "Project");
- B. On _____, 2003, Easterville Community, Manitoba Hydro and Manitoba entered into an Agreement to resolve the issues between and among those parties in relation to and arising out of the Project (the "Agreement");
- C. The Agreement provides, among other things, that Manitoba will issue a Land Use Permit to a nominee of the Easterville Community (the "Community Nominee") for the parcel of land described in Schedule "A" (the "Community Development Site") and that Manitoba will, upon the written request of the Easterville Community Council, transfer the Community Development Site in fee simple to the Community Nominee;
- D. Manitoba Hydro and Manitoba require the right to regulate the flow of, to inundate and store water on or over, and to affect from time to time, portions of the Community Development Site for purposes of the Project;
- E. The Easterville Community has agreed that this right be protected by way of an easement (the "Project Easement") in favour of Manitoba and Manitoba Hydro on the terms set out in the Agreement;
- F. Manitoba has, in accordance with the Agreement, issued a Land Use Permit to the Community Nominee for the parcel of land described in Schedule "A" (the "Community Development Site");
- G. The Easterville Community Council has, in accordance with the Agreement, requested in writing that Manitoba transfer the Community Development Site to the Community Nominee in fee simple subject to any required Project Easement; and
- H. Manitoba has, in accordance with the Agreement, completed a legal survey of the Community Development Site and Manitoba will, in accordance with the Agreement, transfer fee simple title for the Community Development Site to the Community Nominee upon receipt of a resolution of the Easterville Community Council confirming that the Community Development Site is the parcel to be transferred pursuant to the Agreement.

Therefore be it resolved that:

1. The Easterville Community Council hereby confirms that the Community Development Site as described in Schedule "A" is the parcel to be transferred pursuant to the Agreement, subject to any required Project Easement.

Dated this _____ day of _____, 200____.

Schedule "A"

[legal description to be inserted - "...including the reservation contained in clause 4(1)(a) of The Crown Lands Act (Manitoba), but excluding all mines and minerals (precious and base) and the royalties derived therefrom and any other estates, rights and interests reserved to the Crown (Manitoba) under The Crown Lands Act (Manitoba)]

ARTICLE 5

5.0 RESOURCE MANAGEMENT

5.1 INTRODUCTION

5.1.1 Introduction. Article 5 provides for:

- (a) the identification of the **Cedar Lake Resource Management Area**; and
- (b) the participation of a designate of the **Community Council** on the **Cedar Lake Resource Management Board**.

5.2 CEDAR LAKE RESOURCE MANAGEMENT AREA AND BOARD

5.2.1 Establishment of Cedar Lake Resource Management Area. Pursuant to Article 13 of the **Chemawawin Comprehensive Forebay Agreement**, which is attached as Schedule 5.1, the lands and waters depicted in Schedule 13.1 of the **Chemawawin Comprehensive Forebay Agreement** have been established as the **Cedar Lake Resource Management Area**.

5.2.2 Establishment of Cedar Lake Resource Management Board. The **Cedar Lake Resource Management Board** will be established and operated pursuant to Article 13 of the **Chemawawin Comprehensive Forebay Agreement** in order to promote cooperative land use planning, resource management and environmental monitoring in the **Cedar Lake Resource Management Area**.

5.2.3 Amendment of Area. **Manitoba** and the **Easterville Community** acknowledge that **Chemawawin** and **Manitoba** may, by agreement in writing and following consultation with the **Easterville Community Council**, amend the **Cedar Lake Resource Management Area**.

5.3 PARTICIPATION OF EASTERVILLE COMMUNITY

5.3.1 Appointment of Community Member by Manitoba. One (1) of the persons appointed by **Manitoba** to the **Cedar Lake Resource Management Board** will be a designate of the **Community Council**, subject to the approval of **Manitoba** which approval will not be unreasonably withheld.

5.3.2 Identification of Community Member. The **Community Council** will appoint the designate referred to in subsection 5.3.1 by **Council Resolution**.

5.3.3 Change in Number of Members. Subsection 13.3.5 of the **Chemawawin Comprehensive Forebay Agreement** provides that the number of members of the **Cedar Lake Resource Management Board** may be changed by agreement between **Chemawawin** and **Manitoba** provided that there is always an equal number of members appointed by each. If the number of Board members is significantly increased, **Manitoba** will consider increasing the representation from the **Easterville Community**.

5.3.4 Alternate Community Member. Where the designate of the **Community Council** is unable to attend a meeting of the **Cedar Lake Resource Management Board**, the **Community Council** may, by providing notice in writing to **Manitoba** and **Chemawawin**, identify a temporary replacement of that member, subject to the approval of **Manitoba**, which approval will not be unreasonably withheld.

5.3.5 Replacing Members. Replacement of the designate of the **Community Council** by **Manitoba** must be consistent with subsections 5.3.1 and 5.3.2.

5.3.6 Costs of Easterville Community Designate. **Manitoba** will pay the costs of its representatives on the **Cedar Lake Resource Management Board**, which will include the costs of the designate of the **Community Council**.

5.4 INFORMATION

5.4.1 Requesting Information. The **Easterville Community** will, upon the written request of the **Cedar Lake Resource Management Board**, **Chemawawin** or **Manitoba**, and subject to payment, unless waived, of any set fee or charge, provide the **Cedar Lake Resource Management Board** with information within its control about matters being dealt with by, or of interest to, the **Cedar Lake Resource Management Board** except where such information is privileged or confidential.

5.5 CONSULTATION WITH EASTERVILLE COMMUNITY COUNCIL

5.5.1 Requests Made to Manitoba. Requests or applications made to **Manitoba** for allocations, permits and other dispositions of **Resources** in the **Cedar Lake Resource Management Area**, or other matters, which, in the opinion of **Manitoba**, are directly related to the management of **Resources** in the **Cedar Lake Resource Management Area**, will be provided to **Chemawawin** and the **Easterville Community** for purposes of consultation in accordance with subsection 13.10.1 of the **Chemawawin Comprehensive Forebay Agreement**

5.5.2 Consultation with Easterville Community Council. Where a matter considered by the **Cedar Lake Resource Management Board** relates to the disposition of any Manitoba Crown land located in or within eight kilometres from the boundaries of the **Easterville Community**, the **Cedar Lake Resource Management Board** will consult with the **Easterville Community** for the purposes of section 9 of *The Northern Affairs Act* (Manitoba).

5.5.3 Assignment of Functions. **Manitoba** and the **Easterville Community** acknowledge that **Chemawawin** and **Manitoba** may, by agreement in writing and following consultation between **Manitoba** and the **Easterville Community**:

- (a) discontinue the **Cedar Lake Resource Management Board**; or

- (b) assign the functions of the **Cedar Lake Resource Management Board** under Article 13 of the **Chemawawin Comprehensive Forebay Agreement** to other entities.

5.6 RESOURCE USE

5.6.1 **Resource Use.** The **Easterville Community** and **Manitoba** recognize that, subject to the aboriginal and treaty rights of aboriginal peoples recognized and affirmed by section 35 of the *Constitution Act, 1982*, and subject to **Resource Management Plans** in force, other individuals may, as provided by law, hunt, trap or fish in the **Cedar Lake Resource Management Area**. The **Easterville Community** and **Manitoba** recognize that provisions for conservation, management and protection of **Resources** in the **Cedar Lake Resource Management Area** are essential. Where applicable, actions taken in accordance with Article 13 of the **Chemawawin Comprehensive Forebay Agreement** by the **Easterville Community** will be consistent with the rights of **Chemawawin** and other aboriginal peoples, the rights of other individuals, and the need for the conservation, management and protection of **Resources** in the **Cedar Lake Resource Management Area**.

**SCHEDULE 5.1 - ARTICLE 13 OF THE CHEMAWAWIN COMPREHENSIVE FOREBAY
AGREEMENT**

See attached.

PART IX: RESOURCES

ARTICLE 13

13.0 RESOURCE MANAGEMENT

13.1 INTRODUCTION

13.1.1 Introduction.

Article 13 provides for:

- (a) the establishment of the **Cedar Lake Resource Management Area**; and
- (b) the operation of the **Cedar Lake Resource Management Board** composed of representatives of **Chemawawin** and **Manitoba**;

to promote cooperative land use planning, resource management and environmental monitoring in the **Cedar Lake Resource Management Area**.

13.1.2 Consultation.

The composition and functions of the **Cedar Lake Resource Management Board** have been determined based on consultation among **Manitoba**, **Chemawawin** and the **Easterville Community Council**.

13.2 CEDAR LAKE RESOURCE MANAGEMENT AREA

13.2.1 Establishment of Cedar Lake Resource Management Area.

Subject to subsections 13.2.2 and 13.2.3, the lands and waters described and depicted in Schedule 13.1 are hereby established as the **Cedar Lake Resource Management Area**.

13.2.2 Amendment of Area.

The **Cedar Lake Resource Management Area** may be amended by agreement in writing between **Chemawawin** and **Manitoba** following consultation with the **Easterville Community Council**.

13.2.3 Cedar Lake Commercial Fishery.

Notwithstanding the boundaries of the **Cedar Lake Resource Management Area** depicted in Schedule 13.1, the **Cedar Lake Resource Management Board** will have the authority to deal with the management of the Cedar Lake commercial fishery.

13.3 **CEDAR LAKE RESOURCE MANAGEMENT BOARD**

13.3.1 Establishment.

Within ninety (90) days following the **Date of this Agreement**, **Chemawawin** and **Manitoba** will each appoint four (4) persons to constitute the **Cedar Lake Resource Management Board** and advise the other in writing of the appointments.

13.3.2 Appointment of Community Member by Manitoba.

Manitoba contemplates entering into an agreement with **Easterville Community** that provides for one (1) of the persons appointed by **Manitoba** in accordance with subsection 13.3.1 to be a designate of the **Easterville Community Council**, subject to the approval of **Manitoba** which approval will not be unreasonably withheld.

13.3.3 Identification of Community Member.

Manitoba contemplates entering into an agreement with **Easterville Community** that provides that the **Easterville Community Council** will appoint the designate referred to in subsection 13.3.2 by resolution of the **Easterville Community Council**.

13.3.4 Board Meetings.

The **Cedar Lake Resource Management Board** will meet not later than thirty (30) days following the appointment of its last member. The **Cedar Lake Resource Management Board** will meet at least four (4) times a year at Easterville or other location agreed upon by Board members.

13.3.5 Change in Number of Members.

The number of Board members may be changed by agreement between **Chemawawin** and **Manitoba** provided that there is always an equal number of members appointed by each. **Manitoba** contemplates entering into an agreement with **Easterville Community** that provides that if the number of Board members is significantly increased, **Manitoba** will consider increasing the representation from **Easterville Community**.

