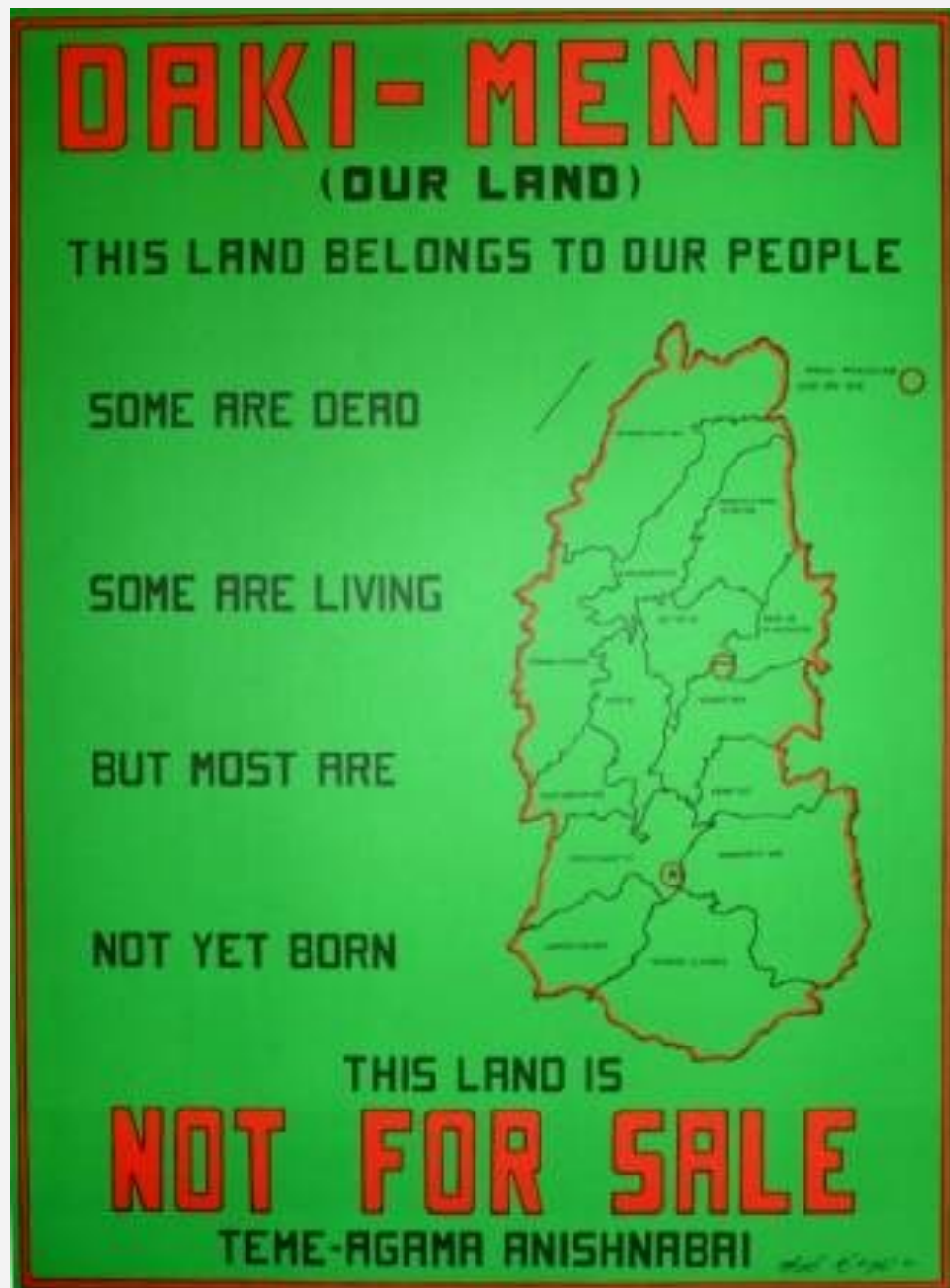


Community RHT Information Session

March 23, 24, 2024

Information Package



Community RHT Information Session

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Preface

This document is a collection of information about the Robinson Huron Treaty Restoule Case, to a lesser degree the Robinson Superior Treaty (Red Rock / Whitesand), the Relationship Agreement, and finally what the TAA/TFN Joint Council are working on and have been working on over the past few years. It is important to understand the amount of information that has been put out on these topics and others. (See Appendix B).

1. Introduction

The Teme-Augama Anishnabai and Temagami First Nation are not a Party in the Robinson Huron Treaty legal action or the negotiations between the Robinson Huron Treaty Litigation Fund (RHRLF), Canada and Ontario. We have no option to become a part of their settlement agreement. Our Assembly and Community Meetings directed the Joint Council to Intervene in the on-going court case because we have an interest in the outcome, how it relates to N'dakimenan, and how it may impact the negotiation of our own independent agreement that would acknowledge our unique history and position.

There has been increased interest in the Robinson Huron Treaty (RHT) and the Robinson Superior Treaty (RST) annuities legal actions since the June 17, 2023 announcement by the RHT Chiefs of a proposed out-of-court settlement for compensation totalling \$10 billion. The negotiations were between Canada, Ontario and the 21 RHT First Nations that filed the Notice of Claim in September 2012. [Restoule v. Ontario and Canada]. The 12 RST First Nations did not reach an agreement in their negotiations and so continued on with Stage Three of the court case to determine what level of compensation is owed to the RST First Nations, due to the Crown's breach of the treaty.

