

Land Claims in the Lake of the Woods Area (May 2019)

There are several kinds of land claims. The ones that Ontario deals with are about Indigenous communities' rights to land and to the use of land.

In a land claim, an Indigenous community asks Ontario to address historic wrongs. The community provides historical and legal documents to prove that the community is legally entitled to reserve land and/or to financial compensation.

Types of Claims

- Reserve Land Claims
- Unsold Surrendered Lands
- Aboriginal Title (Comprehensive Claim)
- Land and Larger Land Base (LLLLB)

Reserve Land Claims

These claims are about:

- The size, location and/or quality of reserves
- The improper use of reserve lands by others, particularly government

In a reserve land claim, an Indigenous community might allege that:

- The boundaries or the size of a reserve should be adjusted
- Reserve land was used in the past (e.g., to build a road) without proper permission
- Financial compensation should be paid for using reserve land (e.g., the flooding of reserve land by a dam) without proper permission

Types of Reserve Land Claims in the Lake of the Woods Area

Treaty Land Entitlement (TLE): The First Nation did not receive the proper quantity of land according to the relevant treaty.

Animakee Wa Zhing #37 TLE Claim

For further information, please contact: AWZTLE@Ontario.ca 416-326-4381

Boundary: The current boundaries of a reserve are incorrect.

Obashkaandagaang Garden Islands Claim

For further information, please contact: OFNGardenIslands@Ontario.ca 416-327-9582

Flooding: Reserve land was unlawfully taken or damaged from the construction of hydro-electric power facilities, dams, river diversions etc.

Lake of the Woods Flooding Claims

For further information, please contact: LOTWFloodingClaim@Ontario.ca 416-326-4755

Land Claims in the Lake of the Woods Area (May 2019)

Types of Claims Continued...

Unsold Surrendered Lands

- A First Nation may seek the return of, or payment for, reserve land previously transferred to Canada for sale on behalf of the First Nation but remains unsold.

Aboriginal Title (Comprehensive Claim)

- An Indigenous community asserts that original rights to the land were never surrendered to the Crown (for example, the Algonquins of Ontario).
- An Indigenous community asserts that the surrender of land was flawed, and therefore the Aboriginal Title of the community was not extinguished.

Land and Larger Land Base (LLLLB)

- A 1991 policy on behalf of five communities in the Robinson Superior Treaty area to expand three very small reserves and provide land for two landless communities.

BACKGROUND INFORMATION

SETTLING THE HISTORIC FLOODING CLAIMS OF THE LAKE OF THE WOODS/WINNIPEG RIVER/SHOAL LAKE FIRST NATIONS

The Governments of Canada and Ontario are engaged in negotiations with First Nations to find a resolution to the First Nations' claims that the Rollerway Dam and the Norman Dam built respectively in 1887 and 1895 at Kenora, caused the flooding of their First Nation lands on Lake of the Woods/Winnipeg River/Shoal Lake without proper authorization and without appropriate compensation. Negotiations began in September 2009.

The goal of the negotiation process is to conclude fair and final settlements that will bring closure to these longstanding issues and foster reconciliation.

Background

Thirteen Treaty 3 First Nations on Lake of the Woods/Shoal Lake/Winnipeg River with a total of 45 reserves have filed flooding claims with Ontario and Canada. One Lake of the Woods flooding claim has been settled (Rainy River First Nations).

Ontario's assessment of these flooding claims determined that the First Nations did not consent to the flooding of their reserve lands nor did the First Nations receive compensation for the damages as a result of the construction of hydro-electric dams. A succession of dams were constructed at the outlets of the Lake of the Woods, the first built in 1887, that raised water levels on Lake of the Woods/Shoal Lake/Winnipeg River.

The dams increased water levels to such an extent that reserve shorelines – originally surveyed to the pre-dam water's edge – either became permanently inundated with water or became islands separated from reserve mainland. These reserve land islands have been administered as Ontario Crown land and include unpatented Crown land, islands that have been included in the Lake of the Woods Conservation Reserve, and a number of reserve land islands that were patented and sold to third parties.