13.3.6 Alternate Members.

Subject to subsection 13.3.7, if any Board member is unable to attend a meeting, the **Party** that appointed that member may, by providing notice in writing to the other **Party**, appoint a temporary replacement of that member.

13.3.7 Alternate Community Member.

Manitoba contemplates entering into an agreement with **Easterville Community** that provides that, where the designate of the **Easterville Community Council** is unable to attend a meeting, the **Easterville Community Council** may, by providing notice in writing to **Manitoba** and **Chemawawin**, identify a temporary replacement of that member, subject to the approval of **Manitoba** which approval will not be unreasonably withheld.

13.3.8 Replacing Members.

Chemawawin and **Manitoba** may, at any time, by providing notice in writing to the other, revoke the appointment of any member of the **Cedar Lake Resource Management Board** appointed by that **Party**, including an alternate member under subsection 13.3.6 or 13.3.7, and appoint a replacement of that member, but replacement of the designate of the **Easterville Community Council** must be consistent with subsections 13.3.2 and 13.3.3.

13.3.9 Rules and Procedures.

The **Cedar Lake Resource Management Board** may establish its own rules and procedures for the conduct of the business of the Board, consistent with this **Agreement**.

13.3.10 Selection of Chairperson.

A Chairperson will be selected from among the members of the **Cedar Lake Resource Management Board**. The Chairperson will have a vote as a member of the Board, but will not have an additional deciding vote as Chairperson.

13.3.11 Quorum.

A quorum will be at least three (3) of the members appointed by each of **Chemawawin** and **Manitoba**.

13.3.12 Decisions.

Decisions of the **Cedar Lake Resource Management Board** will be made by consensus unless a member requests that a vote be taken. Equal numbers of members appointed by each of **Chemawawin** and **Manitoba** will participate in any vote. Every motion put

to a vote will be defeated unless supported by a majority of the members appointed by **Chemawawin** and a majority of the members appointed by **Manitoba** participating in that vote.

13.4 PROGRAMS AND BUDGETS

13.4.1 Annual Program and Budget.

On or before September 1 in any year, the **Cedar Lake Resource Management Board** will submit to **Chemawawin** and **Manitoba** for approval an annual program and budget for the next fiscal year, approved by the Board. Within ninety (90) days of receiving the annual program and budget, **Chemawawin** and **Manitoba** each will advise the Board whether it accepts or rejects all or part of the annual program and budget.

13.4.2 Budget Components.

The annual program and budget may:

- (a) include anticipated requirements for:
 - (i) staff, facilities, equipment and administration,
 - (ii) public meetings, consultations and hearings,
 - (iii) research, publications and public education,
 - (iv) technical assistance,
 - (v) environmental monitoring, and
 - (vi) other programs or activities determined by the **Cedar Lake Resource Management Board**; and
- (b) identify how the budget will be funded.

13.4.3 Provision of Budget to Hydro.

Chemawawin and **Manitoba** will ensure that a copy of the approved annual program and budget is provided to **Hydro** for its information.

13.4.4 Sharing of Costs.

Notwithstanding subsection 13.4.2:

- (a) **Chemawawin** will pay the costs of its representatives on the **Cedar Lake Resource Management Board** not covered by normal programs; and
- (b) **Manitoba** will pay the costs of its representatives on the **Cedar Lake Resource Management Board**, including the costs of any designate of the **Easterville Community Council**.

13.4.5 Costs of Participation by Chemawawin's Representatives.

The \$400,000.00 payment made under paragraph 2.2.3(b) is being made to support the future costs of participation by the representatives of **Chemawawin** on the **Cedar Lake Resource Management Board**. **Manitoba** and **Hydro** will have no further responsibility in relation to the costs of **Chemawawin's** participation on the Board.

13.4.6 Fiscal Year.

The fiscal year of the **Cedar Lake Resource Management Board** will commence on April 1 in each year unless changed by agreement in writing between **Chemawawin** and **Manitoba**.

13.4.7 Reports.

The **Cedar Lake Resource Management Board**:

- (a) will within ninety (90) days after the end of the fiscal year provide **Chemawawin**, **Manitoba**, **Easterville Community** and **Hydro** with a written report which includes:
 - (i) a description of the activities carried out during the year,
 - (ii) a summary of decisions and recommendations,
 - (iii) an evaluation of the success or failure of the activities undertaken, and the reasons therefor, and
 - (iv) an identification of any deficiencies in activities related to land use planning, resource management and environmental monitoring; and
- (b) may produce, from time to time, other reports or materials.

13.5 ASSISTANCE AND INFORMATION

13.5.1 Technical Support.

Technical support for land use planning, resource management and environmental monitoring normally available from **Manitoba** will be made available to, and coordinated with programs of, the **Cedar Lake Resource Management Board**, without charge. However, in those instances where a fee or charge has been established, it will be levied, unless otherwise waived by **Manitoba**.

13.5.2 Requesting Information.

Chemawawin and **Manitoba** will each, upon the written request of the **Cedar Lake Resource Management Board**, **Chemawawin**, **Easterville Community** or **Manitoba**, and subject to payment, unless waived, of any set fee or charge, provide the **Cedar Lake Resource Management Board** with information within its control about matters being dealt with by, or of interest to, the **Cedar Lake Resource Management Board** except where such information is privileged or confidential. **Manitoba** contemplates entering into an agreement with **Easterville Community** that provides that **Easterville Community** will, upon the written request of the **Cedar Lake Resource Management Board**, **Chemawawin** or **Manitoba**, and subject to payment, unless waived, of any set fee or charge, provide the **Cedar Lake Resource Management Board** with information within its control about matters being dealt with by, or of interest to, the **Cedar Lake Resource Management Board** except where such information is privileged or confidential.

13.5.3 Requesting Assistance.

Chemawawin and **Manitoba** will each, upon the written request of the **Cedar Lake Resource Management Board**, **Chemawawin** or **Manitoba**, provide to the **Cedar Lake Resource Management Board**:

- (a) information concerning the application of existing laws, policies, procedures and plans affecting management or use of **Resources** in the **Cedar Lake Resource Management Area**;
- (b) any completed reports, data, findings or recommendations prepared or submitted by any board or group advising **Chemawawin** or **Manitoba** on matters which might relate to or affect the management of **Resources** in the **Cedar Lake Resource Management Area**; and

- (c) assistance in drafting any recommendation or plan. This will not imply that **Manitoba** or **Chemawawin** will adopt the recommendation or plan.

13.5.4 Disclosure subject to Legislation.

Provision of information under Article 13 will be subject to the restrictions on use and disclosure of information set out in *The Freedom of Information and Protection of Privacy Act* (Manitoba).

13.6 FUNCTIONS AND PURPOSES OF THE CEDAR LAKE RESOURCE MANAGEMENT BOARD

13.6.1 Board Activities.

In order to promote land use planning, resource management and environmental monitoring, the **Cedar Lake Resource Management Board**:

- (a) will develop and recommend **Resource Management Plans** in accordance with subsection 13.6.2;
- (b) will develop and recommend **Land Use Plans** in accordance with subsection 13.6.5;
- (c) may examine, study and review **Resources**, their use, and matters affecting the same, including the nature and extent of **Fish** and **Wildlife** populations, and their environment;
- (d) may conduct and coordinate monitoring activities, including, subject to subsection 13.6.8, environmental monitoring, of the effects of activities within the **Cedar Lake Resource Management Area**, which may include the consideration of any information made available under subsections 13.5.2, 13.5.3 and 13.7.2;
- (e) may monitor and review the use and allocation of **Resources**;
- (f) may propose subjects for research;
- (g) may prepare information and communication strategies;
- (h) may hold meetings and workshops or otherwise consult publicly or privately with any person; and

- (i) will carry out other duties jointly assigned to it by **Chemawawin** and **Manitoba**.

13.6.2 Resource Management Plans.

The **Cedar Lake Resource Management Board** will develop and recommend **Resource Management Plans** for the **Cedar Lake Resource Management Area**, or any part thereof, which, without limitation, may include provision for:

- (a) measures to enhance and preserve areas of significant **Fish and Wildlife** populations;
- (b) methods of harvesting **Resources**;
- (c) health and safety considerations;
- (d) procedures for the assignment or re-assignment of new, vacant or under-utilized traplines, fishery quotas and wild rice licences;
- (e) enforcement considerations;
- (f) protecting, conserving and enhancing **Resources** and their environment, including areas of ecological, cultural or historical significance;
- (g) prescribing and monitoring levels of use of **Resources**;
- (h) proposing the modification of existing priorities and allocations for domestic, commercial and recreational uses of **Resources** by lease, permit, quota or otherwise;
- (i) resolving conflicts related to the use of **Resources**;
- (j) sustainable development of **Resources**; and
- (k) proposing a role for the **Cedar Lake Resource Management Board** in the implementation of the **Resource Management Plan**.

13.6.3 Resource Use.

Chemawawin and **Manitoba** recognize that, subject to the aboriginal and treaty rights of aboriginal peoples recognized and affirmed by section 35 of the *Constitution Act, 1982*, and subject to **Resource Management Plans** in force, other individuals may, as provided by law,

hunt, trap or fish in the **Cedar Lake Resource Management Area**. **Chemawawin** and **Manitoba** recognize that provisions for conservation, management and protection of **Resources** in the **Cedar Lake Resource Management Area** are essential. Actions under Article 13 by the **Cedar Lake Resource Management Board**, **Chemawawin** and **Manitoba** will be consistent with the rights of **Chemawawin** and other aboriginal people, the rights of other individuals, and the need for the conservation, management and protection of **Resources** in the **Cedar Lake Resource Management Area**. **Manitoba** contemplates entering into an agreement with **Easterville Community** under which **Easterville Community** will recognize that, subject to the aboriginal and treaty rights of aboriginal people recognized and affirmed by section 35 of the *Constitution Act, 1982*, and subject to **Resource Management Plans** in force, other individuals may, as provided by law, hunt, trap or fish in the **Cedar Lake Resource Management Area**. Under the contemplated agreement between **Manitoba** and **Easterville Community**, **Easterville Community** would also recognize that provisions for conservation, management and protection of **Resources** in the **Cedar Lake Resource Management Area** are essential and that actions under Article 13 by **Easterville Community** will be consistent with the rights of **Chemawawin** and other aboriginal peoples, the rights of other individuals, and the need for the conservation, management and protection of **Resources** in the **Cedar Lake Resource Management Area**.

13.6.4 Application of Resource Management Plans.

Notwithstanding subsection 13.6.2 and subject to applicable legislation, a **Resource Management Plan** will apply within a **Municipality** only insofar as it does not conflict with a **Development Plan** for the **Municipality** or any part thereof.

