



## **-- Backgrounder for Powley Survey --**

This backgrounder is designed to provide the basic information necessary to understanding the survey/questionnaire to which it is attached. A very brief outline of the Powley case is provided, followed by the highlights of the final Supreme Court of Canada's (SCC) decision in September 2003. The goals of the CAP Powley Implementation Project are also listed. Finally, a brief explanation is offered as to where the survey fits into the project and what it is intended to accomplish.

### **A Powley Snapshot**

A Sault St. Marie father and son, Steve and Roddy Powley, were charged in 1993 with possession of a moose they had shot out of season and without a license. The pair pleaded not guilty on the grounds that, as Métis, they had an Aboriginal right to hunt that was unjustly infringed by Ontario game laws. The Ontario Trial Court agreed with them and dismissed the charges. The Government of Ontario appealed that decision to the Ontario Superior Court of Justice that denied the appeal. The Ontario government then appealed that decision to the Court of Appeal that also upheld the acquittals and denied the appeal. Finally, the decision was appealed to the SCC.

### **A Summary of the Decision**

In its Powley decision of 2003, the SCC not only upheld the hunting rights of Métis in Ontario, but set out a specific (and sometimes limiting) framework in which those rights could be exercised. In a nutshell, the Supreme Court agreed that Ontario game laws did, illegally infringe on a Métis right to hunt for food. BUT ... it then went on to place limits on who could legally exercise that right and where it could be legally exercised.

Those limitations required any Métis exercising that right must be able to prove:

1. That a Métis community existed historically in the area where the hunting was taking place and that the right was exercised by that community.
2. That a current or modern Métis community continues to exist in the same area today.
3. That the individual exercising the right is a descendant of the historic community and is a recognized member of the current Métis community.



## **Post Powley Initiative**

Following the SCC decision in 2003, the federal government developed a “Powley Implementation” initiative to prevent the kind of misunderstanding and violence generated in reaction to the Marshall decision in the Maritimes. They committed 23 million dollars to the initiative for the fiscal year 2004-2005, half of which was earmarked to fund Powley related research, policy development and liaison activity between Métis organizations and their respective provincial governments on how the decision should be, or could be implemented.

The purpose of the CAP Powley Implementation Project is threefold:

1. to identify CAP Métis constituent communities who can qualify as historic Métis communities within the meaning of Powley decision of the SCC.
2. to quantify the number of individual rights-bearing Métis harvesters there may be within the membership of CAP affiliates.
3. to establish a framework with respective provincial governments for the consultation/negotiation of a practical harvesting regime for rights-bearing Métis harvesters within affiliate constituents.

## **The Powley Survey**

The survey attached to this backgrounder is a key component in the CAP project. Responses to the survey will help us identify who the rights-bearing Métis within CAP affiliates are and where those who match the Powley rules can be found. If you do not identify yourself as a Métis person there is little point in completing or submitting the survey.

If you do identify yourself as Métis then you will be asked a further series of questions to help determine whether or not you would qualify as a rights-bearing Métis under the tests provided in the Powley Supreme Court decision. If we can establish that you are descended from a Métis community that harvested in a particular area for many generations, then it becomes possible to prove you are eligible, under the Powley rules, to exercise the Métis right to harvest (hunt, fish, trap, gather) for food in that area.

Please understand that if you cannot prove you are eligible under the Powley “rules,” it does NOT mean you are not Métis or that you have no Métis rights. It simply demonstrates that you cannot prove those rights under these particular rules. Other court decisions or political agreements may change these rules in the future, if we can demonstrate they not appropriate and/or too restrictive.

We very much appreciate your participation.



## **POWLEY HARVESTING RIGHTS SURVEY**

The Supreme Court of Canada ruled in R v Powley on the Aboriginal right of Métis to hunt for food outside the regulatory regime of Provincial legislation. These communal rights will be established by negotiation or further Court action. In order to prepare for the future we need your participation in providing valuable information that will assist us to identify historic Métis communities, modern-day Métis communities, Métis harvesting practices, and land use patterns. Your participation may be critical to your future rights to harvest. This survey may also be answered on-line at \*\*\*\*\*.