The proposed \$10 billion settlement agreement negotiated by the 21 RHT First Nations, Canada and Ontario, is compensation for losses of past annuities that should have increased over the years, according to an Augmentation Clause in the 1850 Treaty. In 1875, the annuity was increased from \$1.70 to \$4.00. There have been no increases since.

2. Robinson Huron Treaty Restoule Case

Recent history

We were approached by Mike Restoule, Chairman of the Robinson Huron Treaty Litigation Fund, (RHTLF), to join the RHTLF as a party to their court action. The annuities court case and negotiations for the 21 RHT First Nations is managed by the Robinson Huron Treaty Litigation Fund and its Trustees. Under Chief Roxane Potts's administration, the RHTLF proposal to join them was rejected with the understanding that we would be supportive of the RHTLF efforts on behalf of the 21 First Nations, and that they would be supportive of our independent efforts in dealing with the Crown. The TFN first considered intervening in the RHT case under Chief Arnold Paul's administration. The motions, first to join and then to intervene, were not passed. Many TFN members said they did not want to participate in Robinson Huron Treaty business as our position had always been that we did not sign the RHT in 1850, that we never had consented to being part of it, and that we would negotiate our own agreement with the Crown.

The motion to intervene was considered by the TFN again after it became clear that the RHTLF, Canada, and Ontario were including N'dakimenan and the historically extracted resources in their calculations. It was then deemed unacceptable for us not to have a voice in the RHT case. If they were considering aspects of our lands, we needed to be there to defend N'dakimenan and our interests.

In response to the above-mentioned new concerns, the TFN, then under the administration of Chief Shelly Moore-Frappier, determined to support defending our interests as Intervenors at a Community Meeting. Our legal counsel was then directed to apply for Intervenor status. We were granted Intervenor status by the court. As an Intervenor we could now speak for ourselves to inform the court of any concerns. In this way we could protect our interests rather than just letting things happen without our input.

Previously, under Ogimaa Randy Becker's administration, the TAA in Assembly had passed a motion to intervene.

3. Intervenor Status

Being an Intervenor in the case, rather than joining as a Party, is not an admission by us or an acceptance of the 1850 RHT or the 1991 Supreme Court of Canada decision that many believe was unjust.

We did not sign the RHT. That is a true statement that is not in dispute. At no point in time did our people consent to joining the RHT. Nonetheless, the Supreme Court of Canada “adhered” us to the Treaty in 1991, 141 years after the fact. This is when and how our aboriginal right was unilaterally extinguished, in Canada’s view, without negotiation and without any compensation or a reserve. The SCC ruled that:

“...the Indians exercised sufficient occupation of the lands in question throughout the relevant period to establish an aboriginal right. It was unnecessary, however, to examine the specific nature of the aboriginal right because that right was surrendered, whatever the situation on the signing of the Robinson-Huron Treaty, by arrangements subsequent to the treaty by which the Indians adhered to the treaty in exchange for treaty annuities and a reserve.”

“The Crown breached its fiduciary obligations to the Indians by failing to comply with some of its obligation under this agreement; these matters currently form the subject of negotiations between the parties. These breaches do not alter the fact that the aboriginal right was extinguished.”

TAA/TFN did meet with the RHT Chiefs and, consistent with community direction, declined to be a Party in the Robinson Huron Treaty legal action or the negotiations between the Robinson Huron Treaty Litigation Fund (RHTLF), Canada and Ontario. TAA/TFN Chief and Council decided to enter into separate negotiations with Canada and Ontario for all the reasons discussed in this document. The mandate to do this came from the Resolution. (see Appendix C) Any discussion in these matters was subject to the same level of confidentiality as described above.

Any agreement if and when it occurs must be ratified by the TAA/TFN community at large. We have a constitution and historical protocols to make decisions collectively through the Community Meetings and Assemblies processes. This takes time, but it is intended to ensure that the direction taken by the Joint Council has been authorized by the people in a duly convened meeting.

4. Confidentiality

A confidentiality agreement is a legal agreement that binds one or more parties to non-disclosure of confidential or proprietary information. A confidentiality agreement was required by us and the Robinson Huron Treaty Litigation Fund (RHTLF) so we could participate in legal discussions and sharing of information. A confidentiality agreement is generally used in situations wherein sensitive information or proprietary knowledge is not to be made available to the general public. Violating a confidentiality agreement could result in legal and reputational repercussions for the party breaching it. The following relevant portion of the confidentiality agreement speaks to our obligations to the RHT Chiefs with regard to the legal case.

WHEREAS litigation was commenced on behalf of the beneficiaries of the Robinson Huron Treaty of 1850 against Canada and Ontario in the Superior Court of Justice concerning treaty annuity benefits provided for in the Treaty, being Restoule et al. v. Canada (Attorney General) et al., Court File Nos.: C-3512-14, C3512-14A in Sudbury (the "Claim");

AND WHEREAS on December 21, 2018, the Ontario Superior Court found that the Crown has a mandatory and reviewable obligation to increase the Robinson Huron and Robinson Superior Treaties' annuities if the net Crown resource-based revenues from the Treaties' territories permit the Crown to increase the annuities without incurring a loss, and this decision was upheld by the Ontario Court of Appeal;

AND WHEREAS on February 25, 2022 the Ontario Superior Court endorsed the motion by the Teme-Augama Anishnabai to be granted leave to intervene as an added party in the Claim;

AND WHEREAS the Parties have agreed to enter into out of court negotiations in relation to the Teme-Augama Anishnabai's interests in the Claim;

AND WHEREAS the Parties have granted their respective representatives' authorization to enter into negotiations regarding the Claim;

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

PART A. PURPOSE

1. The purpose of this Agreement is to outline the issues to be addressed by the Parties in the negotiations and the process through which those negotiations will be undertaken, with a view to achieving settlement in accordance with the above provisions.