13.6.5 Land Use Plans.

The **Cedar Lake Resource Management Board** will develop and recommend **Land Use Plans** for the **Cedar Lake Resource Management Area**, or any part thereof, which, without limitation, may include provision for:

- (a) zoning lands;
- (b) prescribing areas of land or bodies of waters for purposes of regulating use and activities thereon;
- (c) prescribing and regulating land uses;

- (d) establishing administrative arrangements for the construction or occupation of cabins or shelters;
- (e) recognizing and preserving areas of ecological, cultural or historical significance;
- (f) resolving conflicting uses of land; and
- (g) proposing a role for the **Cedar Lake Resource Management Board** in the implementation of a **Land Use Plan**.

13.6.6 Application of Land Use Plans.

Notwithstanding subsection 13.6.5 and subject to applicable legislation, **Land Use Plans** will not apply within a **Municipality** in which a **Development Plan** is effective.

13.6.7 Operation and Maintenance of Water Control Structures.

The **Cedar Lake Resource Management Board** may submit recommendations under subsection 13.9.1 regarding the operation, maintenance or construction of any existing or proposed water control structures within the **Cedar Lake Resource Management Area** relating to land use or resource management conditions within the **Cedar Lake Resource Management Area**.

13.6.8 Environmental Monitoring by the Board.

The **Cedar Lake Resource Management Board** may conduct and coordinate environmental monitoring within the **Cedar Lake Resource Management Area**, or any part thereof, which, without limitation, may include the following activities:

- (a) receiving and analyzing environmental data or information:
 - (i) supplied by **Chemawawin, Easterville Community, Hydro or Manitoba**,
or
 - (ii) supplied by or obtained from any other source;
- (b) monitoring, investigating, identifying and assessing any environmental data or information;
- (c) collecting information on environmental conditions relevant to the **Cedar Lake Resource Management Area**;

- (d) compiling and maintaining a baseline of environmental conditions within the **Cedar Lake Resource Management Area**;
- (e) recommending to **Chemawawin, Manitoba** and other interested parties the nature and scope of environmental investigation and monitoring activities which could be undertaken in response to any environmental concern which may arise;
- (f) conducting consultations with interested parties including **Easterville Community** in connection with environmental findings and activities in the **Cedar Lake Resource Management Area**; and
- (g) performing such other duties as **Chemawawin** and **Manitoba** may jointly direct.

13.6.9 Environmental Monitoring by the Parties.

No Party is required to take any action in relation to environmental monitoring except as:

- (a) expressly provided in this Agreement; or
- (b) otherwise provided by law.

13.7 PARTICIPATION BY HYDRO

13.7.1 Attendance by Hydro Representatives at Board Meetings.

At the request of either **Chemawawin** or **Manitoba**, **Hydro** will send a representative to attend and participate at meetings of the **Cedar Lake Resource Management Board**.

13.7.2 Provision of Information to the Board by Hydro.

Subject to rights of privilege and confidentiality provided by law, at the request of **Manitoba** or **Chemawawin**, **Hydro** will:

- (a) advise the **Cedar Lake Resource Management Board** on the collection and evaluation of water regime and bio-physical data obtained by **Hydro**;
- (b) review in a timely fashion environmental monitoring results available to, or made available to, **Hydro**; and
- (c) comment on the operation of works constructed, maintained and operated by **Hydro**.

13.7.3 Notice of Environmental Monitoring Program.

Hydro will advise **Chemawawin** and **Manitoba** of any new environmental monitoring program it proposes to undertake in the **Cedar Lake Resource Management Area** and, if possible, will do so prior to commencing any such program.

13.7.4 Environmental Monitoring by Hydro.

Hydro is not required under this **Agreement** to undertake any environmental monitoring activities, but nothing in section 13.7 is intended to relieve **Hydro** of any obligations it may have at law in relation to carrying out any environmental monitoring activities. The provisions of this **Agreement** will fulfill and satisfy the obligations of **Hydro** under Article 4.06 of the **1990 Agreement**.

13.8 CONSULTATION

13.8.1 Consultation with Interested Parties.

Before recommending that a **Land Use Plan** or **Resource Management Plan** be adopted, the **Cedar Lake Resource Management Board** will hold one (1) or more public meetings at such place and in such manner as it determines appropriate in order to provide information to and obtain the view of interested parties.

13.8.2 Giving Notice.

The **Cedar Lake Resource Management Board** will give at least thirty (30) days written notice of the meeting under subsection 13.8.1, with a copy of any proposed **Land Use Plan** or **Resource Management Plan** to:

- (a) **Hydro**;
- (b) any First Nation which could be affected by the plan;
- (c) any **Municipality** within the **Cedar Lake Resource Management Area**;
- (d) any third party with a significant interest in **Resources** in the **Cedar Lake Resource Management Area** that the **Cedar Lake Resource Management Board** considers appropriate to be notified; and
- (e) any board or group that **Manitoba**, **Chemawawin** or **Easterville Community** advises the **Cedar Lake Resource Management Board** be notified.

13.8.3 Consultation with Easterville Community Council.

Where a matter considered by the **Cedar Lake Resource Management Board** relates to the disposition of any Crown (Manitoba) land located in or within eight kilometers from the boundaries of **Easterville Community**, the **Cedar Lake Resource Management Board** will consult with **Easterville Community**, for the purposes of section 9 of *The Northern Affairs Act* (Manitoba).

13.9 ADOPTION OF PLANS AND RECOMMENDATIONS

13.9.1 Submission of Plans and Recommendations to Chemawawin and Manitoba.

The **Cedar Lake Resource Management Board** will submit proposed **Land Use Plans**, **Resource Management Plans**, environmental monitoring plans or any recommendations to **Chemawawin** and **Manitoba** accompanied by written reasons for supporting the plan or recommendation and written confirmation of consultation and notice in accordance with subsections 13.8.1 and 13.8.2, and **Chemawawin** and **Manitoba** will each consider this submitted plan or recommendation within ninety (90) days of submission.

13.9.2 Adoption of Plans and Recommendations.

Where **Chemawawin** and **Manitoba** both advise the **Cedar Lake Resource Management Board** that a plan or recommendation submitted under subsection 13.9.1 is acceptable for adoption, each will promptly take all appropriate steps within its jurisdiction to give such plan or recommendation full effect and will promptly provide the **Cedar Lake Resource Management Board** with documentation evidencing that such effect has been given.

13.9.3 Non-Adoption of Plans and Recommendations.

If either **Chemawawin** or **Manitoba** does not adopt a plan or recommendation of the **Cedar Lake Resource Management Board** submitted to it under subsection 13.9.1, the **Party** not adopting the plan or recommendation will, within the ninety (90) day period referred to in subsection 13.9.1:

- (a) refer the matter to the Board for further consideration; and
- (b) provide written reasons for its decision not to adopt the plan or recommendation to the Board with a copy to the other **Party**.

13.9.4 Resubmission of Plan or Recommendation to Chemawawin and Manitoba.

Where either **Chemawawin** or **Manitoba** has referred a matter to the **Cedar Lake Resource Management Board** for further consideration under paragraph 13.9.3(a), the **Cedar Lake Resource Management Board** may, within thirty (30) days following its next meeting, submit to **Chemawawin** and **Manitoba**:

- (a) a revised plan or recommendation; or
- (b) a request that the plan or recommendation first submitted under subsection 13.9.1 be reconsidered, including such additional information as the **Cedar Lake Resource Management Board** may consider relevant.

13.9.5 Final Decision.

Chemawawin and **Manitoba** will each, within ninety (90) days of a submission of a plan, recommendation or request under subsection 13.9.4, advise the **Cedar Lake Resource Management Board** and the other **Party** in writing of its decision on whether it adopts the plan or recommendation.

13.9.6 No Further Submission.

Where a plan or recommendation submitted under subsection 13.9.4 is not adopted by both **Chemawawin** and **Manitoba**, the **Cedar Lake Resource Management Board** may not make a further submission under subsection 13.9.4 of the same plan or the same recommendation without first having obtained the approval of both **Chemawawin** and **Manitoba**.

13.9.7 Extensions.

Time limits set forth in section 13.9 may be extended by agreement in writing between **Chemawawin** and **Manitoba**.

13.9.8 Plans and Recommendations of No Force or Effect.

Unless adopted by both **Chemawawin** and **Manitoba**, no **Resource Management Plan**, **Land Use Plan** or recommendation of the **Cedar Lake Resource Management Board** will have any force or effect.

13.9.9 Review of Plans and Recommendations.

The **Cedar Lake Resource Management Board** will conduct a regular review of all adopted plans and recommendations and, where the **Cedar Lake Resource Management Board** considers necessary, propose amendments to **Chemawawin** and **Manitoba** along with supporting reasons. The procedures set out in subsections 13.9.1 to 13.9.8, inclusive, will apply to any proposed amendments.

13.10 RESOURCE ALLOCATIONS

13.10.1 Requests Made to Manitoba.

Requests or applications made to **Manitoba** for allocations, permits and other dispositions of **Resources** in the **Cedar Lake Resource Management Area**, or other matters, which, in the opinion of **Manitoba**, are directly related to the management of **Resources** in the **Cedar Lake Resource Management Area**, will be provided by **Manitoba** to **Chemawawin**, the **Cedar Lake Resource Management Board** and, where agreed upon between **Manitoba** and **Easterville Community**, to **Easterville Community**.

13.10.2 Requests Made to Chemawawin.

Requests or applications made to **Chemawawin** for allocations, permits and other dispositions of **Resources** in the **Cedar Lake Resource Management Area**, or other matters, which, in the opinion of **Chemawawin**, are directly related to the management of **Resources** in the **Cedar Lake Resource Management Area**, will be provided by **Chemawawin** to **Manitoba** and the **Cedar Lake Resource Management Board** for purposes of consultation.

13.10.3 Consideration of Requests by Board.

The **Cedar Lake Resource Management Board** will consider requests or applications forwarded to it under subsections 13.10.1 and 13.10.2 within forty-five (45) days of receiving a request or application.

13.10.4 Recommendation by Board.

Where the **Cedar Lake Resource Management Board** considers a request or application under subsection 13.10.3, the **Cedar Lake Resource Management Board** may submit recommendations to the **Party** which provided the request or application to the **Cedar Lake Resource Management Board** under subsection 13.10.1 or 13.10.2.

13.10.5 Non-Adoption of Recommendations.

If either **Chemawawin** or **Manitoba** does not adopt a recommendation of the **Cedar Lake Resource Management Board** made under subsection 13.10.4, the **Party** not adopting the recommendation will, within ninety (90) days:

- (a) provide written reasons for its decision not to adopt the recommendation to the **Cedar Lake Resource Management Board** with a copy to the other **Party**; and
- (b) refer the matter to the **Cedar Lake Resource Management Board** for further consideration.

