

Reserve Creation and Tax Loss Compensation in Rural Municipalities

Ministry of Government Relations

June 12, 2024

Treaty Land Entitlement Background

- In 1930 the Natural Resources Transfer Agreement - transfer ownership of Crown land and resources to Saskatchewan
- Canada's Treaty obligation - Saskatchewan was to provide unoccupied Crown land
- Canada promised land and other matters in the Treaties. Treaties in Saskatchewan promised 128 per person or 640 per family
- Shortfalls - Canada validates any claims by First Nations that they did not receive the land they were entitled to

TLE Framework Agreement

- Instead of providing unoccupied land – financial compensation was agreed upon so First Nations with a Shortfall could acquire land anywhere in the province on a willing seller willing buyer basis
- Requires each First Nation to transfer their Shortfall Acres to reserve status

TLE Provisions

- Comprehensive agreements covering all aspects of land transfers from provincial to federal jurisdiction
- All land subject to provincial laws, municipal bylaws and taxation prior to reserve creation
- All provincial third-party interests and concerns must be addressed
- No expiry date, the obligations the province and Canada have under the agreements will continue until all the First Nations have attained their maximum or equity acres

Shortfall Acres

- “Shortfall” is the amount of land a First Nation was shorted at the time of first survey
- Minimum acres to reserve to satisfy Canada’s Treaty obligation
- Must include both land and minerals
- First Nation may spend its entitlement monies for the purchase of additional entitlement land or for First Nation development

Equity Acres

- A compromise between First Nations and government
- $[(\text{Current Pop.}) \times (128)] \times [\text{First Nation Shortfall \%}]$
- A First Nation's Equity is the maximum area of land that can be set apart as Entitlement Reserve

TLE Settlement Values

Saskatchewan First Nations	70	
Entitlement First Nations	36	
TLE Settlement Amount	\$687M	
Shortfall Acres	559,000	
First Nations with Shortfall in Reserve	29	81%
Equity Acres	2,366,000	
Acres in Reserve	888,800	38% of Equity
Acres in RMs	783,003	88% of Reserve Creation

Tax Loss Compensation

Agreement	RM Cap	SD Cap	Total	Provincial 30%	Federal 70%
TLE Framework Agreement	\$25M	\$25M	\$50M	\$15M	\$35M
Subsequent 10 TLE Agreements	\$24.1M	\$24.1M	\$48.2M	\$14.5M	\$33.7M
Current Totals	\$49.1M	\$49.1M	\$98.2M	\$29.5M	\$68.7M
Provincial Share					
Paid Out	\$8M	\$7M	\$15M		

Specific Claims

- Canada has sole responsibility for the negotiation and implementation of Specific Claims settlements
- Specific Claims result from a First Nation's grievance with the Federal Government for not fulfilling its lawful obligation within treaty or other formal agreements. For example:
 - failure to provide enough reserve land;
 - improper management of First Nation funds; or
 - surrender of reserve lands without a First Nation's consent.

Specific Claims Background

- Monetary compensation is negotiated and in some settlements, there is ability to transfer land to reserve status
- SARM, on behalf of RM's, advocated for an agreement that would ensure tax loss compensation payments for RM's impacted by reserve creation similar to TLE

Specific Claims Tax Loss Compensation

- In March 2000, an agreement was reached to address tax loss compensation for lands that attain reserve status pursuant to Specific Claims settlements.
- Canada paid to Saskatchewan \$4.1 million for tax loss compensation for up to 300,000 acres that may attain reserve status within rural municipalities.
- Rural Municipalities \$2.8 million
- School Divisions \$1.2 million
- Conservation and Development Authorities \$100 thousand

Specific Claims Settlement Values

Specific Claims Agreements	25	54 First Nations Involved
Settlement Amount	\$775M	
Acres	225,300	
Acres in Reserve – RM	68,000	30%
Acres in Reserve - Urban	264	18 in 6 Urban Municipalities

Urban Reserve Creation

Reserve Type	No. of Urban Reserves	Acres
TLE	43	2,292
Specific Claims	15	265
Additions to Reserve	7	163
Totals	65	2,720



Tax Loss Compensation



Ministerial Order - TLE

Wording in Order indicates this transfer is through the TLE process.

This is the Ministerial Order number.

2015 014

Ministerial Order Conferring Reserve Status

Pursuant to Section 5 of the *Claim Settlements (Alberta and Saskatchewan) Implementation Act*, S.C., 2002, c. 3

I, Bernard Valcourt, Minister of Indian Affairs and Northern Development, in accordance with the Saskatchewan Treaty Land Entitlement Framework Agreement dated September 22, 1992, and ss. 3(a) and 5(1) of the *Claim Settlements (Alberta and Saskatchewan) Implementation Act*, S.C., 2002, c. 3, hereby set apart for the use and benefit of the Star Blanket Cree Nation as an addition to Star Blanket Indian Reserve No. 83C, in the Province of Saskatchewan, the lands described in the attached schedule, consisting of 64.005 hectares (158.16 acres) of surface land and 65.154 hectares (161 acres) of mines and minerals.

Dated at Gatineau, Quebec this 19th day of Feb. 2015

This is the effective date of the transfer. Tax loss compensation starts as of this date.