PART B. DISCUSSION PRINCIPLES

2. The Parties undertake to make all reasonable efforts to participate in the negotiations regarding the litigation in good faith, and in the spirit of good will and cooperation.

3. The negotiations will be conducted on the basis that they are confidential to the Parties, privileged and without prejudice. In particular, the Parties agree that any documents or communications shared in the negotiations shall be shared on a privileged and without prejudice basis and shall be kept confidential. The Parties acknowledge that such documents may be subject to applicable access to information and privacy legislation, including any exemptions from disclosure set out in that legislation.

4. Notwithstanding paragraph 3, the Parties acknowledge that documents and communications shared and produced in the context of these negotiations may be relevant to negotiations with the Robinson Huron Treaty Trust concerning settlement of the Claim. On written consent of all of the Parties, any Party may share information about these negotiations with the Robinson Huron Treaty Trust on condition that the Robinson Huron Treaty Trust also agrees to the confidentiality of those communications/documents.

5. Notwithstanding paragraph 3, the Parties acknowledge that documents and communications shared and produced in the context of these negotiations may be relevant to any negotiations that may occur towards a resolution of the Red Rock/Whitesand litigation. On written consent of all of the Parties, any Party may share information about these negotiations with the Parties to the Red Rock/Whitesand litigation on condition that the parties to the Red Rock/Whitesand litigation also agree to the confidentiality of those communications/documents.

6. This Agreement, the negotiations and any related communications shall not be construed in any way as an admission of fact, law or liability.

7. This Agreement shall be held in confidence and considered settlement privileged, subject to access to information and privacy legislation to the extent that it may be applicable.

5. The Global Approach– Relationship Agreement

Our Negotiations Continue

The Global Approach is a relatively simple concept that has come from discussions with the community.

We are discussing the Crown's obligations to share revenue derived from N'dakimenan without prejudice to any claims TAA/TFN may have, now or in the future. In addition, Canada and Ontario will engage in good faith negotiations with TAA/TFN to develop and implement, as soon as possible, a framework for shared decision-making and jurisdiction in respect of N'dakimenan in a Relationship Agreement.

It's not just about money, it's about protection of the land. That is our Global Approach.

Joint Council is working on a strategic plan for our negotiations based on feedback received from citizens who participated in assemblies, community meetings and information sessions in recent months and over the years. In the very near future, we will need the people to give us formal direction for a renewed mandate for negotiations and next steps to achieve movement towards ensuring that the Crown's outstanding fiduciary obligations are met and we have an agreement for the future of our land and our people.

We are in a unique and strengthened position to negotiate a new arrangement with Canada and Ontario.

The *Restoule* legal action has given historical context to the Robinson Huron Treaty which clearly shows that it is a Nation-to-Nation Treaty that was intended to establish an ongoing relationship whereby, as Justice Hennessey said, it was the Parties' common intention to share the wealth.

The Teme-Augama Anishnabai were not invited to the 1850 RHT. We did not have the benefits of the RHT, especially the benefit and use of a reserve and the protection a reserve would have provided for our people. The designation of "Treaty Indian" would have afforded some protection too. Some of our people had their homesteads and property confiscated and/or destroyed, and Ontario persecuted the Teme-Augama Anishnabai for hunting, trapping, and fishing without a provincial license.

A 100 square-mile reserve was marked-out around Austin Bay in 1886, but Ontario refused to transfer the land (which it considered too valuable) to Canada for the Temagami Indian Reserve. Soon, Ontario wanted to charge us rent for living at Bear Island and wanted us to get permits from Ontario to cut firewood. Finally, in 1943, Canada purchased Bear Island for \$3000.00 so we could live on land owned by Canada without being persecuted by Ontario.

Bear Island, however, did not become a Reserve until 1971 when Canada issued a Federal Cabinet Order in Council that made Bear Island an Indian Reserve under the meaning of the *Indian Act*.

This was done unilaterally so that the Temagami Indian Band (TFN) would qualify for certain Indian Affairs "on-reserve" program funding.

In our discussions with the Crown, we have identified a land base for our exclusive use and benefit that we could have received as early as 1850. This land base is identified as the “Set-Aside Lands”. We will have to decide how we will possess or hold our exclusive lands. Options include:

-a “reserve” under the *Indian Act*;

-“federal lands” under S. 91.24 (under S.91.24 of the *British North America Act, 1867*, the federal government has jurisdiction over “Indians and lands reserved for Indians”);

-fee simple title;

-or some other innovative way that we may hold the Set Aside Lands.

TAA/TFN Approach and Workplan

The Community will determine how the funds will be distributed individually and collectively.

We are not in any way obligated to follow the RHT Settlement Disbursement Formula.