13.10.6 Resubmission of Recommendation to Chemawawin and Manitoba.

Where either **Chemawawin** or **Manitoba** has referred a matter to the **Cedar Lake Resource Management Board** for further consideration under paragraph 13.10.5(b), the **Cedar Lake Resource Management Board** may, within thirty (30) days following its next meeting, submit to **Chemawawin** and **Manitoba**:

- (a) a revised recommendation; or
- (b) a request that the recommendation first submitted under subsection 13.10.1 or 13.10.2 be reconsidered, including such additional information as the **Cedar Lake Resource Management Board** may consider relevant.

13.10.7 Final Decision.

Chemawawin and **Manitoba** will each, within ninety (90) days of a submission of a recommendation or request under subsection 13.10.6, advise the **Cedar Lake Resource Management Board** and the other **Party** in writing of its decision on whether it adopts the recommendation.

13.10.8 No Recommendation by Board.

In the absence of a recommendation being submitted by the **Cedar Lake Resource Management Board** within the time period provided under subsection 13.10.3, **Chemawawin** or **Manitoba** will provide notice in writing to the other of its intended action and allow the other **Party** thirty (30) days to respond, following which **Chemawawin** or **Manitoba** may, in the sole discretion of each, act within its jurisdiction upon such requests or applications and will advise the **Cedar Lake Resource Management Board** of its actions.

13.10.9 Transitional Measures.

From the **Date of this Agreement** to the date the **Cedar Lake Resource Management Board** first meets, **Chemawawin** and **Manitoba** will defer any requests or applications for allocations or dispositions of **Resources** within the **Cedar Lake Resource Management Area** which are received after the **Date of this Agreement**. Where **Manitoba** has, prior to the **Date of this Agreement**, provided copies of requests or applications to **Chemawawin** or, where applicable, to the **Easterville Community Council**, and deferred such requests or applications pending the execution of this **Agreement**, **Manitoba** will provide any such requests or applications and any new requests or applications to the **Cedar Lake Resource Management Board** at its first meeting, and the **Cedar Lake Resource Management Board** will submit its recommendations on those requests or applications within forty-five (45) days of its first meeting, and the procedures set out in subsections 13.10.1 to 13.10.8 inclusive will apply with necessary modifications.

13.11 CEDAR LAKE FISHERY

13.11.1 Cedar Lake Fishery.

Manitoba acknowledges that:

- (a) **Chemawawin** is interested in enhancing the opportunities for its **Members** to participate in the Cedar Lake fishery; and
- (b) as a matter of policy, **Chemawawin** may acquire entitlements in the Cedar Lake fishery from the holders of those rights, subject to:
 - (i) Article 13, and
 - (ii) any applicable laws, including the requirement for any necessary licences.

13.12 GENERAL

13.12.1 No Derogation.

Nothing in Article 13 will derogate from any authority of **Chemawawin** or **Manitoba**, each within its respective jurisdiction, over the **Resources** in the **Cedar Lake Resource Management Area**.

13.12.2 Access to Lands.

Article 13 does not restrict the right of any person to enter on Crown (Manitoba) lands for any lawful purpose.

13.12.3 Existing Rights.

Nothing in Article 13 will affect any rights or privileges granted under any licences, permits, leases or approvals issued by or on behalf of **Chemawawin** or **Manitoba** prior to the **Date of this Agreement**.

13.12.4 Statutory Requirements.

Nothing in Article 13 alters any statute or any statutory authority or requirement, or confers any statutory approval.

13.12.5 Discontinuance.

Chemawawin and **Manitoba** may, by agreement in writing:

- (a) discontinue the **Cedar Lake Resource Management Board** and its activities; or
- (b) assign the functions of the **Cedar Lake Resource Management Board** under Article 13 to other entities.

If **Manitoba** and **Easterville Community** have agreed, **Manitoba** will consult with **Easterville Community** prior to **Manitoba** agreeing under subsection 13.12.5 either to discontinue the **Cedar Lake Resource Management Board** and its activities or to assign the functions of the **Cedar Lake Resource Management Board** to other entities.

13.12.6 No Revenue Sharing.

The functions and purposes of the **Cedar Lake Resource Management Board** do not extend to consideration of royalties, income or other revenue derived from or attributable to **Resources**, and nothing in this **Agreement** entitles **Chemawawin** or **Manitoba** to share in the royalties, income or other revenue derived from **Resources** within the other's jurisdiction, ownership or administration and control.

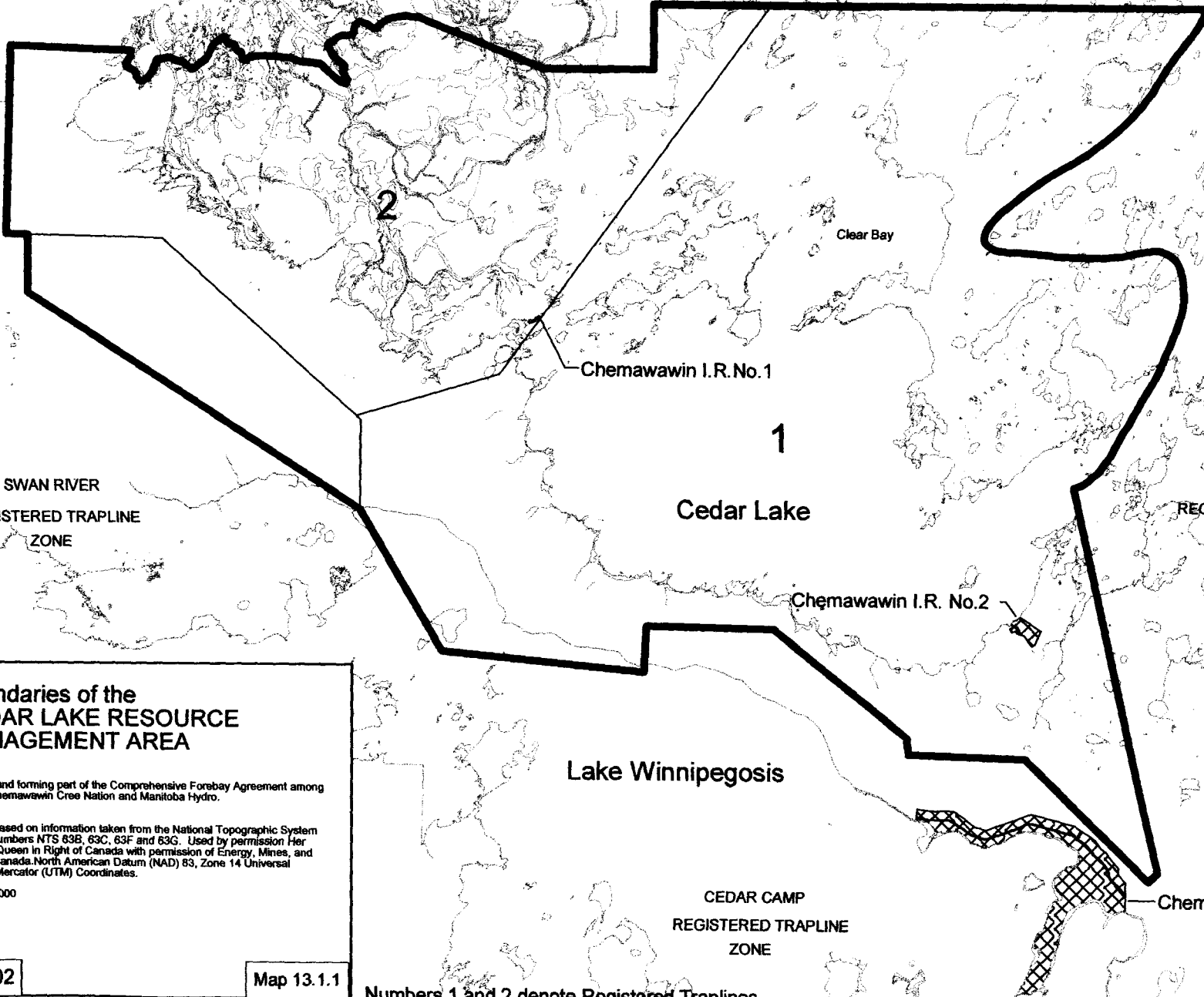
SCHEDULE 13.1 - MAP OF CEDAR LAKE

RESOURCE MANAGEMENT AREA

See Map 13.1.1 attached

SUMMERBERRY SPECIAL
TRAPPING DISTRICT

MOOSE LAKE
RESOURCE MANAGEMENT AREA



**Boundaries of the
CEDAR LAKE RESOURCE
MANAGEMENT AREA**

Attached to and forming part of the Comprehensive Forebay Agreement among
Manitoba, Chemawawin Cree Nation and Manitoba Hydro.

Notes:
Mapping is based on information taken from the National Topographic System
map sheet numbers NTS 83B, 83C, 83F and 83G. Used by permission Her
Majesty the Queen in Right of Canada with permission of Energy, Mines, and
Resources Canada, North American Datum (NAD) 83, Zone 14 Universal
Transverse Mercator (UTM) Coordinates.

Scale 1:450 000

10/09/02

Map 13.1.1

Numbers 1 and 2 denote Registered Traplines

ARTICLE 6

6.0 PROJECT OPERATIONS AND COMPENSATION

6.1 INTRODUCTION

6.1.1 Introduction. Article 6 establishes the **Fully Compensated Zone** and sets out a payment schedule for compensation for damages payable by **Hydro** to the **Easterville Community** to the extent that **Wind Eliminated Water Levels** fall within the **Pre-Determined Compensation Zones**.

6.2 RECORDS

6.2.1 Daily Average Water Level Records. From and after the **Date of this Agreement**, **Hydro** will maintain a record of the **Daily Average Water Levels**, sufficient to make the determinations in sections 6.5 and 6.6, and provide such records to any **Party** when requested or required for purposes of this **Agreement**. Although the **Parties** believe that the **Cedar Lake Gauge** accurately records water levels on Cedar Lake, which will be prima facie but not conclusive data, no **Party** warrants the accuracy of such records.

6.2.2 Notice of Malfunction. If at any time it comes to the attention of any **Party** that the **Cedar Lake Gauge** is not accurately recording the water level measurements required by this **Agreement**, that **Party** will forthwith notify the other **Parties**. Upon **Hydro** becoming aware that the **Cedar Lake Gauge** is not accurately recording water levels, **Hydro** will take such steps as may be necessary, including notifying **Canada**, to ensure that the **Cedar Lake Gauge** is operating accurately. If **Canada** is not prepared to correct, or permit **Hydro** to correct, the problem with the **Cedar Lake Gauge**, **Hydro** will establish and operate a replacement gauge to record the required water level measurements.

6.3 PROJECTIONS

6.3.1 Daily Average Water Level Projections. **Hydro** will, early in each month, provide a two month **Daily Average Water Level** projection to the **Easterville Community**, which will indicate the anticipated **Daily Average Water Levels** on Cedar Lake for that month and the next month.

