



SUCKER CREEK FIRST NATION

Agricultural Benefits Claim
Pursuant to Treaty 8

TODAY'S PRESENTATION

- **What are Treaty 8 “Agricultural Benefits”? Purpose?**
- **What was provided? History of Provisions**
- **Status of Claim**

Treaty 8 Agricultural Benefits

FURTHER, Her Majesty agrees that each Band that elects to take a reserve and cultivate the soil, shall, as soon as convenient after such reserve is set aside and settled upon, and the Band has signified its choice and is prepared to break up the soil, **receive two hoes, one spade, one scythe and two hay forks for every family** so settled, and for **every three families one plough and one harrow, and to the Chief, for the use of his Band, two horses or a yoke of oxen,** and for each Band **potatoes, barley, oats and wheat** (if such seed be suited to the locality of the reserve), to plant the land actually broken up, and **provisions for one month in the spring for several years** while planting such seeds; and to every family **one cow, and every Chief one bull,** and **one mowing-machine and one reaper** for the use of his Band when it is ready for them;

For such families as prefer to raise stock instead of cultivating the soil, every **family of five persons, two cows,** and every **Chief two bulls and two mowing-machines** when ready for their use, and a like **proportion for smaller or larger families.** The aforesaid articles, **machines and cattle to be given one for all for the encouragement of agriculture** and stock raising...

Treaty 8 Agricultural Benefits

Accordingly, the following items were promised:

- Per family “prepared to break up the soil.”
 - Two hoes
 - One spade
 - One scythe
 - Two hay forks
 - One cow
- Per three families “prepared to break up the soil.”
 - One plough
 - One harrow
- Per Chief – for use of band:
 - Two horses or a yoke of Oxen
 - One bull
 - One mowing-machine
 - One reaper
- Per Band:
 - “potatoes, barely, oats and wheat to plant the land actually broken up ...”
 - “provisions for one month in the spring for several year while planting such seed...”
- For families that prefer to raise stock –
 - Every family of 5 persons:
 - Two cows
 - One bull
 - Per Chief:
 - Two bulls
 - Two mowing-machine



What does that mean?

- Land for farming
- Implements for farming
- Livestock
- Provisions for one month in the spring for “several years”
- Given “once and for all”

- The agricultural clauses in Treaties were intended to enable First Nations to “earn a living” as an alternative to traditional hunting, fishing and trapping



What did we get?

- There is no evidence that the Nation received all of these benefits.
- As a result of the failure to fully provide to the First Nation the economic benefits promised under Treaty No. 8, the First Nation has lost the substantial value which could have been obtained from these benefits over a hundred year period.
- The Nation is now claiming compensation for the failure to fully provide these benefits.



Brief History of Agricultural Benefits Claim

- Research conducted for a number of Treaty 8 First Nations in the 1970s and 1980s established that there was evidence that few if any Nations had received all of the Agricultural Benefits promised in Treaty 8 and that the promises relating to this assistance had largely been ignored by Canada.
- In the early 1990s, Canada announced that it would enter into negotiations with the three original claimants and three other Alberta First Nations. Eventually, the total number of First Nations from Alberta, British Columbia, Saskatchewan, and the Northwest Territories whose claims were accepted for negotiations and whose lawyers were working together in negotiations grew to 18.



The Nation's Involvement To Date

- Historically, Canada has treated SCFN and the other “descendants” of Kinnosayoo’s Band (Driftpile Cree Nation, the Swan River First Nation, and the Sawridge First Nation) more harshly than other Treaty 8 Nations.
- This seems to have been as a result of Canada’s view that, for the purpose of treaty entitlements, Kinnosayoo’s were a single band and that the Nation, Driftpile, Swan River and Sawridge were entitled to one set of agricultural benefits.
- After Canada rejected the collective treaty entitlement claim filed by the Nations, SCFN filed its own Agricultural Benefits claim in August, 2017.