### **A. RESPONDENT INFORMATION**

1. Date of Survey Completion: \_\_\_\_\_
2. Name: \_\_\_\_\_
3. Address: \_\_\_\_\_  
\_\_\_\_\_ (a) Postal Code: \_\_\_\_\_
4. Telephone: \_\_\_\_\_ 5. Email: \_\_\_\_\_
6. Organization Membership #: \_\_\_\_\_
7. Gender: (a) Male (  ) (b) Female (  )
8. Age: (a) 16-25 (  ) (b) 26-35 (  ) (c) 36-45 (  ) (d) 46-55 (  ) (e) Over 56 (  )
9. Do you identify yourself as a Métis person? (a) Yes (  ) (b) No (  )
10. If so, for how long? \_\_\_\_\_



**B. COMMUNITY INFORMATION**

1. How long have you been a Resident in the Village/Town/City/Area in which you presently reside? \_\_\_\_\_

2. If you have been a Resident in another Village/Town/City/Area in your lifetime please list where they have been (include the Province) and approximately how long you lived there. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3. In what Village/Town/City/Area(s) did your **Aboriginal** (Indian, Inuit, Métis) ancestors reside?

(a) Mother/ \_\_\_\_\_

(b) Father/ \_\_\_\_\_

(c) Grandmother/(s) \_\_\_\_\_

(d) Grandfather/(s) \_\_\_\_\_

(e) Great Grandmother/(s) \_\_\_\_\_

(f) Great Grandfather/(s) \_\_\_\_\_

4. In what Village/Town/City/Area do your extended Aboriginal family currently reside in, or have resided in? Include brothers/sisters/aunts/uncles/cousins/other family members by identifying the family member's status and then the areas they have resided in. Add a separate sheet if you require more space to answer this question.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. Do you or have you belonged to a local group comprised of Métis or other Aboriginals in your area? (a) Yes ( ) (b) No ( )

6. If yes, what is the name of that group? \_\_\_\_\_

7. If yes, how long have you participated in that group? \_\_\_\_\_



8. What communal activities have you participated in with other Métis in your community?

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**D. GENELOGICAL INFORMATION**

1. Do you have a genealogical report that will verify your Aboriginal status?

(a) Yes ( ) (b) No ( )

2. Are you in the process of obtaining such a report? (a) Yes ( ) (b) No ( )

3. Do you have the financial resources to pay for such a report? (a) Yes ( ) (b) No ( )

4. Do you have any written evidence of your Aboriginal status? (a) Yes ( ) (b) No ( )

5. If yes what do you have? (a) Birth Certificates ( ) (b) Marriage Certificates ( )

(c) Church Records ( ) (d) Historical Data ( ) (e) Other \_\_\_\_\_

6. Do you have any oral evidence of your Aboriginal status? (a) Yes ( ) (b) No ( )

7. Have you experienced difficulties in establishing proof of your Aboriginal status?

(a) Yes ( ) (b) No ( )

8. If yes, what problems have you encountered? \_\_\_\_\_

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9. How far back have you traced your genealogy? State the year \_\_\_\_\_



## E. LAND/RESOURCE USE

It is important that you show what use you and your ancestors have made of the land/water areas in which you resided. Try to be as specific as possible.

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### 1. TRAPPING

- (a) Do you currently trap? (i) Yes ( ) (ii) No ( )
- (b) Have you ever trapped? (i) Yes ( ) (ii) No ( )
- (c) If yes, how often do you trap each year? (i) Daily ( ) (ii) Once a Week ( )  
(iii) Once a month ( ) (iv) Once a year ( ) (v) During the year I trap on [insert number] \_\_\_\_ occasions
- (d) Have any of your Aboriginal ancestors trapped? (i) Yes ( ) (ii) No ( )
- (e) When did you start to trap (age or year) \_\_\_\_\_
- (f) Why do you trap? (i) For food ( ) (ii) For money ( ) (iii) Way of life/Spiritual ( )
- (g) What species of animal do you or have you trapped? \_\_\_\_\_  
\_\_\_\_\_
- (h) Did any of your Aboriginal ancestors trap a different species? (i) Yes ( ) (ii) No ( )
- (i) If so what? \_\_\_\_\_  
\_\_\_\_\_
- (j) Do any members of your extended family trap? (i) Yes ( ) (ii) No ( )
- (k) If yes, who, and what do they trap? \_\_\_\_\_  
\_\_\_\_\_
- (l) Have you or your Aboriginal ancestors had a trapline? (i) Yes ( ) (ii) No ( )
- (m) Has that trapline ever been registered with the Province? (i) Yes ( ) (ii) No ( )
- (n) Where do you trap? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



(o) Where did your Aboriginal Ancestors trap? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(p) Could you show the trapping route/area on a map if given the opportunity to do so?

(i) Yes ( ) (ii) No ( )

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## 2. HUNTING

(a) Do you currently hunt? (i) Yes ( ) (ii) No ( )

(b) Have you ever hunted? (i) Yes ( ) (ii) No ( )

(c) If yes, how often do you hunt each year? (i) Daily ( ) (ii) Once a Week ( )  
(iii) Once a month ( ) (iv) Once a year ( ) (v) During the year I hunt on [insert  
number] occasions \_\_\_\_.