The agreement will include but not be limited to the following:

- Compensation for the loss of use of a reserve since 1850;
- Compensation for the loss of resources and revenues taken from N’dakimenan in the past (This is essentially one outstanding fiduciary obligation regarding “past annuities”, as in the RHT/RST cases. However, in our negotiations, the amount would be determined based on the evaluation of resources extracted specific to N’dakimenan);
- Compensation for historical grievances;
- A resource revenue sharing framework for the future, in perpetuity;
- An evaluation of resources extracted from N’dakimenan (in-progress);
- Exercise of our inherent jurisdiction to fulfill our sacred responsibility to take care of N’dakimenan (decision-making authority and a management role over **ALL** of N’dakimenan);
- Our relationship to Canada, Ontario, and the people who have settled here and now share N’dakimenan with us; (Citizenship Law);
- Other matters such as review and renewal, as times and circumstances change.

6. Compensation Considerations

In a recent article in BAYTODAY Nipissing First Nation Chief Scott McLeod shared the following historical perspective.

“Since the \$4 annual payment from well over a century ago, people feel that the compensation is 100 per cent theirs, and somehow we are taking money from them,” for the proposed community fund. “When in fact,” he continued, “if they understood the treaty, how it was written, what our legal arguments were, and how that decision was upheld in court, they would understand that the treaty itself was not merely an individual payment.”

“Rather,” McLeod explained, “it was a communal payment to a Nation that first started in 1850 as a lump sum to the Chiefs.” This payment “took care of the communal needs at that time,” he continued, “the rest was dispersed to the individual, which became the \$4 payment.”

Taking over revenue and dispersing to individuals was the first step to undermining Anishinaabe Ogimaag, and making the people reliant on the Indian Agent.

Restoule v Ontario and Canada Supports a Relationship Agreement

Essentially, Justice Patricia Hennessey of the Superior Court of Ontario said what First Nations had said all along about the spirit and intent of the treaties:

“The Treaties represent unique agreements by the Crown and the First Nations of the Lake Huron Territory and the Lake Superior Territory whose long-term goal was peaceful and respectful co-existence in a shared territory.”

The following is from a communique from the Robinson Huron Treaty organization:

“The Court gave equal weight to the Anishinaabe and the Crown perspectives relating to the interpretation of the treaty. The court examined the terms of the treaty and the historical context, including the history of the Anishinaabe-Crown relationship from 1756 up to the Treaty Council in 1850. The Court characterized the relationship as a nation-to-nation relationship – one that was respectful of the sovereignty and land rights of the Anishinaabe – and that this was the basis upon which the parties entered into Treaty in 1850.”

With regard to the Anishinaabe perspective, the Court recognized Anishinaabe principles of governance and Anishinaabe law, including the organizing principles of pitmatisiwin (sacredness of life) and gizhewaadiziwan (the way of the Creator, generosity), which encompass the Seven Sacred Laws of Creation. The Court underlined the importance of relationships under Anishinaabe law, and that the principles of respect, responsibility, reciprocity and renewal were fundamental to the Anishinaabe understanding of relationships, including the treaty relationship with the Crown.

In the decision, there are many statements from the judge that confirm the reality that the treaty is an agreement between two sovereigns.

In reality, the Robinson Treaties were relationship agreements that Canada and Ontario breached shortly after they were signed. With the first *Indian Act* in 1876, the Crown's agenda to control, contain, and eradicate "Indians" began:

"When he [Duncan Campbell Scott, Superintendent of Indian Affairs] mandated school attendance in 1920, he stated, "I want to get rid of the Indian problem. I do not think as a matter of fact, that the country ought to continuously protect a class of people who are able to stand alone. Our objective is to continue until there is not a single Indian in Canada that has not been absorbed into the body politic and there is no Indian question, and no Indian Department, that is the whole object of this Bill."

Scott summarized the prevailing attitudes of Canadian officials: the First Peoples, despite many agreements with the Crown that guaranteed their independence, were to be eradicated as distinct nations and cultures."

Appendix A

Chronology of Negotiations Communications Milestones, Events, Notices, Information Products, Engagements

	Date	Item Description
1	February 21, 2021	Joint Information Session on Restoule trial
2	February 28, 2021	TFN Community Meeting resulting in Motion to Intervene in Restoule trial– Resolution 2012-0228-001
3	March 4, 2021	TAA Information Session on Restoule trial
4	March 18, 2021	TFN Information Session on Restoule trial
5	March 20, 2021	Second and final vote on Motion to Intervene in Restoule trial– Resolution 2012-0228-001 (Passes)
6	April 7, 2021	Negotiations meeting between Interim Negotiations Team and Crown – Zoom
7	May 19, 2021	Negotiations meeting between Interim Negotiations Team and Crown – Zoom
8	June 11, 2021	Negotiations meeting between Interim Negotiations Team and Crown – Zoom
9	July 2021	BI Blast: Summer Info Session Notice, including Negotiations
10	August 11 2021	TAA Assembly: “Proposed New Approach” PowerPoint presentation and discussion
11	August 16, 2021	Negotiations meeting between Interim Negotiations Team and Crown – Zoom
12	September 2021	Guy Ginter hired as Director of Negotiations
13	September 29, 2021	Negotiations meeting between Interim Negotiations Team and Crown – Ottawa

Appendix A, Continued

Chronology of Negotiations Communications Milestones, Events, Notices, Information Products, Engagements