Next steps and upcoming timeline



Specific Claims Negotiation Process – Step by Step Guide (9 Steps)

- **STEP 1:** Claim Accepted for Negotiation: Following a historical and legal review, specific claims are accepted for negotiation when Canada concludes it has an outstanding lawful obligation to the First Nation.
- **STEP 2:** Joint Negotiation Protocol Agreement Reached: This is an agreement that sets out the process and “ground rules” for negotiations.
- **STEP 3:** Studies/Research on Compensation: Research and studies help negotiators determine the amount of compensation that should be paid to a First Nation when its claim is settled.
- **STEP 4:** Discussions on Compensation: The negotiators review the studies and work to reach consensus on how much compensation would be fair to settle the claim.

Step by Step Guide (9 Steps) Continued

- **STEP 5:** Settlement Proposal and Drafting of a Final Settlement Agreement: The negotiators agree on the key terms of a proposed settlement. The settlement agreement is then drafted.
- **STEP 6:** Settlement Agreement Initialed by Negotiators for the First Nation and the government initial the agreement.
- **STEP 7:** First Nation Ratification Vote: First Nation members have an opportunity to say yes or no to the settlement agreement through a community vote.
- **STEP 8:** Ratification by Canada: If approved by the First Nation membership, the next step is for the First Nation leadership and the Minister of Indian Affairs and Northern Development to sign the settlement agreement.
- **STEP 9:** Implementation of the Agreement: Land is transferred, or cash is paid, as appropriate.



Potential Settlement Funds

- Use of the potential settlement funds has yet to be determined.
 - A portion of the settlement funds will be used for one time purposes (i.e. PCDs, legal, ratification and negotiation costs).
 - The remaining funds will be placed into a trust and will be governed by the terms and conditions of the trust (i.e. permitted uses).



What is a Trust?

- A trust is a relationship and a legal obligation which is established by the party who creates the trust (the “settlor”) on another party (the “trustee”) to hold and deal with certain defined property for the benefit of a third party (the “beneficiary”).
- Both the settlor and the beneficiary of the Trust would be SCFN and the trustee will be a corporate trustee.
- The trustee and SCFN would enter into a trust agreement which would specify how the settlement funds from SCFN’s agricultural benefits claim are to be used, distributed, managed and invested by the trustee.



Use of a Trust

- Specific community needs could be identified and funded by a long-term investment Trust.
- The Nation could utilize this income in several ways. Revenue could be used to address specific needs of the community in separate accounts within the Trust, which could include:
 - Housing
 - Health
 - Education
 - Infrastructure
 - Economic Development
 - Culture
- The Trust would also help to:
 - Protect and preserve wealth for the long term benefit of the First Nation and its members;
 - Provide permanence, regardless of changes in leadership;
 - Provide clear rules for the use of funds;
 - Protect and keep settlement funds separate from other funds; and
 - Provide transparency and accountability.



Alternative Summarized

- A portion of the Settlement Funds could be utilized outside of the Trust to address immediate or short-term needs of the Nation, by setting aside a fund which could be used for:
 - Economic development opportunities;
 - Housing fund;
 - Infrastructure and community needs;
 - Address shortfalls in funding provided by Canada; and
 - Provide additional programs and services at the discretion of Chief and Council.

Next Steps

- WHILE CANADA HAS SHOWN A WILLINGNESS TO SETTLE AND RESOLVE OTHER TREATY 8 CLAIMS - WE CANNOT PROVIDE GUARANTEES AS TO IF OR WHEN THE NATION WILL RECEIVE A SETTLEMENT OFFER.

- HOWEVER, SHOULD CANADA PROVIDE AN OFFER TO THE NATION AND IF THAT OFFER IS ULTIMATELY ACCEPTED, THE FOLLOWING STEPS WILL OCCUR:
 - 1) FURTHER COMMUNITY MEETINGS TO PROVIDE UPDATES ON ALLOCATION AND TO RESPOND TO ANY QUESTIONS OR CONCERNS; and

 - 2) A REFERENDUM WILL BE REQUIRED TO RATIFY ANY SETTLEMENT OFFER- ADDITIONAL COMMUNITY MEETINGS AND FORMAL NOTICE WILL BE PROVIDED TO GIVE INFORMATION ON THIS PROCESS.

QUESTIONS???

Joe Wadden joe@bwllp.ca
Ian Bailey ian@bwllp.ca