Minister of Indian Affairs and Northern Development



Ministerial Order - Specific

MINISTERIAL ORDER

2015 008

Wording in Order indicates this transfer is through an agreement with a specific First Nation, which means that it is pursuant to the Specific Claims process.

This is the Ministerial Order number.

Ministerial Order Conferring Reserve Status

Pursuant to Section 5 of the *Claim Settlements (Alberta and Saskatchewan) Implementation Act*, S.C., 2002, c. 3

I, Bernard Valcourt, Minister of Indian Affairs and Northern Development, in accordance with the Mistawasis First Nation Settlement Agreement dated July 18, 2001, and ss. 3(a) and 5(1) of the *Claim Settlements (Alberta and Saskatchewan) Implementation Act*, S.C., 2002, c. 3, hereby set apart for the use and benefit of the Mistawasis Band as Mistawasis Indian Reserve No. 103G, in the Province of Saskatchewan, the lands described in the attached schedule, consisting of 28.095 hectares (69.42 acres) of surface land.

Dated at Gatineau, Quebec this 7th day of February 2015.

This is the effective date of the transfer. Tax loss compensation starts as of this date.


Minister of Indian Affairs and Northern Development

Schedules to Orders

Schedule

Mistawasis Indian Reserve No. 103G

The Schedule provides details of properties transferred to a reserve pursuant to the Order.

Firstly

Surface parcel No. 145485153, being Legal Subdivision 7 of Section 34, Township 38, Range 6, West of the Third Meridian, Saskatchewan, containing 16.086 hectares (39.75 acres), more or less, shown on Plan No. 102829 in the Canada Lands Surveys Records.



**TLE Trust Fund
(Established in 1993 Through
Agreement with the Province)**



TLE - Processing Orders

Identifies the RMs involved through Indigenous Services Canada.

Sends email to RM with a copy of the Ministerial Order requesting tax notices.

SARM requires **3 copies of the tax notice for the year prior to transfer.** Tax notices must be certified, signed and sealed by the RM.

TLE – Claims

Funding of TLE is through claims filed with the Federal & Provincial Governments.

Claim is 90% of 25 times (22.5 times) the municipal taxes the year prior to transfer.

70% of the total claims is paid by the Federal Government; 30% of the total claim paid by the Provincial Government.

TLE – Tax Loss Compensation

Tax loss amount is 90% of the estimated municipal taxes (unless the RM has elected to take a lesser percentage) – 95% paid to the RM, with 5% to SARM for administration of the Trust Fund.

Tax rates updated annually, assessment updated each reassessment.

Payments by September 30 each year.



TLE – Reporting to RMs

Statements are sent each year in February, once audit is complete.

	Trust Fund Total	RM No. 49
2013 - Dec		
Net Assets - December 31, 2012	19,274,583.24	64,217.30
Contributions	757,757.65	-
Investment Income	762,105.49	2,509.89
Total Revenue	1,519,863.14	2,509.89
Payments to Rural Municipalities	1,202,580.62	6,197.33
SARM Administration Fee	63,292.55	326.08
Other Costs (GST, Audit & Other)	7,564.60	23.32
Total Expense	1,273,437.77	6,546.73
Surplus (Deficit) For The Year	246,425.37	(4,036.84)
Net Assets - December 31, 2013	19,521,008.61	60,180.46
2014 - Dec		
Contributions	587,722.24	-
Investment Income	859,792.65	2,617.61
Total Revenue	1,447,514.89	2,617.61
Payments to Rural Municipalities	1,285,340.70	6,584.74
SARM Administration Fee	67,648.72	346.54
Other Costs (GST, Audit & Other)	7,908.80	22.52
Total Expense	1,360,898.22	6,953.80
Surplus (Deficit) For The Year	86,616.67	(4,336.19)
Net Assets - December 31, 2014	19,607,625.28	55,844.27
Trust Fund Summary - Inception to Date		
Investment Income	11,375,748.69	63,150.40
Payments to Rural Municipalities	12,503,568.73	86,113.75
SARM Administration Fee	658,523.37	4,536.76
Other Costs (GST, Audit & Other)	100,350.65	509.25
	13,262,442.75	91,161.76
Surplus (Deficit) Excluding Contributions	(1,886,694.06)	(28,011.36)
Contributions	21,494,319.34	83,855.63
Net Assets	19,607,625.28	55,844.27
TLE Percentage Factor		0.90

Summary shows the status of the RM's share of the trust fund, along with the TLE percentage factor used for the RM.



**Specific Claims Trust Fund
(Established in 2000 Through
Agreement with the Province)**



Specific - Processing Orders

Identify the RMs involved through ISC.

Send email to RMs with a copy of the Ministerial Order and the required release form.

SARM requires 1 copy of the tax notice for the lands transferred – tax notice must be certified, signed and sealed by the RM.



Specific - Funding

No claims are filed for lands transferred through the Specific Claims process.

Province, through the Federal Government, provided \$2.8 million in 2000 to fund tax loss compensation for 300,000 acres.

First Nations (with some exceptions) are required to pay 5 times the municipal taxes to the RM. RM can choose whether the funds are paid to the Specific Claims Trust Fund.



Specific – Tax Loss Compensation

Tax loss amount is either 60% or 40% of the estimated annual taxes – percentage depends on whether the 5 times payment was transferred to the Trust Fund.

Tax rates updated annually, assessment updated each reassessment.

Payments by September 30 each year.

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