Date	Item Description
14 December 2021	News Release: TAA / TFN Negotiations Team “Developing Mandate for Approval” CBC interview
15 January 2022	BI Blast: TAA Council “Happy New Year” article with mention
16 March 2022	Survey Notice: Call for Input regarding New Approach
17 April 11, 2022	Negotiations meeting between Interim Negotiations Team and Crown – Toronto
18 June 20 2022	Joint Council Motion re: Relationship Agreement
19 September 18, 2022	TFN Community Meeting- New Approach to Negotiations presentation by First Peoples Law; Intervenor Resolution 1st Vote Passes
20 February 2023	BI Blast Articles, Relationship Agreement– New Approach to Negotiations; Land Tenure Options
21 February 2023	TAA Website upgrade with Negotiations tab begins
22 February 2023	Negotiations Facebook page created
23 March 2023	BI Blast Article, TAA Assembly Report (Ratification Process)
24 March 29, 2023	Negotiations meeting between Interim Negotiations Team and Crown – Toronto
25 April 2023	Youth Engagement– Purpose was Citizenship Law but discussion included Negotiations and Relationship Agreement

Appendix A, Continued

Chronology of Negotiations Communications Milestones, Events, Notices, Information Products, Engagements

	Date	Item Description
26	May 2023	TAA updated website launched (additions, changes, etc. ongoing)
27	May 2023	Launch of History of Negotiations / Relationship Agreement graphic video
28	June 2023	BI Blast Article, “Relationship Agreement Rejects Notion of Surrender”; Notice of RA Info Session RA brochure mailout; Info Session June 8
29	June 2023	TAA Assembly– Relationship Agreement Discussion
30	June 20, 2023	Negotiations meeting between Interim Negotiations Team and Crown – Toronto
31	July 2023	BI Blast report on RA discussion at Assembly
32	October 2023	October 15 TFN Community Meeting– Robinson Huron Treaty Intervenor update
33	November 2023	TFN Community Meeting report featuring section on Robinson Huron Treaty Intervenor update
34	December 2023	BI Blast- Relationship Agreement 2 page information document (reprint)
35	December 15, 2023	Negotiations meeting between Interim Negotiations Team and Crown -Ottawa
36	January 2024	BI Blast Negotiations 2 page update
37	February 8-11 2024	Joint Council 3 day strategy session re RHT, negotiations

Appendix A, Continued

Chronology of Negotiations Communications Milestones, Events, Notices, Information Products, Engagements

	Date	Item Description
38	February 14	Negotiations meeting between Interim Negotiations Team and Crown
39	February 24, 25 2024	TAA Assembly discussion on RHT, negotiations mandate, land tenure
40	February 2024	BI Blast Negotiations 1 page update
41	February 2024	BI Blast and email- Joint Council 6 page Letter to Members and Citizens re RHT Intervenor litigation
42	March 2024	BI Blast Negotiations 3 page update– JC strategy session report, Feb 14 Negotiations report, TAA Assembly discussion report
43	March 7 2024	TFN Community Meeting– RHT discussion and resulting plan for information session
44	March 23, 24 2024	Negotiations Information Session and Information Package sharing
45	April 25, 2024	Negotiations meeting between Interim Negotiations Team and Crown – Ottawa

Appendix B– Intervenor Status Decision

TEMAGAMI FIRST NATION

TEMAGAMI FIRST NATION COMMUNITY RESOLUTION

INTERVENTION APPLICATION

RESTOULE v. CANADA (ATTORNEY GENERAL)

WHEREAS representatives on behalf of all Robinson-Huron Treaty signatories have commenced the *Restoule* proceeding against Canada and Ontario;

AND WHEREAS the *Restoule* proceeding has been divided into three stages;

AND WHEREAS the Ontario Superior Court of Justice held in Stage One that the Crown has an obligation to increase annuity payments to the Anishinaabe treaty beneficiaries, and in Stage Two that Ontario cannot rely on the doctrine of Crown immunity or provincial limitations legislation to avoid its obligations regarding increased annuity payments;

AND WHEREAS the Ontario Court of Appeal will hear Ontario's appeal of the Stage One decision and Stage Two decisions in 2021;

AND WHEREAS the Stage Three hearing is scheduled to commence in September 2021;

AND WHEREAS the Stage Three hearing will address issues related to compensation for the Crown's failure to fulfil its treaty obligations to the Anishinaabe treaty beneficiaries;

AND WHEREAS Temagami First Nation (TFN) and Teme-Augama Anishnabai (TAA) (collectively, Temagami) were not named as parties to the *Restoule* proceeding;

AND WHEREAS in 2019, TFN decided not to participate in the *Restoule* proceeding while TAA decided to participate;

AND WHEREAS by letter dated December 3, 2020, the Chiefs of the Robinson Huron Treaty Anishinaabek advised Temagami that the Stage Three hearing may address issues which could directly affect Temagami, including the geographic boundary of n'Daki Menan and the value of the resources extracted from within n'Daki Menan.

AND WHEREAS the Stage Three hearing will have significant implications for Temagami's rights and interests, notwithstanding Temagami's position that it did not adhere to the Robinson-Huron Treaty or surrender Aboriginal title to n'Daki Menan;

Appendix B– Intervenor Status Decision

AND WHEREAS the TFN wishes to participate in the Stage Three hearing to protect Temagami's rights and fulfil Temagami's stewardship responsibilities in respect of n'Daki Menan;

NOW THEREFORE BE IT RESOLVED THAT:

TFN Chief and Council are hereby directed to make application to intervene in the Stage Three hearing of the *Restoule* trial proceedings, on a without-prejudice basis to Temagami's position regarding the Robinson-Huron Treaty.