(d) Have any of your Aboriginal ancestors hunted? (i) Yes ( ) (ii) No ( )

(e) When did you start to hunt? (age or year) \_\_\_\_\_

(f) What species of animal do you or have you hunted? \_\_\_\_\_

(g) Did any of your Aboriginal ancestors hunt a different species? (i) Yes ( ) (ii) No ( )

(h) If so what? \_\_\_\_\_

(i) Do any members of your extended family hunt? (i) Yes ( ) (ii) No ( )

(j) If yes, who and what do they hunt? \_\_\_\_\_

(k) Have you ever participated in a community hunt or with members of your Aboriginal community? (i) Yes ( ) (ii) No ( )

(l) If yes, how often? \_\_\_\_\_



(m) If yes, where did that communal hunt take place? \_\_\_\_\_

(n) Where do you hunt? (Show species hunted and the area for that species) \_\_\_\_\_

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(o) Where did your Aboriginal Ancestors hunt? (List species hunted and the area for that species) \_\_\_\_\_

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(p) Could you show the hunting route/area on a map if given the opportunity to do so?

(i) Yes ( ) (ii) No ( )

### 3. FISHING

(a) Have you ever fished? (i) Yes ( ) (ii) No ( )

(b) If yes, how often do you fish each year? (i) Daily ( ) (ii) Once a Week ( )

(iii) Once a month ( ) (iv) Once a year ( ) (v) During the year I fish on [insert number] occasions \_\_\_\_.

(c) Have any of your Aboriginal ancestors fished? (i) Yes ( ) (ii) No ( )

(d) When did you start to fish? (age or year) \_\_\_\_\_

(e) What species of fish do you or have you fished? \_\_\_\_\_

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(f) Did any of your Aboriginal ancestors fish a different species? (i) Yes ( ) (ii) No ( )

(g) If so what? \_\_\_\_\_

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(h) Do any members of your extended family fish? (i) Yes ( ) (ii) No ( )



(i) If yes, who? \_\_\_\_\_  
\_\_\_\_\_

(j) What methods do you use to fish? \_\_\_\_\_  
\_\_\_\_\_

(k) Where do you fish? (List species fished and the area for that species) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(l) Where did your Aboriginal Ancestors fish? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(j) Could you show the fishing route/area on a map if given the opportunity to do so?  
(i) Yes ( ) (ii) No ( )

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#### 4. HARVESTING

(a) Do you currently harvest any wild items? (i) Yes ( ) (ii) No ( )

(b) Have you ever harvested? (i) Yes ( ) (ii) No ( )

(c) If yes, how often do you harvest each year? (i) Daily ( ) (ii) Once a Week ( )

(iii) Once a month ( ) (iv) Once a year ( ) (v) During the year I harvest on [insert number] occasions \_\_\_\_.

(d) Have any of your Aboriginal ancestors harvested? (i) Yes ( ) (ii) No ( )

(e) When did you start to harvest? (age or year) \_\_\_\_\_

(f) What do you or have you harvested? (i) \_\_\_\_\_ berries ( ) (ii) mushrooms ( )

(iii) Traditional herbs/medicines ( ) (iv) Ceremonial/cultural material ( )

(v) Other \_\_\_\_\_

(g) Did any of your Aboriginal ancestors harvest different items? (i) Yes ( ) (ii) No ( )

(h) If so what? \_\_\_\_\_



(i) Do any members of your extended family harvest? (i) Yes ( ) (ii) No ( )

(j) If yes, who (relationship) and what did they harvest? \_\_\_\_\_

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(k) Where do you harvest? (List items harvested and the area for that item)

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(l) Where did your Aboriginal Ancestors harvest? \_\_\_\_\_

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(m) Could you show the harvesting route/area on a map and items harvested if given the opportunity to do so? (i) Yes ( ) (ii) No ( )

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### 5. OTHER FOREST VALUES

(a) Do you currently use the forest for other resources? (i) Yes ( ) (ii) No ( )

(b) Have you ever used the forest for other resources? (i) Yes ( ) (ii) No ( )

(c) If yes, how often do you use the forest for other resources each year?

(i) Daily ( ) (ii) Once a Week ( ) (iii) Once a month ( ) (iv) Once a year ( )

(v) During the year I use the forest resources on [insert number] occasions \_\_\_\_.

(d) Have any of your Aboriginal ancestors used the forest for other resources?

