

FEBRUARY 2012

AHTAHKAKOOP Treaty Land Entitlement Newsletter



An overview of Ahtahkakoop TLE Compensation and Process
for the members of the Band

What is Treaty Land Entitlement?

In Saskatchewan, Treaty Land Entitlement (T.L.E.) is a process whereby the federal and provincial governments are fulfilling commitments to resolve outstanding T.L.E. claims with First Nations. The T.L.E. process exists because in some instances First Nations did not receive the land that was promised to them upon the signing of Treaty No.6.

In 1992, Saskatchewan, Canada, and 25 First Nations signed the Treaty Land Entitlement Framework Agreement. Since then, 33 TLE Settlement Agreements have been signed. Under the terms of the agreements, Entitlement First Nations will receive approximately \$595 million over 12 years to buy up to 2.28 million acres of land to add to its reserves.

How Did the Crown determine the Land for Ahtahkakoop's band in 1878?

In 1878, the crown used a "Date of First Survey". This was derived by counting the population at the time of; 336 members (x 128 acres per person).

It was determined the land that Chief Ahtahkakoop was entitled to was 67.17 square miles.

Ahtahkakoop's Band (1878): 336 members

Treaty No.6 (1876): 128 Acres per Head or 640 Acres Family of Five

Surveyors (1878): 67.17 Square Miles (42,988.80 acres)

Ahtahkakoop Chief & Council Research on 1878 "Date of First Survey"

The current Chief & Council began to research the 1878 "Date of First Survey" (D.O.F.S.) of Ahtahkakoop Band. And the research was astounding. It demonstrated that the surveyor's information was wrong; and in fact, many members of Ahtahkakoop Band were not available to be counted and were off hunting or gathering in other regions. It was discovered that there was a total of 32 members missing at the time.

The following is a summary of what the Ahtahkakoop Band **should have received** from the crown as part of Treaty No. 6:

Ahtahkakoop's Band (1878): 368 members

Treaty No.6 (1876): 128 Acres per Head or 640 Acres Family of Five

Surveyors (1878): 73.6 Square Miles (47,104 acres)

Settling the "Date of First Survey" between the Crown and Ahtahkakoop

Settling the surveyor's use of incorrect population, in turn impacted the size of the land base for Ahtahkakoop Band. It now has to be placed in the current context, meaning the current Chief & Council and its member's have to settle an historic shortfall in a contemporary manner. That contemporary manner is a process referred to in the Treaty Land Entitlement Framework Agreement.

Based on certifying Ahtahkakoop's band in 1878 and the surveyor's miscalculation of the "Date of first Survey", the band has an entitlement for compensation by the following result:

Ahtahkakoop's Band (1878): 32 members not counted

Treaty No.6 (1876): 128 Acres per Head or 640 Acres Family of Five

Surveyors (1878): Shortfall of 6.43 Square Miles (4,115.20 acres)

What is the Estimated Compensation Amount for Ahtahkakoop Band in 2012?

Before we get to the compensation amount eligible to the Ahtahkakoop Band, there are two key words that will be used over the entire process that members and leaders need to understand, and that is **Shortfall Acres** and **Equity Acres**.

Shortfall Acres:

"Shortfall" is the amount of land that a First Nation did not receive when it's reserve was first surveyed. This is the minimum amount of land that First Nations must acquire and have transferred to reserve status in order to satisfy Canada's treaty obligation. In our reserve, that shortfall is 4115.20 acres.

Equity Acres:

Examines what percentage of band members did not receive land, then takes the present population and bases the acreage on that percentage. For example, Ahtahkakoop should have received all the land it was entitled to in 1878 when the reserve was first surveyed. If the 4,115.2 extra acres had been included at that time, there would be no outstanding TLE claim today. However, to simply add that acreage today would not account for the fact that Ahtahkakoop has been denied the use of that land for 132 years. To make up for the loss of use, the equity formula was used under the Framework Agreement to allow First Nations to not only acquire their shortfall, but to acquire additional reserve lands called "equity acres".

