Backgrounder

The Paul Band lives on the shores of White Whale Lake (Wabamun Lake), a short drive west of Edmonton. In 1877, the ancestors of the Band adhered to Treaty 6 through an adhesion signed by their Chief at the time, Alexis. Two reserves were surveyed for the Band at White Whale Lake: Indian Reserves (IR) 133A and 133B. The latter was a small area that was set aside as a fishing station for the Band.

In late 1905, it appeared that the approaching Canadian Northern Railway (CNR) rail line might be built through IR 133B. In 1906, some band members expressed interest in surrendering their reserve land north of the prospective rail line, which included IR 133B. The idea of developing a summer resort town at IR 133B had also started to look promising, given the fine sand beaches and the coming railway. In August 1906, the Department of Indian Affairs approached the Band about a possible surrender of IR 133B and found that there was some interest if a railway townsite or resort community was established.

On September 11, 1906, the Paul Band voted to surrender IR 133B. The surrender document contained ten names, nine of whom likely voted in favour, with one opposed. At the time of the surrender, both the Paul Band and the government believed a railway station would be built on the surrendered land, and that the future town or resort would lead to economic development for the Band.

Unfortunately, the CNR abandoned its plans to build a track through the surrendered land and instead built a line to the north. The Grand Trunk Pacific Railway did run a line through the former reserve but only built a summer platform, not a fully functioning station. A number of cottage lots were sold near the lake on the former reserve land, and the village became Wabamun Beach, later known as Kapasiwin. In 1936 the government returned to the Band all the unsold land in the former IR 133B, most of which was on the eastern side.

In the course of the inquiry, the Commission panel held a community session to hear the testimony of First Nation Elders, and also took the oral and written legal submissions of the First Nation and the government into consideration.

The panel found that the surrender of IR 133B was valid in that it was carried out in accordance with the requirements of the *Indian Act* of the day. The panel also concluded that the government did not breach its fiduciary obligation in regards to the 1906 surrender. The Paul Band was well informed about the potential of the IR 133B land, for use either as a resort community or railway townsite. The railway company led everyone to believe that it would build a station on the surrendered land, and in these circumstances, the department took reasonable steps try to encourage the railway to do so. Ultimately, however, the decision rested with the company, not the Crown. The panel also concluded that when the government was managing the sales of the surrendered land between 1906 and 1912, it acted as a prudent fiduciary and in what it reasonably concluded were the best interests of the Band.