Moved by: Leanna Farr

Seconded by: John Turner

For: 34

Against: 22

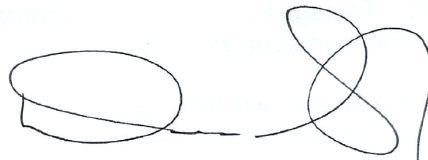
Abstentions: 0

} Results from Vote #1

Vote: February 28th, 2021 - Held @ LMLC

Vote #2: March 14th, 2021 - To be held @ Mino Naabandan gaming
Maawanjikwining

These results are verified by:



Desiree Senf,
Temagami First Nation
Electoral Officer

On this 28th day of February, 2021.

Appendix B– Intervenor Status Decision



**TEMAGAMI
FIRST NATION**

BEAR ISLAND,
LAKE TEMAGAMI, ONTARIO P0H 1C0
TEL 1.888.737.9884 | 705-237-8943
FAX 705.237.8959

RESULTS

2ND & FINAL VOTE - SECRET BALLOT

Saturday, March 20, 2021
10:00 AM to 4:00 PM

Resulting from the community meeting held February 28, 2021 - the following Resolution requires a second & final vote in accordance with Temagami First Nation Tribal Constitution:

Resolution #2021-0228-001

Be it Resolved:

That TFN Chief and Council are hereby directed to make application to intervene in the Stage Three hearing of the Restoule trial proceedings, on a without-prejudice basis to Temagami's position regarding the Robinson-Huron Treaty.

Moved by: Leanna Farr

Seconded by: John Turner

First Vote occurred on February 28, 2021 LMLC, Bear Island, ON

SECOND VOTE: MARCH 20, 2021

RESULTS:

85 in favour

52 against

2 cancelled

137 voters

139 used ballots

Motion carried.

ADMINISTRATION DEPARTMENT

705.237.8943 ext.101

tfn@temagamifirstnation.ca | www.temagamifirstnation.ca

Appendix C

Interim Negotiations Team

Temagami First Nation Chief Shelly Moore-Frappier

Teme-Augama Anishnabai Ogimaa / Temagami First Nation Second Chief Michael Paul

Teme-Augama Anishnabai Aanike Ogimaa John Turner

Teme-Augama Anishnabai Elder Advisor Mary Laronde

Temagami First Nation Elder Advisor John McKenzie- to be confirmed

Director of Negotiations Guy Ginter

Legal Counsel Bruce McIvor, First People's Law



From February 14, 2024 meeting, Toronto:

L-R: TAA Ogimaa and TFN Second Chief Michael Paul; First Peoples Law Counsel Bruce McIvor; TAA Councillor and Elder Advisor Mary Laronde; Joint Council Administrator Natasha Fortin; TAA Aanike Ogimaa John Turner; Director of Negotiations Guy Ginter; TFN Chief Shelly Moore-Frappier; (seated)– Geneva Lloyd, FPL; Jeremy Morrison, Lead Negotiator for Canada; Kevin Bell, Crown; Jane Thomas, Ontario Senior Negotiator; (seated)– Alison McLaren, Ontario lead negotiator; Shannon McEvenue, Crown. (Missing: TFN Councillor and Elder Advisor John McKenzie.)

Appendix D

N'dakimenan Relationship Statement

The Teme-Augama Anishnabai (Deep Water by the Shore People) were gifted n'Daki Menan (Our Lands) and the responsibility for its stewardship by the Creator. From time immemorial, we have lived with the lands, waterways and all life upon n'Daki Menan, protecting, nurturing and receiving our sustenance.

Historically, the Teme-Augama Anishnabai made decisions based on our traditional governance structures. Today, we are one people represented by two elected governing bodies: the Teme-Augama Anishnabai Chief and Council and the Temagami First Nation Chief and Council. In keeping with our traditional ways, decisions are informed by the input and wisdom of our clan relations and knowledge-keepers.

The Teme-Augama Anishnabai Chief and Council and the Temagami First Nation Chief and Council work together as a Joint Council to protect the rights and interests of our citizens (the People of n'Daki Menan). The People of n'Daki Menan hold and exercise inherent and constitutionally protected rights within n'Daki Menan.

We, as Joint Council, are committed to fulfilling our sacred stewardship obligations and protecting the integrity of n'Daki Menan for past, present and future generations.

RECENT NEGOTIATIONS HISTORY

Our struggle for justice began in 1877 by Chief Tonene and Chief Kane'cj'c.

More recently, the Teme-Augama Anishnabai have been engaged in negotiations with Ontario and Canada to resolve issues related the Crown's obligations since 1990. Most recently, the Joint Council negotiated a Draft Settlement Agreement, dated 2008, with Ontario and Canada. The negotiations table has been re-established and exploratory discussions are underway.

Since 1990, Canadian law, policy and societal attitudes, in general, have evolved, making elements of the 2008 Draft Settlement Agreement unacceptable and creating opportunities for a new approach.

PROPOSED NEW APPROACH

Joint Council is proposing a new approach to negotiating an agreement that respects our inherent right to self-government and our stewardship responsibilities to n'Daki Menan.

This new approach would lead to the development of a relationship agreement with Ontario and Canada.

Appendix D

N'dakimenan Relationship Statement, Continued

The relationship agreement would be a living, open agreement that evolves and renews over time.

The relationship agreement would respect our inherent jurisdiction and law-making processes, including the right to define who we are as the People of n'Daki Menan and to exercise our decision-making authority over n'Daki Menan.

The relationship agreement would recognize our collective rights and responsibilities to protect the lands and waterways of n'Daki Menan.