6.3.2 Qualifications as to Accuracy of Projections. The projections in subsection 6.3.1 will be as accurate as is reasonable, based on the information available at the time they are made. **Hydro** may set forth any appropriate qualification as to accuracy of the **Daily Average Water Level** projections.

6.3.3 Notice of Change. **Hydro** will notify the **Easterville Community**, as soon as is reasonably practicable, of any change in excess of 0.3 metres (1.0 foot) to the **Daily Average Water Level** projections provided pursuant to subsection 6.3.1.

6.4 PROJECT OPERATIONS

6.4.1 No Restraint on Lawful Operation. Nothing in this **Agreement** will impose, or be read or construed to impose, any restraint on the lawful operation of the **Project** by **Hydro**.

6.4.2 No Releases for Unlawful Operation. Nothing in this **Agreement** will be construed as a limitation, restriction or release of any liability on the part of **Hydro** for unlawful operation of the **Project** after the **Date of this Agreement**.

6.5 FULLY COMPENSATED ZONE

6.5.1 Fully Compensated Zone. The parameters of the **Fully Compensated Zone** are shown graphically on Schedule 6.1 and delineate that zone in which **Wind Eliminated Water Levels** have generally fallen during the post **Project** period from 1967 to 1998 and within which it is anticipated that **Wind Eliminated Water Levels** will usually fall in the future.

6.6 PRE-DETERMINED COMPENSATION ZONES

6.6.1 **Pre-Determined Compensation Zones.** The parameters of the **Pre-Determined Compensation Zones** are shown graphically on Schedule 6.2 and delineate the zones in which **Wind Eliminated Water Levels** have infrequently fallen during the post **Project** period from 1967 to 1998 and within which it is anticipated that **Wind Eliminated Water Levels** will infrequently fall in the future.

6.6.2 **Calculation and Payment.** Not later than March 31 in each calendar year following the first anniversary of this **Agreement**, **Hydro** will calculate and pay compensation, if any, for the previous calendar year at the rates indicated on Schedule 6.2 in accordance with the following provisions:

- (a) for any day where the **Wind Eliminated Water Levels** fall in the **Pre-Determined Compensation Zones**, as depicted in Schedule 6.2, compensation for that day will be calculated at the rate shown in the relevant zone on that graph; and
- (b) pre-determined compensation is expressed in dollars per foot per day and, as it relates to **Wind Eliminated Water Levels**, the compensation is to be calculated on a pro rata basis to the nearest tenth of a foot, as demonstrated in Schedule 6.3.

6.6.3 **Use of Compensation.** The **Easterville Community** will use the compensation paid pursuant to section 6.6 for the purposes set out in subsection 2.2.2.

6.6.4 **Annual Maximum.** Pre-determined compensation will not exceed a total of \$20,000.00 in any calendar year.

6.6.5 **Annual Minimum where Compensation Payable.** Where pre-determined compensation of less than \$1,000.00 is calculated to be payable pursuant to section 6.6 in any calendar year,

Hydro will, notwithstanding such calculation, pay to **Easterville Community** \$1,000.00 with respect to such calendar year.

6.6.6 Rejection of Pre-Determined Compensation. If in any year the **Easterville Community** determines that the compensation, if any, paid pursuant to subsection 6.6.2 is insufficient to compensate for damages caused by **Wind Eliminated Water Levels** within the **Pre-Determined Compensation Zones**, it may within one hundred and twenty (120) days of receipt of such compensation, return the amount so paid and explain in writing its reasons for rejecting the compensation and state the quantum of compensation which it believes is appropriate in the circumstances.

6.6.7 Claim by Easterville Community. **Hydro** will endeavour to advise the **Easterville Community** in writing of its position not later than ninety (90) days following its receipt of the **Easterville Community's** reasons for rejecting the compensation. If **Hydro** either fails to respond, or fails to respond to the satisfaction of the **Easterville Community**, within the ninety (90) day period, the **Easterville Community's** sole remedy is to proceed to make a claim against **Hydro** for the amount it believes is appropriate.

6.6.8 Deemed Acceptance of Compensation. If the **Easterville Community** fails to return the pre-determined compensation payment within the one hundred and twenty (120) day time period referred to in subsection 6.6.6 it will conclusively be deemed to have accepted such pre-determined compensation in full and complete satisfaction of any and all claims it may otherwise have had against **Manitoba** and **Hydro** arising from **Wind Eliminated Water Levels** within the **Pre-Determined Compensation Zones** in that year.

6.6.9 Indexing. Where any amount of pre-determined compensation is specified in dollars, the amount payable will be read as if it had been adjusted over time from the **Date of this Agreement** based upon the **Consumer Price Index** provided that no such adjustment will result in the reduction of the compensation amounts, as specified in dollars, to less than the amounts specified in this **Agreement**.

6.7 WIND ELIMINATED WATER LEVELS OUTSIDE ZONES

6.7.1 Parties to Discuss Cause. Should **Wind Eliminated Water Levels** fall outside the **Fully Compensated Zone** and the **Pre-Determined Compensation Zones**, the **Parties** will discuss the reasons for such an occurrence.

6.7.2 Hydro Not Released. **Hydro** is not, by this **Agreement**, released with respect to any damages arising from **Wind Eliminated Water Levels** falling outside of both the **Fully Compensated Zone** and the **Pre-Determined Compensation Zones**.

6.8 TERMINATION OR AMENDMENT OF PRE-DETERMINED COMPENSATION PROVISIONS

6.8.1 Termination of Section 6.6. At any time following the **Date of this Agreement**, either **Hydro** or the **Easterville Community** may give written notice to the other that it no longer considers that the pre-determined compensation calculated under section 6.6 equitably addresses the issue of compensation for loss or damage suffered as a consequence of the occurrence of **Wind Eliminated Water Levels** in the **Pre-determined Compensation Zones** in which case the provisions of section 6.6 will terminate at the expiry of the first full calendar year following the date of such notice.

6.8.2 Hydro and the Easterville Community to Study Potential Effects. If **Hydro's** reason for giving notice pursuant to subsection 6.8.1 is a consequence of a significant change in the regulation of the waterways by **Hydro**:

- (a) **Hydro** will, in such notice, identify the nature of the reasons for the change in the regulation of the waterways; and
- (b) **Hydro** and the **Easterville Community** will do the following during the period contemplated in subsection 6.8.1:

- (i) identify and review any positive and negative effects on the **Easterville Community** which have resulted, or which it is anticipated would result, from the significant change in the regulation of the waterways,
- (ii) undertake, at **Hydro's** expense, such studies and investigations as are necessary to obtain a reasonable assessment and understanding of the effects or potential effects which have been identified, and
- (iii) on the basis of the foregoing, assess and endeavour to agree upon amended pre-determined compensation provisions appropriate to the new water regime.

6.8.3 Amendment of Compensation Provisions. If **Hydro** and the **Easterville Community** agree, by an agreement in writing executed by their respective duly authorized representatives, upon amended pre-determined compensation provisions, this **Agreement** will be amended accordingly.

6.8.4 Termination of Compensation Provisions. If **Hydro** and the **Easterville Community** are unable to agree upon amended pre-determined compensation provisions in accordance with subparagraph 6.8.2(b)(iii), this **Agreement** will, upon written notice from either **Party** to the other, be amended, effective at the end of such period, by terminating the provisions of section 6.6.

6.9 END OF PROJECT

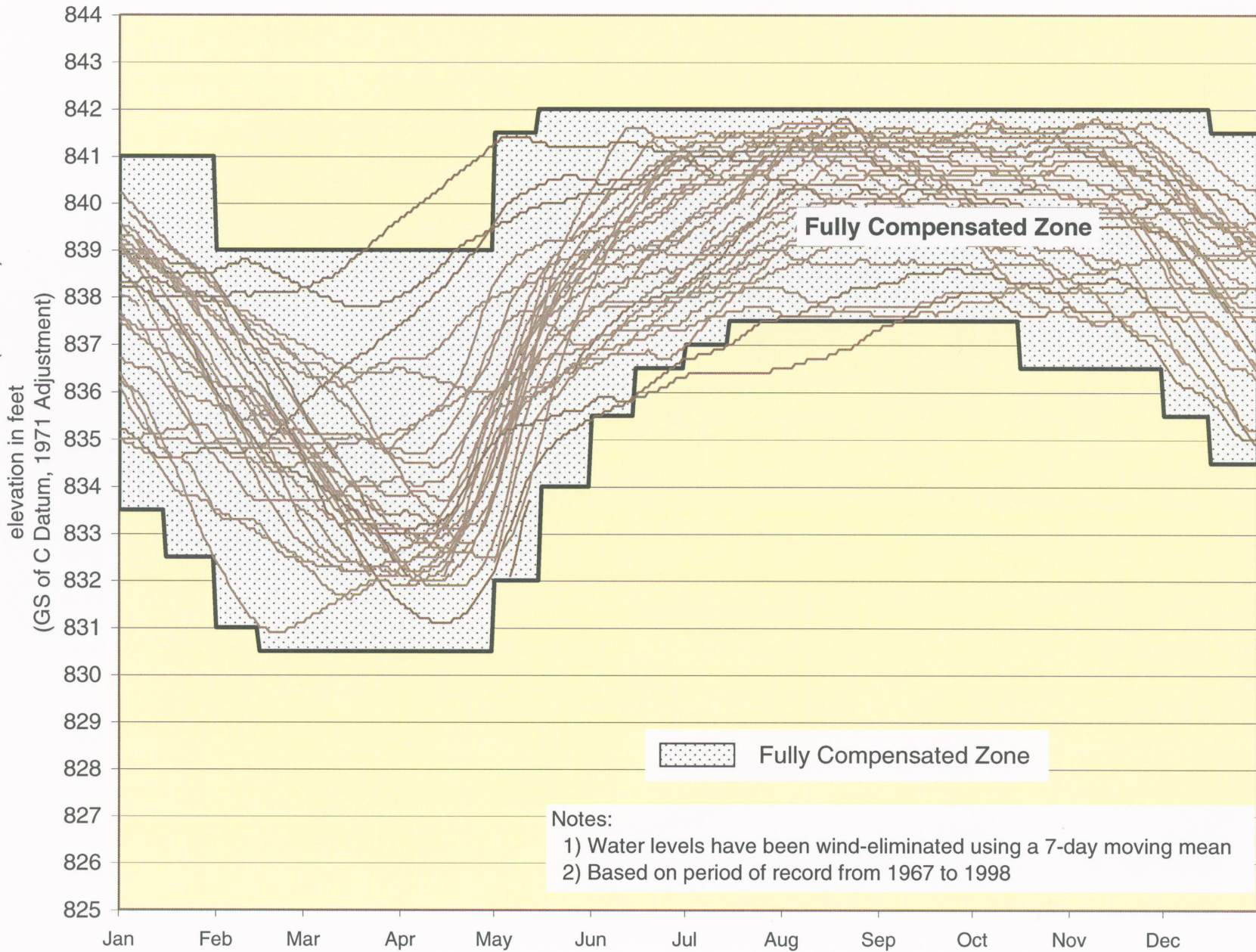
6.9.1 Maintenance of Water Regime. If, in the future, the **Project** is no longer utilized for the production of hydro-electric power, then **Hydro** covenants and agrees to continue to operate and maintain all such works, structures and improvements, within its legal authority and control, so that, to the extent that it is reasonably possible, **Wind Eliminated Water Levels** remain within the **Fully Compensated Zone** or otherwise within seasonal patterns agreed to by the **Parties**.

