

# Treaty Land Entitlement Reserve Creation Information Sheets



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### **Private Land**

Private land selections typically transfer at a faster pace because they do not have as many interests to address. The types of interests on privately held lands include caveats, mortgages and liens.

### **Reserve Creation**

Once the land is purchased and held by the First Nation all occupant and third-party interests have been met, the land selection is eligible for transfer to reserve status. The land selection then goes through the conditional approval from the Additions to Reserve Committee at AANDC. Once approved the land selection is again forwarded to the provincial government for the remaining provincial actions which may include the preparation of Orders in Council to transfer Crown minerals to reserve status, Orders in Council to transfer wholly enclosed waterbodies to reserve status and Replacement Public Utility Agreements.

### **Tax Loss Compensation**

Once a land selection within a rural municipality is transferred to reserve status, that land selection is no longer subject to property taxation. The TLE agreements have provisions to address the future loss of tax base through the federal and provincial governments cost-sharing the tax loss compensation payments on a 70/30 basis. The federal and provincial governments make these payments to the Rural Municipal and School Division Tax Loss Compensation Trust Funds within 90 days of reserve creation.

### **For further information contact:**

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# FIRST NATIONS RESERVE CREATION: TAX LOSS COMPENSATION IN RURAL MUNICIPALITIES

Once land within a Rural Municipality (RM) is transferred to reserve status it is no longer subject to property taxation. The land claim agreements have provisions to address the future loss of tax base.

The RMs continue to be responsible for maintaining the roads traversing the new reserve lands. Yearly tax loss compensation payments allow RMs to offset the costs of road maintenance and construction.

## **Treaty Land Entitlement**

Under the Treaty Land Entitlement (TLE) agreements an amount equal to 22.5 times the previous year's taxes is paid to the Rural Municipal Tax Loss Compensation Trust Fund (RM Fund) by Canada and Saskatchewan. Canada and Saskatchewan share the costs of this payment on a 70/30 basis and each makes their payment to the RM Fund within 90 days of the land transferring to reserve status.

The payments to the RM Fund are invested and administered by the Saskatchewan Association of Rural Municipalities (SARM) on behalf of RMs. SARM makes yearly payments to RMs to offset the loss of tax base on September 30<sup>th</sup> of each year. These payments will continue for as long as there is a balance in the individual RM Fund.

**SARM makes yearly tax loss compensation payments to RMs for lands that are transferred to reserve status under Specific Claims agreements.**

SARM calculates the yearly payment by estimating 90% of the RM's municipal taxes for each given year and 95% of that amount makes up the annual payment. SARM also allows affected RMs to take a lesser payment each year to preserve their share of the RM Fund. SARM advises that many RMs opt to take a lesser amount. For more information on this option RMs should contact SARM at (306) 761-3720.

## **Specific Claims**

The Rural Municipal Specific Claims Tax Loss Compensation Trust Fund (Trust Fund) was established, on behalf of RMs, when Canada made a one time payment to the province to offset the loss of tax base due to Specific Claims reserve creation. The province is not a party to Specific Claims agreements and does not contribute to the fund.

Also, under the Specific Claims agreements First Nations (except Pheasant Rump Nakota and Ocean) are required to pay affected RMs a one

time payment that is equivalent to five times what the municipal tax amount was prior to the land transferring to reserve status.

SARM makes yearly tax loss compensation payments to RMs for lands that are transferred to reserve status under Specific Claims agreements. The yearly payments are made on September 30<sup>th</sup> of each year. SARM calculates the annual payment based on a certain percentage of the estimated municipal taxes in the affected RM. If the RM submits their First Nation five times payment to SARM for investment in the Trust Fund then SARM will base the estimated tax loss at 60%, with 95% of that amount paid to the RM, if the RM chooses not to submit the five times payment then the

estimated tax loss is 40%, with 95% of that amount paid to the RM. In either case SARM retains a 5% administration fee from the yearly payment. For more information on tax loss compensation contact SARM at the number listed above.

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# TREATY LAND ENTITLEMENT AGREEMENTS

## KEY PROVISIONS

**An Entitlement First Nation** is a First Nation that has signed a Treaty Land Entitlement (TLE) settlement agreement with Canada and Saskatchewan to resolve an outstanding TLE claim. Canada and Saskatchewan share the costs of TLE settlement agreements; Canada contributes 70% and Saskatchewan contributes 30%.

Entitlement First Nations receive monetary compensation to purchase land under their TLE Agreements. Land purchased under TLE agreements must be on a "willing seller/willing buyer" basis for both private and Crown land. Each First Nation must acquire and transfer to reserve status the amount of land that should have been received at the date of first survey, also known as Shortfall acres.

Once a First Nation acquires its Shortfall acres, it may use the remaining funds to acquire additional reserve land up to the maximum number of acres that the First Nation is entitled to have transferred to reserve status through its settlement agreement (Equity acres) and to enhance community and economic development.