The relationship agreement would honour our responsibility to uphold the principle of Mino-Bimaadiziwin (Wellbeing).

COMMITMENT TO THE PEOPLE OF N'DAKI MENAN

Joint Council is committed to keeping the People of n'Daki Menan informed and involved throughout the negotiation process with Ontario and Canada, ensuring that our collective vision is honoured.

This is an opportunity to build on the work done on the Draft Settlement Agreement and previous work by creating a relationship agreement that grows and changes as we grow and change. This living relationship agreement would help us reach our goals of self-determination and protection of n'Daki Menan.

Today we are meeting with you to provide important information for your consideration and gather your input about a new approach to negotiations.

We will be seeking a mandate for a new approach in negotiations to pursue a living, relationship agreement. We look forward to determining a direction for our nation together.

We need to build a strong relationship of trust and respect among our people as we build a government-to-government relationship with Ontario and Canada based on mutual respect and mutual responsibility.

Appendix E

Joint Council Strategic Session Summary

To: Joint Council

From: Negotiations Team

Date: February 8th to 11th, 2024

Location: North Bay

Subject: Strategic Session on the Relationship Agreement Mandate

Executive Summary

Members of the Teme-Augama Anishnabai and Temagami First Nation Joint Councils convened for a Strategic Session to discuss and develop a Resolution in support of a mandate to pursue a Relationship Agreement model for Negotiations. This was facilitated by Director of Negotiations Guy Ginter and guest Facilitator Marvin Hare. Joint Council Administrator Natasha Fortin and Negotiations Communications Officer Daisy Fannin assisted.

The sharing by each Joint Council member of “What is your dream for our people?” demonstrated common themes of sovereignty, independence, self-sufficiency, meaningful jurisdiction, protection of N’dakimenan, and nation-building for coming generations. It set the tone for a productive discussion as we recognized our common purpose.

There was discussion of each point in the current draft Resolution in breakout groups and whole group format. Bruce McIvor of First People’s Law joined the group for Saturday and Sunday to assist. The Relationship Agreement Mandate Resolution will be brought to the Citizens for a vote.

The Strategic Session commenced with a talk by Doctor Alan Corbiere, who spoke to the history of treaty-making via Wampum and how the traditions of Anishinaabe governance and diplomacy can apply to modern-day negotiation. Teme-Augama Anishnabai Aanike Ogimaa John Turner and Teme-Augama Anishnabai Councillor Mary Laronde expanded on Dr. Corbiere’s lecture, speaking to specific events in our history: “Historical Context for a Relationship on N’dakimenan”. This knowledge informed Joint Council’s discussion for the Retreat work.

Each numbered item in the draft Relationship Agreement Mandate Resolution was discussed in breakout groups and whole group formats. The numbered item recommendations and key points of discussion are as follows:

1. Fast-tracking an interim agreement for the development of the community site known as Shiningwood

Bay: Joint Council unanimously supports fast-tracking development of Shiningwood Bay due to the acute need for community space on land. A specific communications strategy to inform Citizens will be developed as part of the Relationship Agreement once the vote has occurred.

Appendix E

Joint Council Strategic Session Summary, Continued

2. N'dakimenan Table as an interim co-management body with planning and regulatory authority for land stewardship leading to Teme-Augama Anishnabai - led stewardship arrangement for N'dakimenan:

Joint Council unanimously supports interim use of the N'dakimenan Table for these purposes.

Asserting jurisdiction throughout N'dakimenan is a key aspect of negotiations.

Our stewardship is urgently needed.

3. Determining the Land Tenure for the Remaining Set Aside Lands: Deciding on which land tenure options are best for each area of the Set Aside Lands is a complex topic. More time is needed to examine pros and cons and discuss this further with the community. Reserve land agrees to underlying Crown title. 91(24) Lands may be favourable if the taxation issue is negotiated. A 4th unique-to-N'dakimenan option will be explored.

4. Revenue framework including but not limited to future economic opportunities: Ensuring irrevocability on the part of the Crown, economic independence, sustainability, and opportunity were identified among key principles. Existing revenue models such as our IBA and those used by other First Nations can be examined to build our own framework.

Negotiating outstanding fiduciary obligations:

- Annuities versus resource extraction
- Loss of use
- Compensation package for past losses
- Lands for our exclusive use and benefit (Set Aside Lands)

Jurisdiction over N'dakimenan: Recommendations were not made for this point; instead, discussion identified various points and concerns. Loss of use is a complex subject to quantify for compensation due to the myriad historic factors. Jurisdiction over N'dakimenan was identified of primary importance.

5. Discussion on the Robinson Huron Treaty Annuities Case and taking an independent position from the Restoule action in negotiating any compensation for resources extracted from N'dakimenan: It was noted that some Citizens do not understand that, as we are not part of the RHTAC but are acting as Intervenors, we are not entitled to part of the \$10billion settlement that was reached. We are entitled to a different amount that we will negotiate. The Robinson Superior Annuities Case outcome may have some bearing on our outcome. It was unanimously agreed that a cash payout would not be settled on without meaningful jurisdiction over land as well. Various formulas for calculating compensation were discussed, such as per capita or geographic area. Passing the Citizenship Law is an imperative to prevent fraudulent entitlement claims. A spending plan will be drafted prior to accepting a financial settlement. Any agreement will be Without Prejudice, meaning that accepting a settlement in no way means that the Crown can state that we accept the Steele ruling on land rights. We do not accept it and we never will.