6.9.2 No Release where Unlawful to Comply. This **Agreement** does not release **Hydro** from liability for any **Adverse Effects** resulting from **Wind Eliminated Water Levels** falling outside of the **Fully Compensated Zone** or outside agreed seasonal patterns, even where it has become unlawful or impractical for **Hydro** to comply with its covenants and agreements as provided for in subsection 6.9.1

SCHEDULE 6.1
FULLY COMPENSATED ZONE

See Attached

Cedar Lake Near Oleson Point (05KL005)

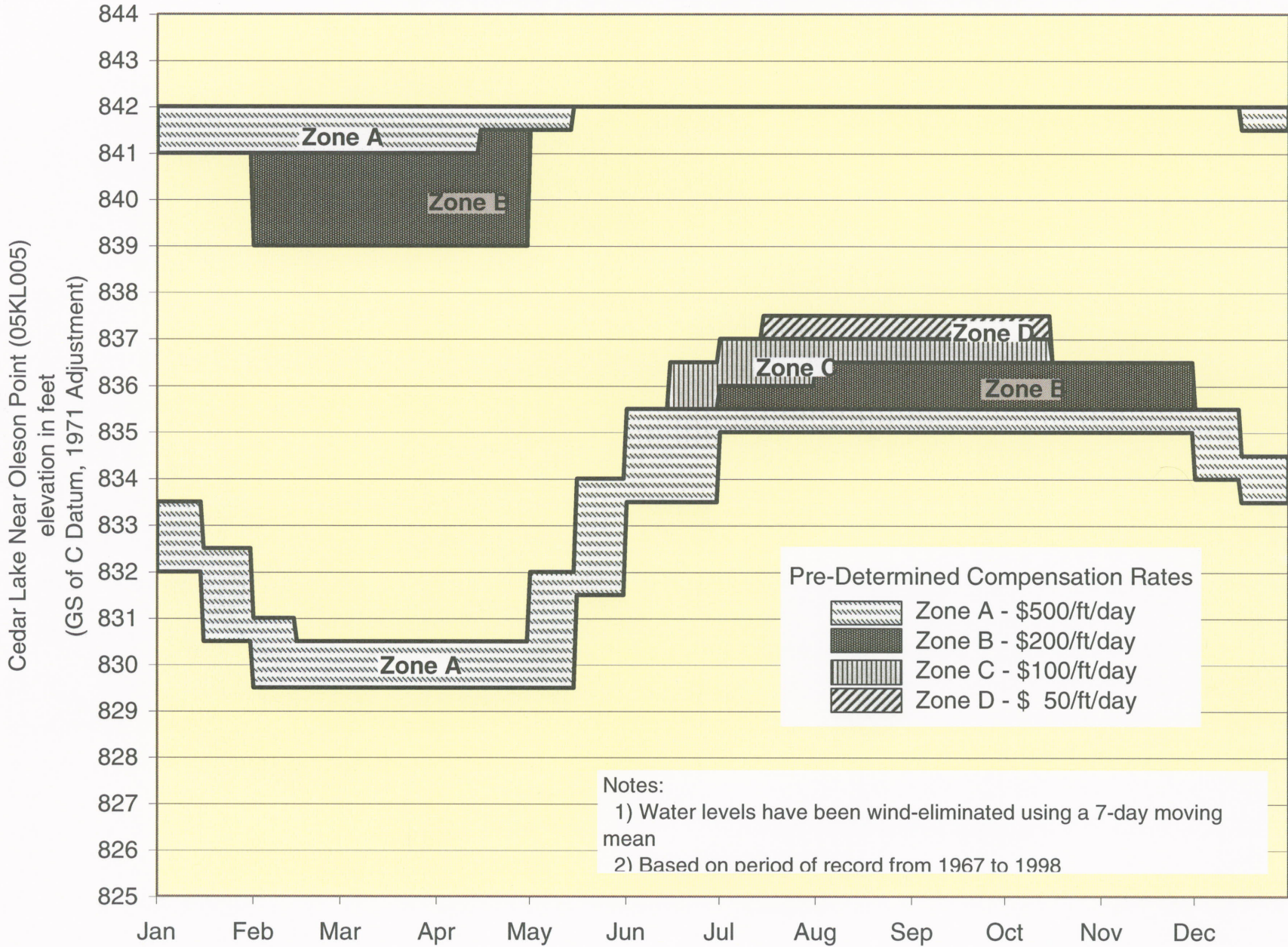


SCHEDULE 6.1
FULLY COMPENSATED ZONE

SCHEDULE 6.2 PRE-DETERMINED COMPENSATION ZONES

See Attached

Easterville Community Pre-Determined Compensation Zones



Notes:
 1) Water levels have been wind-eliminated using a 7-day moving mean
 2) Based on period of record from 1967 to 1998

**SCHEDULE 6.2
 PRE-DETERMINED COMPENSATION ZONES**

SCHEDULE 6.3
METHOD OF CALCULATION OF WATER LEVELS AND
SAMPLE CALCULATION OF PRE-DETERMINED COMPENSATION

SCHEDULE 6.3

METHOD OF CALCULATION OF WATER LEVELS AND SAMPLE CALCULATION OF PRE-DETERMINED COMPENSATION

The following outlines the Pre-Determined Compensation (PDC) calculation for the Easterville Community Forebay Agreement.

Wind Eliminated Water Level

The PDC calculation is based on the **Wind Eliminated Water Level (WEWL)** which is a 7-day moving mean of the **Daily Average Water Levels (DAWLs)** rounded to the nearest tenth of a foot.

For example, the WEWL for April 26, 1993 is calculated as:

$$\begin{aligned} \text{WEWL for April 26}^{\text{th}} &= \text{Average of the DAWLs for April 23}^{\text{rd}}, 24^{\text{th}}, 25^{\text{th}}, 26^{\text{th}}, 27^{\text{th}}, 28^{\text{th}}, \text{ and } 29^{\text{th}} \\ &= 1/7 (839.22 + 839.23 + 839.27 + 839.29 + 839.33 + 839.38 + 839.42) \\ &= 839.3 \text{ A.S.L.} \end{aligned}$$

If any data is missing, the DAWLs will be estimated using a practical but technically sound method, and the WEWL will be calculated using a combination of actual and estimated DAWLs.

PDC Amount

The PDC amount depends on what Zone the WEWL is in; the Zones are shown on the attached chart. The PDC calculation is also based on the amount that the WEWL exceeds the Zone boundary in a high water condition (or on the amount that the WEWL falls below the Zone boundary in a low water condition). The following is an example PDC calculation for one day:

$$\begin{aligned} \text{If WEWL} &= 839.3 \text{ ft A.S.L. on April 26}^{\text{th}} \text{ (Zone B)} \\ \text{Then Pre-Determined Compensation (PDC)} &\text{ would be the following:} \\ \text{PDC} &= (839.3 - 839.0) * 2,00 \text{ \$/ft/day} = \underline{\$60.00} \text{ for the day.} \end{aligned}$$

On the attached chart, the WEWL for 1993 was in Zone B from April 20th to April 30th. The following table illustrates the example PDC calculation for this time period.

Example Calculation of PDC

Easterville Community Forebay Agreement

(using 1993 daily average water levels)

Note: FCZ indicates Fully Compensated Zone

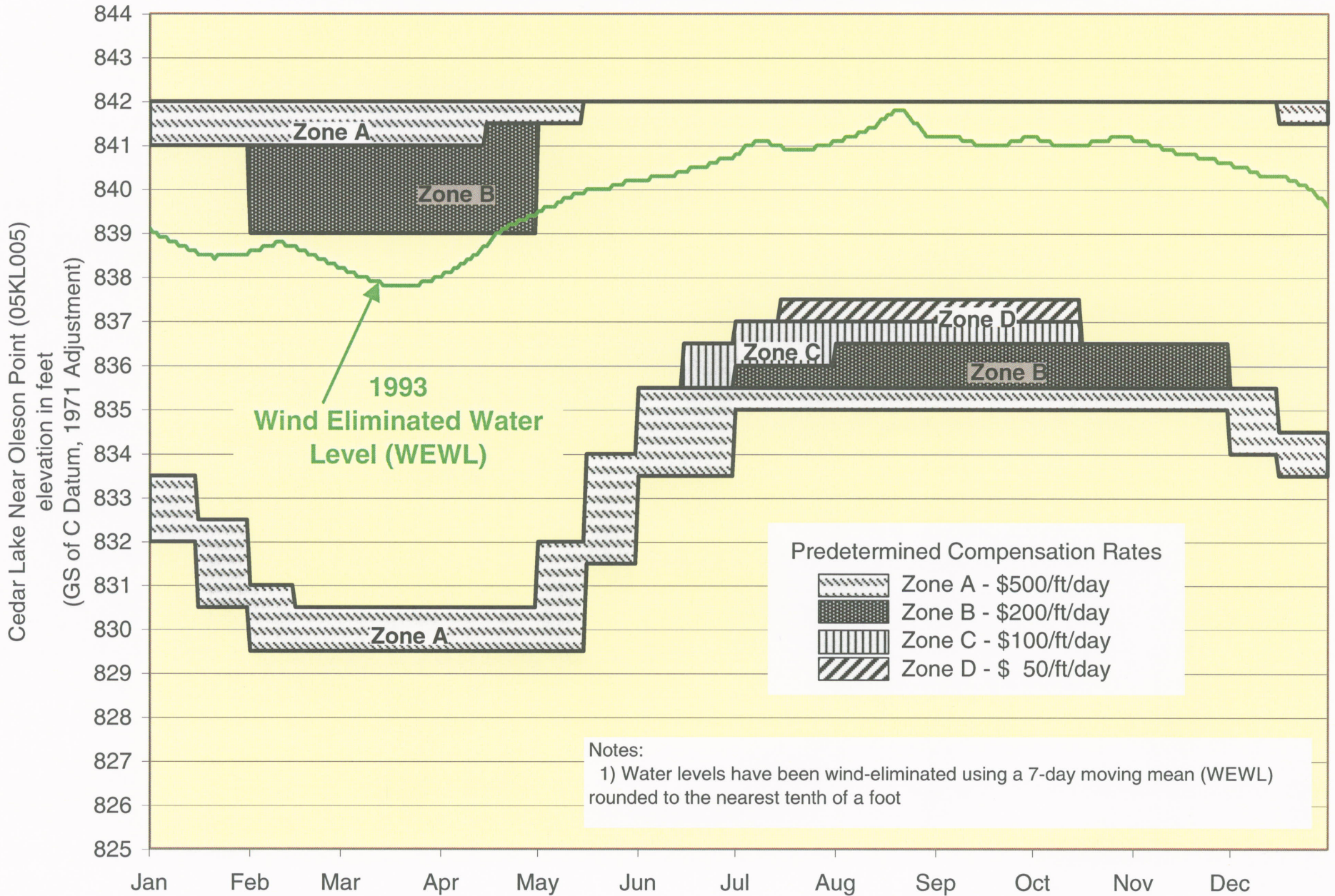
Date	Wind Eliminated Water Level [WEWL] (feet A.S.L.)	PDC Zone	Bound of Zone [BOUND] (feet A.S.L.)	Wind Eliminated Water Level less than bound by [Z]=BOUND-WEWL (feet)	PDC Rate for Zone	PDC (\$)
Apr-17	838.9	FCZ	839.0	0.0	-	-
Apr-18	839.0	FCZ	839.0	0.0	-	-
Apr-19	839.0	FCZ	839.0	0.0	-	-
Apr-20	839.1	B	839.0	0.1	\$200/ft/day	\$20.00
Apr-21	839.1	B	839.0	0.1	\$200/ft/day	\$20.00
Apr-22	839.2	B	839.0	0.2	\$200/ft/day	\$40.00
Apr-23	839.2	B	839.0	0.2	\$200/ft/day	\$40.00
Apr-24	839.2	B	839.0	0.2	\$200/ft/day	\$40.00
Apr-25	839.3	B	839.0	0.3	\$200/ft/day	\$60.00
Apr-26	839.3	B	839.0	0.3	\$200/ft/day	\$60.00
Apr-27	839.3	B	839.0	0.3	\$200/ft/day	\$60.00
Apr-28	839.4	B	839.0	0.4	\$200/ft/day	\$80.00
Apr-29	839.4	B	839.0	0.4	\$200/ft/day	\$80.00
Apr-30	839.4	B	839.0	0.4	\$200/ft/day	\$80.00
May-01	839.5	FCZ	836.5	0.0	-	-
May-02	839.5	FCZ	836.5	0.0	-	-
May-03	839.6	FCZ	836.5	0.0	-	-
May-04	839.6	FCZ	836.5	0.0	-	-
Total						\$580.00