Each party in the Treaty Land Entitlement (TLE) process has specific responsibilities:

- Entitlement First Nations select and purchase land;
- The province reviews all lands selected by the First Nations for provincial interests and considers the sale of Crown land; and
- The federal government reviews the land to ensure all conditions are met before it transfers the land to reserve status.

The TLE Agreements deal with a variety of matters that affect provincial interests, like land and mineral acquisitions, water and roadway matters, and the resolution of third-party and utility interests. TLE Agreements also ensure that provincial interests are addressed prior to land transferring to reserve status.

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# TREATY LAND ENTITLEMENT HISTORY

Treaty Land Entitlement (TLE) is aimed at resolving outstanding obligations to First Nations who did not receive all of the reserve land to which they are entitled under Treaty.

The federal Crown and First Nations signed Numbered Treaties (2, 4, 5, 6, 8, and 10) between 1871 and 1906 in a region that is now Saskatchewan; a key aspect of these Treaties is the allocation of reserve land to First Nations people.

Canada agreed to establish reserves based on the First Nation's population at the time of original survey, but this did not happen in all cases, which left the federal government with outstanding obligations.

First Nations and the lands reserved for them are a federal responsibility; however, Saskatchewan is legally obligated to help Canada fulfill TLEs because of the *Natural Resources Transfer Agreement, 1930*.

Under this Agreement, Canada transferred the remaining Crown lands, minerals and resources to Saskatchewan and in return, Saskatchewan agreed, among other conditions, to make unoccupied Crown land available to fulfill these outstanding TLE obligations.

By the 1970s, the amount of available unoccupied Crown land was not sufficient and/or in suitable locations to settle all outstanding land claims.

Attempts to address these claims at that time were unsuccessful. Another solution was eventually developed in the early 1990s.

In 1992, the Governments of Canada and Saskatchewan and the Chiefs of 25 entitlement First Nations signed the *Saskatchewan Treaty Land Entitlement Framework Agreement*. The significance of this Agreement is that it established a framework to address these outstanding obligations and ensure that First Nations obtain the amount of reserve land to which they are entitled. Also, First Nations received monetary compensation to purchase land on a "willing seller/willing buyer" basis.

The Framework Agreement is comprehensive. It serves as the blueprint for all the subsequent TLE agreements in Saskatchewan and is regarded as a model of success for the resolution and implementation of TLE.

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### LIST OF CONCERNS TO CONSIDER FOR FIRST NATION LAND SELECTIONS

As a rural municipality (RM) you may receive a letter from the province or from a First Nation asking you if you have any concerns or issues on a First Nation land selection. Below is a checklist, for your reference, of general issues or concerns that may be applicable to the land selected within your RM. It may assist you in completing your response to the appropriate ministry or First Nation. If there are other concerns or issues not listed below but which affect the land selection (or land adjacent to the land selection) please include that information in your response as well.

ENVIRONMENTAL	ROADS	MUNICIPAL ADMINISTRATION	HERITAGE RESOURCE
Contamination (chemical/ petroleum spills)	<input type="checkbox"/> Are there existing agreements with previous or current owners within the land selection for road surveys or road widenings?	<input type="checkbox"/> Have discussions about servicing agreements & land uses occurred with the First Nation to date?	<input type="checkbox"/> Existence of heritage resources (e.g. historical buildings)?
Existence of Polychlorinated Biphenyls (PCBs)?	<input type="checkbox"/> Are there easements/caveats registered or unregistered against the land selection for road surveys or road widenings?	<input type="checkbox"/> Are there existing land uses in the immediate area of the land selection which may result in a land use conflict?	
Existence &/or location of fuel tanks?	<input type="checkbox"/> Are there portions of the land selected that are not excluded from title (eg. trails, but are used as roadways by the public)?	<input type="checkbox"/> Are there proposed land uses in the immediate area of the land selection which may result in a land use conflict?	
Waste management related problems?	<input type="checkbox"/> Are there right-of-way purchases required for future road widenings and/or exclusion of unsurveyed roads and trails?	<input type="checkbox"/> Are there unregistered municipal or other known third-party interests in the land selection (e.g. drainage ditches, subdivision of property for other uses, municipal gravel pits)?	
Existence &/or location of landfill sites?	<input type="checkbox"/> Are there other road survey plans not excluded from title?		
Sewage related problems?	<input type="checkbox"/> Are there unregistered road survey plans at the Chief Surveyor's Office or at the Land Titles Office awaiting approval and/or registration within the land selection?	<input type="checkbox"/> Are there other uses, development or servicing concerns in the land selection (e.g. fire protection, weed control, stray animals)?	
Noxious weed problems?			
Existence &/or location of livestock facilities?	<input type="checkbox"/> Does the RM wish to retain and develop road allowances within the land selection area?	<input type="checkbox"/> Are there property taxes outstanding on the land selection?	
<b>OTHER</b>			
Are there other issues affecting this land that the RM would like to address prior to the land selection transferring to reserve status?			
<input type="checkbox"/>			