(i) Yes ( ) (ii) No ( )

(e) What other resources do you or have you used? (i) Saw logs ( ) (ii) Firewood

(iii) Mineral extraction ( ) (iv) Maple syrup ( ) (v) Other \_\_\_\_\_

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(e) Did any of your Aboriginal ancestors use different resources? (i) Yes ( ) (ii) No ( )



If so what? \_\_\_\_\_

\_\_\_\_\_

(f) Where do you access these resources? (List resources accessed and the area for that resource) \_\_\_\_\_

\_\_\_\_\_

(g) Where did your Aboriginal Ancestors access these resources? \_\_\_\_\_

\_\_\_\_\_

(h) Could you show the resource use route/area on a map if given the opportunity to do so?

(i) Yes ( ) (ii) No ( )

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## 6. SPIRITUAL

(a) Have you utilized the land for any spiritual/cultural activities? (i) Yes ( ) (ii) No ( )

(b) If yes, what? \_\_\_\_\_

(c) Is there an area, which you consider important or sacred to you or your community?  
(i) Yes ( ) (ii) No ( )

(d) Did your Aboriginal ancestors utilize the land for any spiritual/cultural activities?  
(i) Yes ( ) (ii) No ( )

(e) Could you show the spiritual/cultural use location/ route/area on a map if given the opportunity to do so?

(i) Yes ( ) (ii) No ( )

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## 7. RECREATIONAL

(a) Do you use the land for recreational purposes? (i) Yes ( ) (ii) No ( )

(b) If yes, how often do you use the land for recreational purposes each year?

(i) Daily ( ) (ii) Once a Week ( ) (iii) Once a month ( ) (iv) Once a year ( )



(v) During the year I use the forest resources on [insert number] occasions \_\_\_\_.

(c) If yes, what recreation purposes have you engaged in?

- |                                 |     |                     |       |
|---------------------------------|-----|---------------------|-------|
| (i) Motorized (snowmobile, ATV) | ( ) | (ii) Nature Walks   | ( )   |
| (iii) Swimming                  | ( ) | (iv) Hiking         | ( )   |
| (v) Skiing/Snow shoeing         | ( ) | (vi) Bird Watching  | ( )   |
| (vii) Boating/Canoeing          | ( ) | (viii) Other/ state | _____ |

(d) Did your Aboriginal ancestors use the land for recreational purposes?

(i) Yes ( ) (ii) No ( )

(e) If yes, what recreation purposes did they engage in?

- |                                 |                          |
|---------------------------------|--------------------------|
| (i) Motorized (snowmobile, ATV) | (ii) Nature Walks        |
| (iii) Swimming                  | (iv) Hiking              |
| (v) Skiing/Snow shoeing         | (vi) Bird Watching       |
| (vii) Boating/Canoeing          | (vii) Other/ state _____ |

(f) Could you show the recreational use route/area on a map if given the opportunity to do so?

(i) Yes ( ) (ii) No ( )

### **8. HABITATION**

(a) Have you erected and/or used a camp or other building to assist you in the use of the land? (i) Yes ( ) (ii) No ( )

(b) Did your Aboriginal ancestors use a camp or other building to assist them in the use of the land? (i) Yes ( ) (ii) No ( )

(c) Could you locate such camps/caches or other human landmarks, such as neighbouring traplines, in the area you use? (i) Yes ( ) (ii) No ( )

(d) Could you show the habitational use route/area on a map if given the opportunity to do so? (i) Yes ( ) (ii) No ( )

### **9. OTHER**

(a) Are there any other historical uses of the land you or your Aboriginal ancestors engaged in?

\_\_\_\_\_

\_\_\_\_\_



(b) Have you ever used the land to provide food for other members of your community?

(i) Yes ( ) (ii) No ( )

(c) If yes, whom? (i) Family ( ) (ii) Extended Family ( ) (iii) Elders ( )

(iv) Sick/infirm ( ).

(d) Have you ever been prevented by someone else in engaging in what you would consider any of the traditional land uses described above by someone else?

(i) Yes ( ) (ii) No ( )

(e) If yes, by whom? \_\_\_\_\_

\_\_\_\_\_

(f) If yes, what were you prevented from doing? \_\_\_\_\_

\_\_\_\_\_

(g) If yes, in what way?

(i) Court order ( ) (ii) Ignorance of your right to do so ( ) (iii) Lack of knowledge of Aboriginal status ( ) (iv) Lack of funds ( ) (v) Discrimination, racism ( ) (vi) Distance ( ) (vii) Legislation/Laws (viii) Other \_\_\_\_\_

\_\_\_\_\_

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## 10. CULTURAL PRACTICES

(a) What do you consider to be the ways in which you have practiced a Métis culture?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(b) Have you or your ancestors ever been called a different name than Métis?

(i) Yes ( ) (ii) No ( )

