



Ministry of Indigenous Affairs

RAINY LAKE FLOODING CLAIMS UPDATE

FORT FRANCES MUNICIPAL COUNCIL

APRIL 26, 2021

TEAMS MEETING

Purpose

- To provide information regarding:
 - The First Nations flooding claims on Rainy Lake
 - The status of the negotiations since 2018
 - Ontario's public information and Indigenous consultations process

The Claims

- The First Nation claimants are:
 - Couchiching
 - Naicatchewenin
 - Seine River
 - Mitaanjigamiing
 - Nigigoonsiminikaaning
- The First Nations' reserve lands were surveyed following the signing of Treaty #3 in 1873.
- The First Nations claim that dam-related flooding of their reserve lands was not authorized and they were not informed in advance about or compensated for the impacts on their reserve lands.

Impacts of the Flooding

- The Fort Frances-International Falls Dam was constructed early in the 20th century and its operation raised water levels on Rainy Lake.
- Since 1949, water levels have been established by orders issued by the International Joint Commission.
- Much of the original shoreline of the First Nations' Reserves is now permanently under water and other areas are subject to periodic flooding events.
- The dam-related flooding also created islands from the mainland of the First Nations' Reserves.

The Negotiations

- Since 2018, considerable progress has been made at the five negotiation tables.
 - Surveys of the flooded reserve lands have been completed for 8 of the Reserves; the ninth will be done this summer.
 - The Negotiating Partners have agreed that the settlements will be financial compensation.
 - In addition to settling the Couchiching and Mitaanjigamiing flooding claims, the two First Nations, Canada and Ontario have agreed that there was never any intention to exclude the Two Chain Allowance lands from Reserves 16A and 18C and have agreed to provide certainty with respect to their status.
- It is anticipated that the proposed settlements with each of the First Nations will be ready for approval by the individual First Nations, Ontario and Canada this year.

Surveys

- A key issue during the negotiations was determining the natural or pre-dam water levels on Rainy Lake; this information was needed to establish the flooded areas on the First Nations' Reserve lands.
- The Negotiating Partners agreed that the best approach would be to have surveys completed by a qualified, independent surveyor. Eight surveys have been done.
- The surveyor determined the contour that best represents the elevation of the natural or pre-dam low water level on Rainy Lake. He then used that elevation to determine the flooded area on the eight Reserves.
- The ninth Reserve (Couchiching) will be done in the Spring of 2021.

Results of Surveys

- The recent surveys have identified the First Nations' reserve lands, both above and below water, that have been impacted by dam-related flooding.
- As First Nation reserve lands, these lands are under the administration and control of the federal government and are not subject to provincial control or jurisdiction.
- As a result of the surveys, Ontario has identified lands that were, in certain instances, administered by Ontario
 - Ontario regulated islands as Rainy Lake Islands Conservation Reserve lands under the Ontario *Provincial Parks and Conservation Reserves Act*;
 - Ontario included reserve islands within the boundaries of allocations issued under the Fish and Wildlife Conservation Act, including traplines, bear management areas, and bait harvest areas; and
 - Ontario sold an island under the Ontario *Public Lands Act*.
- The Mitaanjigamiing Two Chain Allowance land is identified as being within the surveyed lands for Reserve 18C.

Moving Toward Settlements

- Ontario has identified the appropriate steps to address circumstances where certain reserve lands were administered by Ontario. Those steps include:
 - amending the boundary of the Rainy Lake Islands Conservation Reserve to confirm that reserve lands are not included in the Conservation Reserve;
 - amending resource harvester licenses, such as bear management area licences, baitfish harvester licences and trapline licences, to confirm that reserve lands are not included in those licenses;
 - ensuring that reserve lands are identified and not available for registration of mining claims in Ontario's Mining Lands Administration System (MLAS); and
 - identifying potential solutions with respect to a privately-owned island which has been confirmed to be within the area identified as forming part of a First Nation Reserve.

Ontario's *Environmental Assessment Act*

- In 2018, it was thought that Ontario's Class Environmental Assessment (EA) processes under the *Environmental Assessment Act* might be triggered by the settlement of the flooding claims.
- Now that eight surveys have been completed and it has been established that the lands shown on those plans are First Nation reserve lands, Ontario's Class EA processes do not apply.
- The Two Chain Allowance lands may involve certain additional federal and provincial processes, including the Ministry of Natural Resources and Forestry Resource Stewardship and Facility Development Projects Class EA, to provide certainty with respect to the status of the Two Chain Allowance lands.

Next Steps

- Due to the COVID-19 pandemic, a virtual process to engage Indigenous communities and provide information to the interested public is being carried out. Information will be posted on www.Ontario.ca and includes an interactive map showing the flooded reserve areas.
- Information about the flooded reserve lands for each of the 5 First Nations will be added to the interactive map as it becomes available, followed by a 45-day review period.
- We would be happy to meet with Council again once the survey for Reserve 16A is available.

How to Reach Us

To provide feedback or submit questions or to request an additional meeting during any of the upcoming 45-day review periods, please contact:

Lise Hansen, Senior Negotiator

Ontario Ministry of Indigenous Affairs

RLFloodClaim@Ontario.ca

Questions