

MATACHEWAN FIRST NATION TREATY LAND ENTITLEMENT

Background

A claim was submitted in 2009 to both Canada and Ontario. In 2011, Canada accepted this claim for negotiation. Ontario joined the specific claim negotiations in 2012. This is a Treaty Land Entitlement (TLE) claim made pursuant to the terms of Treaty Nine. Matachewan First Nation (MFN) did not receive the amount of reserve land to which they were entitled under Treaty.

The tripartite negotiations will address a shortfall of land and financial compensation owed to the Matachewan First Nation. The parties agree that the shortfall is 5.74 square miles or 3676 acres.

Canada has agreed to negotiate the payment of monetary compensation to MFN for loss of use during the period of time that MFN did not have the use of the reserve. Ontario has agreed to transfer the shortfall amount of land to Canada in order to confirm it as MFN reserve land.

Process

The primary task with Canada was to quantify the appropriate financial compensation. In addition, MFN discussed with Ontario the parcel (or parcels) of land that would be suitable for Ontario to transfer to Canada to be set aside as Matachewan First Nation (MFN) reserve land. In addition to lands in and around the area of the current reserve, MFN indicated to both Canada and Ontario that it is considering lands to be added to reserve within the Municipal boundaries of Timmins. These discussions are on-going.

Treaty Land Entitlement Claim Compensation

Matachewan First Nation is entitled to compensation from 1906 to the present because it did not get all the land it was entitled to under Treaty 9. MFN could have earned income from those lands in each year if it had the land. Payment for those losses will be based on the value today (2014) of lost income in past years.

Matachewan First Nation and Canada have agreed to "Terms of Reference" for land appraisals. Historical documents, such as documents on the Booth timber limit, are being reviewed in order to estimate the value of the lands as of 1906. Historical research on land uses is also being done. This information value will help to estimate economic losses in each year because of the 3,676 acre shortfall.

The method for determining the loss of use is to establish, through a negotiated process, the historical value of the land and also the current unimproved market value of the land. One methodology that estimates economic return on land is called the Proxy Model. The proxy methodology uses an historic land value, a real rate of return, and inflation to estimate all loss of use

for the claim lands. Multiplying land values by a real rate of return provides an estimate for the net income/rent in each year from the start date of the claim to the present. This approach is being explored by MFN and Canada as a viable option to determine a reasonable amount of compensation.

It is important to note that at this point in time it is not possible to make even a rough estimate of claim value until the land appraisals are complete. MFN has contracted land appraisers and an economist to assist with determining this amount as part of the settlement. Once this figure has been negotiated with Canada the First Nation membership will have the opportunity to ratify the final claim.

Addition to Reserve

Matachewan First Nation will be able to add approximately six square miles to the reserve. This is the amount of additional land that should have been included in the reserve at the time of survey of the reserve to take account all the members of MFN in 1906. Ontario will provide Crown Lands. In addition, MFN may acquire lands for creation of an urban reserve.

Ontario, has the responsibility to provide the land and is working with MFN to determine a land selection area that can be potentially returned to reserve status. Typically, Ontario sets aside about 25% more land that can be added to reserve in order to provide an appropriate land selection area. The lands do not need to be adjacent to the MFN existing reserve.

This process has been ongoing for the past two years and we are nearing a point where the selection must be narrowed to actual candidate lands. Although there will be a final ratification vote by the MFN membership, it is important to refine the selection with the membership early on to ensure a positive outcome.

The attached map indicates the lands that are under consideration. These lands have been identified through community consultations to date. It is important to note that there are restrictions on the selection of lands available to MFN. It must be Crown land that is not encumbered by other users such as mining claims. Some uses like Sustainable Forest License, Land Use Permits, or bait permits can, and have been, removed in the selection of these lands.

Candidate lands may include fee simple or private land, however these lands must be purchased by MFN and the owner must be willing to sell the lands. The purchase of lands is not covered by either Canada or Ontario.

As stated above the leadership of MFN as directed by membership during the TLE information sessions, is considering establishing an urban reserve within the municipality of Timmins. An example may be a small portion of the lands allocated under the TLE process – between 30-100 acres – to be used for economic development purposes. There will be no residential use for this portion of the additional reserve lands. An economic impact study of the three nearby municipalities (Temiskaming Shores, Kirkland Lake, and Timmins) was completed. The study primarily took into account the possibility of an office complex that would house First Nation organizations and individuals looking for a tax advantage. This model proved to be challenging given the cost of a new development. A sub-committee of the TLE team is being struck to continue evaluation of an the urban reserve concept that will take into account location, supply - demand, service type, cost to capitalize, externalities - competition, fixed costs, opportunity costs, competitive advantages, etc.

In general, municipalities do not have Crown lands within their core business areas available for transfer to reserve lands. This means that the MFN must purchase private lands in order to take maximum advantage of any economic opportunity. Depending on the area selected and development costs, this has the potential to be a significant expenditure for MFN.

Current Status

Over the past year, the parties met three times and had numerous conference calls to further refine their respective interests and positions. The negotiations are proceeding well.

MFN is now at the stage where candidate lands within the area of the current reserve must be selected. A membership meeting is being planned for Saturday, June 7th at 12:00 pm (lunch followed by a presentation and discussion) at Matachewan First Nation. The purpose of this meeting is to refine the selection of the lands for submission to Ontario and to update the membership on discussions thus far. A map of these lands is attached and can also be viewed on MFN's website. MFN members who cannot attend are invited to submit their comments in writing or contact the Chief and Council through the band office. Shawn Batise, Executive Director of the Wabun Tribal Council can also be contacted for further information.

Once the candidate lands are refined and the loss of use study is complete, final negotiations will commence. It is hoped that MFN will have a ratification vote in the 2015/2016 fiscal year.

The Matachewan First Nation Chief and Council would like to thank the membership for their continued support throughout these negotiations.