Subject to subsection 6.6.5 - Annual Minimum Payment where Compensation Payable

Total PDC payable is: **\$1,000.00**

Easterville Community - Pre-Determined Compensation Zones

Example calculation of PDC using 1993 Wind Eliminated Water Levels



ARTICLE 7

7.0 SETTLEMENT AND SATISFACTION

7.1 INTRODUCTION

7.1.1 Introduction. Article 7 provides for confirmation by the **Easterville Community** of the settlement and satisfaction of obligations and liabilities of **Manitoba** and **Hydro** in relation to the **Project**.

7.2 SETTLEMENT AND SATISFACTION

7.2.1 Settlement and Satisfaction. Without implying acceptance by the **Easterville Community** of the fairness of the **1962 Arrangements** and no further redress being forthcoming from **Manitoba** and **Hydro**, the execution of this **Agreement** and payment of the amount payable under subsection 2.2.1 by **Manitoba** and **Hydro** will, subject to subsection 7.2.2, constitute a full and final settlement and satisfaction of any and all obligations of **Manitoba** or **Hydro** in respect of, and all liabilities of **Manitoba** or **Hydro** arising out of or attributable to:

- (a) the **1962 Arrangements**;
- (b) the use of **Easterville Community** lands for **Project** purposes prior to the **Date of this Agreement**;
- (c) the use of **Community Lands** below the **Easement Lines** for **Project** purposes after the **Date of this Agreement**;
- (d) **Adverse Effects** of the **Project** prior to the **Date of this Agreement**; and
- (e) **Adverse Effects** of the **Project** after the **Date of this Agreement**.

7.2.2 Exclusions. Subsection 7.2.1 does not apply to:

- (a) **Adverse Effects** of the **Project** that are unknown and/or unanticipated and are not discernible with the ordinary exercise of due diligence by the **Easterville Community** at the **Date of this Agreement**;
- (b) **Adverse Effects** of the **Project** on the commercial fishery on Cedar Lake that were unknown and/or unanticipated and were not discernible with the ordinary exercise of due diligence by the **Easterville Community** at the date of the **1990 Agreement**, or if known or discernible at such date, were not known to be attributable to the **Project**;
- (c) **Adverse Effects** to the extent such **Adverse Effects** are attributable to **Wind Eliminated Water Levels** occurring after the **Date of this Agreement** outside of both the **Fully Compensated Zone** and the **Pre-Determined Compensation Zones**;
- (d) **Adverse Effects** if:
 - (i) the pre-determined compensation provisions of section 6.6 are terminated pursuant to subsection 6.8.4, to the extent such **Adverse Effects** are attributable to **Wind Eliminated Water Levels** outside of the **Fully Compensated Zone** occurring after the date of such termination, or
 - (ii) a pre-determined compensation payment is returned to **Hydro** pursuant to subsection 6.6.6, to the extent, and only to the extent, such **Adverse Effects** are attributable to **Wind Eliminated Water Levels** outside of the **Fully Compensated Zone** occurring during the period which would have been compensated by the payment of pre-determined compensation if such amount had not been returned to **Hydro**;
- (e) the personal injury or death of an individual to the extent resulting from or attributable to the **Project**;

- (f) obligations under this **Agreement**;
- (g) liabilities arising out of breaches of this **Agreement**;
- (h) obligations under the **Project Easement Agreements**; and
- (i) liabilities and obligations arising out of breaches of the **Project Easement Agreements**.

7.2.3 Covenant Not to Sue. The **Easterville Community** covenants and agrees that, except as may be required in order to enforce any covenants and agreements of **Manitoba** or **Hydro** contained in this **Agreement** or any other agreement entered into pursuant hereto, it will not, with respect to the matters addressed pursuant to subsection 7.2.1, subject to subsection 7.2.2:

- (a) commence or prosecute any action, claim, demand or proceeding on its own behalf or on behalf of any other person or entity against **Manitoba** or **Hydro**; or
- (b) seek any further redress against **Manitoba** or **Hydro**.

7.2.4 Discontinuance of Legal Actions. The **Easterville Community** will discontinue any and all existing legal actions against **Manitoba** or **Hydro** with regard to the matters addressed pursuant to subsection 7.2.1, subject to the exclusions in subsection 7.2.2, including, without limitation, the Statement of Claim filed in the Court of Queen's Bench on December 17, 1991 as Q.B. Suit No. CI 91-01-59644.

7.3 **INDEPENDENT ADVICE**

7.3.1 Acknowledgement re: Independent Advice. The **Easterville Community** warrants that, throughout the negotiations leading to this **Agreement**:

- (a) it has been independently advised by negotiators, legal counsel, technical advisors and consultants of its choice with respect to all matters arising in connection with or dealt with in this **Agreement**;

- (b) this **Agreement** has been jointly drafted, considered and revised by representatives of all **Parties**, and duly authorized **Easterville Community** representatives have participated fully in the preparation of this **Agreement**; and
- (c) it has caused all aspects of this **Agreement** to be explained at one or more community meetings, which were open to all residents of the **Easterville Community**.

7.3.2 Certificate of Independent Advice. The **Easterville Community** will, contemporaneously with the execution and delivery of this **Agreement**, provide **Manitoba** and **Hydro** with certified copies of Certificates of Independent Advice from Hobbs and Associates and Robert F. Roddick, Q.C., in the forms attached as Schedule 7.1.

7.4 SURVIVAL

7.4.1 No Release of Canada. The **Parties** acknowledge, although such acknowledgement will not constitute an indemnity on the part of **Manitoba** or **Hydro**, that nothing in this **Agreement** is intended to have the effect of or is intended to constitute a remission, release, acquisition or discharge of **Canada**, or in any way prejudice or affect any action, proceeding, remedy, claim or demand which the **Easterville Community** or its residents, or any of them, may have against **Canada** in respect of its obligations and liabilities related to the **Project**, including, without limitation, any obligations or liabilities of **Canada** pursuant to the **1962 Arrangements** and any obligations or liabilities of **Canada** for **Adverse Effects** of the **Project**.

7.4.2 Survival of 1962 Arrangements. The **Parties** acknowledge that, although this **Agreement** provides for the implementation, conclusion and satisfaction of the obligations of **Manitoba** and **Hydro** contemplated by the **1962 Arrangements**, this **Agreement** does not terminate the **1962 Arrangements**.

7.4.3 Survival of 1990 Agreement. Except with respect to Article 4.06 of the **1990 Agreement**, the provisions of the **1990 Agreement** continue in full force and effect.

SCHEDULE 7.1 - CERTIFICATES OF INDEPENDENT ADVICE

Certificate of Independent Technical Advice

I, Ernie Hobbs, of Hobbs and Associates hereby certify that, throughout the negotiations leading to the Agreement of the ___ day of _____, 200__, between Her Majesty the Queen in Right of the Province of Manitoba, the Easterville Community and The Manitoba Hydro-Electric Board:

- (a) the Easterville Community has been independently advised by Hobbs and Associates as negotiators, technical advisors and consultants with respect to all matters arising in connection with or dealt with in that Agreement which have been brought to our notice and attention or which we were reasonably able to contemplate;
- (b) the Agreement has been drafted, considered and revised with our participation; and
- (c) we have been present at one or more meetings of the Easterville Community, which we believe to have been open to all people living in the Easterville Community, to consider the provisions of the Agreement.

CERTIFIED this ___ day of _____, 200__.

ERNIE HOBBS

Certificate of Independent Legal Advice

I, Robert Roddick, Q.C., of _____, hereby certify that, throughout the negotiations leading to the Agreement of the ___ day of _____, 200__, between Her Majesty the Queen in Right of the Province of Manitoba, the Easterville Community and The Manitoba Hydro-Electric Board:

- (a) the Easterville Community has been independently advised by myself as legal counsel with respect to all matters arising in connection with or dealt with in that Agreement which have been brought to my notice and attention or which I was reasonably able to contemplate;
- (b) the Agreement has been drafted, considered and revised with my participation; and
- (c) I have been present at one or more meetings of the Easterville Community, which I believe to have been open to all people living in the Easterville Community, to consider the provisions of the Agreement.