Currently there are eight First Nations (with 26 parcels of reserve lands) whose lands would be implicated in the current public engagement. The eight First Nations include: Niisaachewan Anishinaabe Nation (formerly Ochiichagwe'Babigo'Ining Ojibway Nation), Naotkamegwanning (Whitefish Bay), Big Grassy River (Mishkosiminiziibiing), Ojibways of Onigaming, Animakee Wa Zhing 37 (Northwest Angle 37), Anishinabe of Wauzushk Onigum Nation (Rat Portage), Obashkaandagaang (Washagamis Bay) and Northwest Angle 33 First Nations ("the Negotiating Partners").

There are four additional First Nations (with 14 parcels of reserve lands) whose lands have not yet been surveyed and when appropriate will be the subject of a future public engagement.

The Negotiations

The Negotiating Partners agree that the best way to resolve these claims is to work together to find common solutions.

Negotiations are proceeding well, but much work remains to be done before discussions on proposed settlements with each of the claimant First Nations can be concluded.

It is anticipated that the settlements will include financial compensation and the establishment of legal easements over the flooded First Nation lands, thereby regularizing the on-going flooding of First Nation lands. Surveys are currently being completed by the Government of Canada to describe the limits of the easements on the First Nation lands.

Islands Originally Part of First Nation Lands

The Negotiating Partners agree that islands created from flooding, that were originally part of the First Nation lands, should be repatriated to the respective First Nation. Private land is not being repatriated as part of the settlement (see “Privately Owned Islands” below).

Detailed maps will be prepared to illustrate these islands following completion of the surveys.

Lake of the Woods Conservation Reserve Islands

The Negotiating Partners agree that the islands originally part of the First Nation lands that are currently regulated as part of the Lake of the Woods Conservation Reserve should be deregulated and returned to the respective First Nation as part of this claim.

To achieve that objective, the Government of Ontario is proposing to amend the boundary of the Lake of the Woods Conservation Reserve to remove these islands.

Once the surveys of the easements have been completed by the Government of Canada, Ontario will finalize the list of islands to be removed and will proceed with the process of amending the boundary of the Conservation Reserve which will include applicable requirements under the Class Environmental Assessment (EA) for Provincial Parks and Conservation Reserves. As required by the Class EA, a formal public consultation process will be undertaken by the Ontario. Following the boundary amendment, these islands will then follow the same disposition process as the Crown islands.

Crown Islands

The Negotiating Partners have agreed that any unpatented Crown islands (not part of the Lake of the Woods Conservation Reserve) that were originally part of one of the First Nation

lands, should be returned to the respective First Nation as part of this claim. To achieve this objective, Ontario will dispose of these lands through the Crown land disposition process, so the lands can be recognized as First Nation reserve land. Ontario will undertake the process of the disposition of these Crown lands, including meeting the applicable requirements under the Class Environmental Assessment (EA) for Resource Stewardship and Facility Development Projects. As required by the Class EA, a formal public consultation process will be undertaken by the MNRF.

Privately Owned Islands

After flooding, the newly formed islands originally part of First Nation lands were administered as Ontario Crown land. Some of these islands were subsequently patented and sold to third parties. The Government of Ontario has a long-standing policy that it will not expropriate private property from third parties to settle land claims and will protect access to those properties.

The Benefits of Settling Claims

Negotiated settlement agreements are one of the many steps toward achieving healing and reconciliation with Indigenous peoples. They resolve longstanding disputes about land in a balanced way that respects the rights of Indigenous people and all Canadians. Settlements reflect the parties' commitment to work in partnership and create a better future for everyone in the province.

For more information, please contact:

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c: Zachary Gutfreund, Associate Negotiator
Ministry of Indigenous Affairs

Comments and personal information concerning the claim are collected by the Ministry of Indigenous Affairs (IAO) to assist with decision making and to allow for follow-up with individuals as required. This activity occurs under IAO's mandate to resolve land claims. Comments not constituting personal information as defined by the *Freedom of Information and Protection of Privacy Act*, will be shared with others as appropriate, and may be included in documentation available for public review. Personal information will only be used/disclosed in accordance with the *Freedom of Information and Protection of Privacy Act*. If you have questions regarding the collection, use or disclosures of your personal information please contact Dianne Woods (contact information above).