Appendix E

Joint Council Strategic Session Summary, Continued

6. Relationship Agreement Mandate Next Steps: The Mandate Resolution will be re-drafted with recommended changes. The Temagami First Nation, March 7 Community meeting is the target date for introduction of the draft Resolution. A Mandate vote is tentatively to be held in early June. The vote format will be the Constitution– prescribed 1st and 2nd vote for TFN and Assembly vote for TAA. Early June was chosen in consideration of lake travel conditions, the need to ensure adequate time to inform voters, and additional important issues such as the Citizenship Law that require resources and attention. It is important that all Joint Council members share this information at every opportunity and our Communications Team will support these efforts by creating and implementing a communications plan.

Important Consideration: The current federal government is likely to be much more cooperative than a Conservative government would be. It is possible that there will be a conservative majority in the next federal election, to be held by October 2025 at the latest. Campaigning and the election period itself will further shorten the timeline to get work completed with the current government. As a result, there is an urgency to get things accomplished so the work cannot be reversed. There is a lot of work to do in a short period of time.



Joint Council at the Strategic Session Sunday, February 11/2024 (Absent: TFN Councillor Alice Moore)

Appendix F

Reprinted from March 18 2021 Information Session Presentation

Why Intervene Now?

In 2019, Temagami First Nation and Teme-Augama Anishnabai considered applying to intervene at an earlier stage in the *Restoule* case. The application did not proceed because the majority of TFN members who voted decided not to participate at that time.

In late 2020, the Chiefs of the Robinson Huron Treaty Anishinaabek wrote to the TFN and the TAA to advise that the Stage Three hearing will address issues that will affect Temagami's rights and interests, including issues related to compensation and treaty boundaries.

Based on this information, TFN and TAA passed resolutions on February 11, 2021 confirming their support for Temagami's participation in the *Restoule* case.

On March 12th TFN and TAA leadership met with RHT Chiefs who shared a provisional map of RHT boundaries that includes n'Daki Menan. The RHT Chiefs would like Temagami to support the map being presented to the Court in the Phase 3 trial. In the alternative, the RHT Chiefs suggested that a map could be presented that excluded n'Daki Menan but are unsure what position Ontario and Canada would have on such a proposal.

If Temagami is granted leave to intervene at Stage Three, Temagami would also likely be able to participate in future appeals that may be brought in the *Restoule* case.

Participating as an intervenor may also increase the likelihood that Temagami will be able to take part in any negotiations which take place in relation to issues in the case.

Importantly, by participating in the *Restoule* case Temagami will likely be able to appeal any decision it did not agree with, whether or not the Robinson-Huron Treaty First Nations agree with the decision.

What Does It Mean to Intervene on a Without-Prejudice Basis?

Intervening on a without-prejudice basis means that Temagami can make arguments in the *Restoule* case to protect its rights and interests in relation to the Robinson-Huron Treaty without taking a position on whether it was adhered to the Treaty.

We are able to directly tell the Court that we do not agree with the Supreme Court's *Bear Island* Decision.

Appendix G

DRAFT Relationship Agreement Mandate Resolution

Whereas the Teme-Augama Anishnabai (People of the Deep Water by the Shore) were gifted N'dakimenan, (our land) and the responsibility for its stewardship by the Creator.

Whereas from time immemorial, we have lived with the lands, waterways, and all life upon N'dakimenan, protecting, nurturing, and receiving our sustenance.

Whereas we, as a People, are committed to fulfilling our sacred stewardship obligations and protecting the integrity of N'dakimenan for past, present, and future generations.

Whereas we negotiated the Draft Settlement Agreement (DSA) of 2008.

Whereas in consideration of a more progressive social and political climate, a renewed mandate under a Relationship Agreement rather than a Settlement Agreement will better serve our requirements.

Whereas a Relationship Agreement with Ontario and Canada would lead to a living, open agreement that can renew and evolve over time.

Whereas a Relationship Agreement would be in the same spirit as pre-confederation treaties which essentially were nation-to-nation agreements to coexist and share the land.

Whereas the Relationship Agreement will respect our inherent jurisdiction and law-making processes to exercise our authority over N'dakimenan.

Whereas the Relationship Agreement will take an independent position from the Restoule action in negotiating any compensation for resources extracted from N'dakimenan in the past (which reflects our unique history).

Whereas the Supreme Court of Canada (1991) stated "It is conceded the Crown has failed to comply with some of its obligations under this agreement, and thereby breached its fiduciary obligations to the Indians. These matters currently form the subject of negotiations between the parties."

Whereas we, as a People, will co-create a Relationship Agreement with our elected Joint Council.

Whereas the Relationship Agreement negotiations will consider the following:

- Revenue sharing framework for the future, including but not limited to economic opportunities;
- Determining the land tenure for the remaining set aside lands;
- Fast-tracking an interim agreement for the development of the community site, identified as Shiningwood Bay;
- N'dakimenan Table as an interim co-management body with planning and regulatory authority for land stewardship leading to Teme-Augama Anishnabai - led stewardship arrangement for N'dakimenan;
- Outstanding fiduciary obligations.

Therefore, be it resolved that the Temagami First Nation and Teme Augama Anishnabai support a Relationship Agreement Mandate for a renewed approach to negotiations.

Appendix G

More Information:

<https://thetaa.ca/negotiations/>

[https://www.youtube.com/watch?v= ZvhjZ1RQO8&t=20s](https://www.youtube.com/watch?v=ZvhjZ1RQO8&t=20s)

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