CERTIFIED this ___ day of _____, 200__.

ROBERT F. RODDICK Q.C.

ARTICLE 8

8.0 APPROVAL AND EXECUTION

8.1 INTRODUCTION

8.1.1 Introduction. Article 8 provides for the process of approving and executing this **Agreement**.

8.2 APPROVAL PROCESS

8.2.1 Approval of Agreement. Prior to the execution of this **Agreement**, the **Agreement** will be considered for approval by each of the parties as follows:

- (a) by the **Easterville Community** in accordance with section 8.3;
- (b) by The Manitoba Hydro-Electric Board on behalf of **Hydro**; and
- (c) by the Lieutenant Governor-in-Council on behalf of **Manitoba**.

8.3 PUBLIC MEETING AND VOTE

8.3.1 Public Meeting. Following the completion of the negotiation of this **Agreement**, the **Community Council** will convene one or more public meetings at which its consultants and legal advisor will explain the nature and significance of the **Agreement**. The **Community Council** on behalf of the **Easterville Community** will give notice of such meetings in accordance with the following:

- (a) notice of the meeting(s) will be posted in not less than three (3) prominent, public locations in Easterville, including the **Community Council** offices, at least two (2) weeks in advance of each meeting;
- (b) each notice will:

- (i) give the time, date and place of the meeting,
 - (ii) advise where copies of the **Agreement** can be obtained or reviewed, and
 - (iii) advise of the time, date and polling places for the vote to be held in accordance with section 8.3; and
- (c) **Manitoba** and **Hydro** will be supplied with copies of the notices posted in accordance with paragraph 8.3.1(a) at least five (5) days before the meeting.

8.3.2 Voters. Persons eligible to vote in elections for the **Community Council** under *The Northern Affairs Act* (Manitoba) may vote on whether or not to approve this **Agreement**.

8.3.3 Vote. The vote will take place on a date determined by the **Community Council** and a polling station will be set up in Easterville.

8.3.4 Ballot Question. The ballot question for the vote is set out in Schedule 8.1.

8.3.5 Approval. This **Agreement** will be approved by the **Easterville Community** if, at the vote held in accordance with section 8.3, a majority of the persons who vote, vote “YES” to the ballot question in Schedule 8.1.

8.4 EXECUTION

8.4.1 Execution of Agreement. Forthwith upon approval by the **Easterville Community** in accordance with subsection 8.3.5:

- (a) the **Community Council** is to pass a **Council Resolution** authorizing the execution of this **Agreement** on behalf of the **Easterville Community**, and is to deliver to **Manitoba** and **Hydro** a certified copy of such **Council Resolution**;
- (b) **Hydro** is to, by resolution of its Board of Directors or other requisite approval, authorize its appropriate officers to execute this **Agreement** on behalf of **Hydro**,

and is to deliver to the **Easterville Community** and **Manitoba** a certified copy of such resolution or other requisite approval; and

- (c) **Manitoba** is to, by Order in Council, authorize the Minister of Conservation to execute this **Agreement** on behalf of **Manitoba**, and is to deliver to the **Easterville Community** and **Hydro** a certified copy of such Order in Council.

8.4.2 Conditions Precedent. The following are conditions precedent to this **Agreement** and to the execution of this **Agreement**:

- (a) the approval of this **Agreement** in accordance with section 8.3; and
- (b) the execution of the **Chemawawin Comprehensive Forebay Agreement**.

8.4.3 Agreement of No Force and Effect. This **Agreement** will be without force and effect and without prejudice to any of the **Parties**, unless and until it has been duly approved and executed by all of the **Parties** in accordance with Article 8.

SCHEDULE 8.1 - BALLOT QUESTION

Do you approve the proposed Forebay Agreement among the Easterville Community, Manitoba Hydro and the Government of Manitoba relating to the Grand Rapids Hydro- Electric Generating Station?

Please mark your answer to the above question with an **X**.

YES

NO

ARTICLE 9

9.0 GENERAL PROVISIONS

9.1 INTRODUCTION

9.1.1 Introduction. Article 9 contains provisions of a general nature relating to this **Agreement**.

9.2 INTERPRETATION

9.2.1 Headings. Article headings, section headings, subsection headings and the introductory provision of each Article are for reference and information purposes only, and will not affect in any way the meaning or interpretation of this **Agreement**.

9.2.2 Singular and Plural. Words importing the singular number only will include the plural, and vice versa, as the context may require; and words importing persons will include firms, governments and corporations, and vice versa, as the context may require.

9.2.3 Metric Measure. Except where the original document, data or measuring device was in Imperial, and subject to any legislative requirement, in the event of a conflict between metric and Imperial measure, metric measure will prevail. The **Parties** agree that the metric conversion rate to be used for purposes of this **Agreement** will be 1 foot equals 0.3048 meters, 1 meter equals 3.28084 feet, 1 acre equals 0.4047 hectares and 1 hectare equals 2.47105 acres.

9.2.4 Interpretation Aids. In any interpretation of this **Agreement**, only the **Agreement** itself will be considered. In the event of an ambiguity, no documents, notes, memoranda, or electronic record, purporting to record the intention of the **Parties** in relation to this **Agreement** will be referred to or considered.

9.2.5 No Presumptions. The **Parties** have endeavoured to ensure that the terms of this **Agreement** are as clear as possible and there will be no presumption or rule of interpretation in favour of or against any **Party**.

9.2.6 Aboriginal and Treaty Rights. Nothing in this **Agreement** shall be construed so as to abrogate or derogate from the existing aboriginal rights or treaty rights of aboriginal peoples that are recognized and affirmed by section 35 of the *Constitution Act, 1982*.

9.3 VALIDITY OF PROVISIONS

9.3.1 Powers and Prerogatives. Nothing in this **Agreement** will be interpreted to bind or infringe upon the powers and prerogatives of the Legislative Assembly of Manitoba or any legislative powers of the **Community Council**.

9.3.2 Statutory Requirements. Except as provided herein, nothing in this **Agreement** is intended to detract from, or relieve any **Party** from, any obligations under statute or regulation or under any approval, licence or other authority under which a **Party** operates.

9.4 PARTIES

9.4.1 Binding on Parties. This **Agreement** will be binding upon and enure to the benefit of the **Parties** and their respective successors and permitted assigns. Nothing in this **Agreement** is intended to confer upon any person not a **Party** to this **Agreement** any rights or remedies under, or by reason of, this **Agreement**.

9.5 NOTICE

9.5.1 Notices. Whenever in this **Agreement** it is required or permitted that notice be given by any **Party** to this **Agreement**, to or for any other **Party** to this **Agreement**, such notice will be given in writing and forwarded by registered mail or transmitted by facsimile confirmed by telephone, addressed to the applicable **Party** as set out in subsection 9.5.2.

9.5.2 Addresses. The addresses for the **Parties** are as follows:

- (a) to the **Easterville Community** at the **Community Council** office in Easterville, Manitoba;
- (b) to **Hydro** at the office of the General Counsel of Manitoba Hydro; and
- (c) to **Manitoba** at the office of the Deputy Minister of Conservation.

9.6 ENTIRE AGREEMENT

9.6.1 Agreement Supersedes. This **Agreement** supersedes all prior understandings, negotiations and discussions, whether oral or written, among the **Parties**, in relation to matters dealt with in this **Agreement**. There are no representations, warranties or conditions to this **Agreement** except as expressly stated in this **Agreement**.

9.6.2 No Merger with Other Agreements. Except as expressly provided in this **Agreement** or in any other agreement between the **Parties**, no provisions of any other agreement will merge with this **Agreement**.

9.6.3 Assignment. Except as expressly provided in this **Agreement**, neither this **Agreement** nor any portion or provision of this **Agreement**, may be assigned without prior written permission of all of the **Parties**.

9.6.4 Further Action. Each of the **Parties** to this **Agreement** will, from time to time, and without further consideration, execute and deliver such other instruments of transfer,

conveyance and assignment, and take such further action as required, to more effectively complete any matter provided for in this **Agreement**.

9.7 GOVERNING LAW

9.7.1 Laws in Manitoba. This **Agreement** will be governed by, and construed in accordance with, the federal and provincial laws from time to time in force in the Province of Manitoba.

9.8 GENERAL

9.8.1 No Admission. Nothing in this **Agreement** will constitute an admission of liability on the part of any **Party**.

9.8.2 Amendment. Except as otherwise specifically provided, this **Agreement** may only be amended in whole or in part by written agreement among the **Parties**.

9.8.3 Assumption of Liability. If **Hydro** ceases:

- (a) to be an agent of **Manitoba**;
- (b) to have legal authority and control over the operation of the **Project**; or
- (c) to have legal authority and control over the operation of any major work or structure constituting part of the **Project**, the operation of which could affect inundation or storage of water for purposes of the **Project** in the **Cedar Lake Resource Management Area**;

Manitoba will:

- (d) where paragraph 9.8.3(a) or paragraph 9.8.3(b) applies, assume all of the rights and obligations of **Hydro** under this **Agreement**; and

- (e) where paragraph 9.8.3(c) applies, assume the rights and obligations of **Hydro** under this **Agreement**, as such rights and obligations relate to the works or structures over which **Hydro** no longer has legal authority and control;

in which case, this **Agreement** will be read with the necessary modifications to reflect the assumption of rights and obligations by **Manitoba**, but such assumption will not relieve **Hydro**, or any successor of **Hydro**, of its obligations under this **Agreement**.

9.8.4 Notice. **Manitoba** will give immediate notice to the other **Parties** where an event specified under paragraph 9.8.3(a), (b) or (c) occurs.

9.8.5 Non-Merger. The covenants under this **Agreement** will not merge with the transfer of lands to or for the benefit of the **Easterville Community** or to a **Selector**.

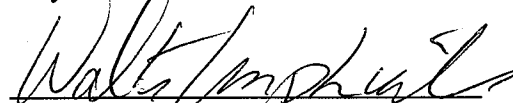
9.8.6 Three Party Meeting. Any **Party** may, at any time, convene a meeting of the **Parties** for purposes relating to this **Agreement**, by providing not less than thirty (30) days written notice setting forth the **purpose**, date, time and place in Winnipeg, or any other agreed place in Manitoba, for such meeting.

IN WITNESS WHEREOF the **Parties** have executed this **Agreement** on the dates indicated below.


EASTERVILLE COMMUNITY

Per:


 Mayor


 Councillor


 Councillor


 Councillor

Caren Stephano
Councillor

On the 4th day of March , 2004

HER MAJESTY THE QUEEN IN RIGHT OF MANITOBA

Per: Stuart Stutts
Minister of Conservation

On the 22nd day of MARCH , 2004

THE MANITOBA HYDRO-ELECTRIC BOARD

Per: G.R. Kristjanson

Per: [Signature]

On the 16th day of MARCH , 2004