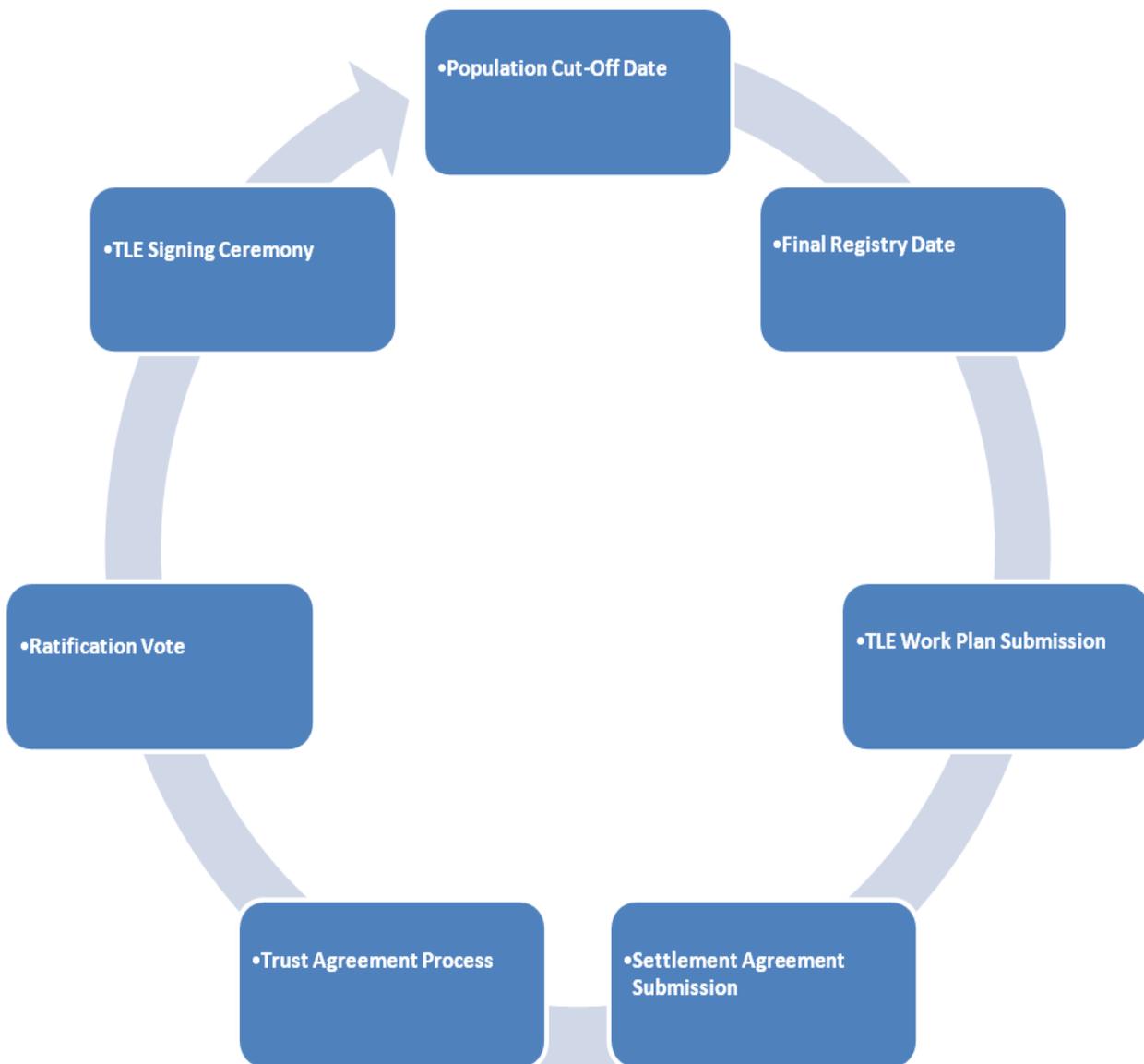
What is our Settlement Value?

The following page is a summary sheet of Ahtahkakoop TLE Compensation, which is estimated at **\$15,291,773.60** under the current bands population of 3,165. It also calculates that each band member added thereafter adds **\$4,748.80** to the total compensation.

What are the Steps or Process to Achieve Ahtahkakoop TLE Compensation

The TLE Process is based on one simple premise and that is, 50% plus one of the voting ages of Ahtahkakoop must approve the Ahtahkakoop TLE Agreement and the Ahtahkakoop TLE Trust Agreement. This process is called the Ratification Process and requires the band to obtain membership approval.

The following is a flow chart of the process and a brief explanation of each step;



Pre Ratification:

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Commenced December 1, 2011, with the appointment of Neil Sasakamoose and Belinda Nelson. In addition, recommended is the appointment of Donna Ahenakew as Ratification Electoral Officer. Pre-Ratification will end upon a successful ratification and will consist of:

1. Define reporting and Governance Structure ie Committee and/or working group;
2. Confirming Ahtahkakoop members mailing addresses and contact information;
3. Appointment of Legal Counsel for ratification process;
4. Developing a Website for Online informational access for TLE;
5. Newsletter and communications via mail services;
6. Survey members on key areas such as design options of TLE Trust, per capita disbursements, types of lands to purchase;
7. Band informational meetings;
8. Land Acquisitions Strategy for Ahtahkakoop
 - a. Residential Strategy
 - b. Commercial Strategy
 - c. Non Renewable Resources Strategy
 - d. Tourism Strategy
 - e. Traditional Lands Strategy

Population Cut-Off Date:

Is the effective date where all births as of that date, will form the basis of the TLE Settlement Agreement for Ahtahkakoop. Births after that date will not be considered as part of the settlement. Mclvor members would not apply to this cutoff date as they are considered potentially part of the band, however they **are** non-registered. The TLE Process cannot commence without determining a Population Cut-Off Date, and from that point on, **a reasonable estimate to a signed TLE Agreement is about 18 months.**

Final Registry Date:

Also referred to as the “grace period” this date represents the final population figure of Ahtahkakoop that will determine the settlement amount for the TLE Agreement. This is determined by two factors:

1. Births registered as of this date as per the Population Cut-Off Date;
2. Mclvor members registered as of this date.

Canada has to agree with the length between the population cut-off date and the final registry date. They typically appear to be two months or a reasonable amount of time to register new births. This Registry Date is the second important date because it determines the start of the TLE Settlement Agreement and submission of the TLE Workplan.

As of February 7th, 2012, the Population Cut-Off Date and Final Registry Date was set at April 30th, 2012.

****It is important that you get your children registered as soon as possible****

TLE Work Plan Submission:

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The TLE Work Plan Submission is a proposal that is submitted to Canada that identifies the costs for Ahtahkakoop's TLE ratification in areas such as:

- >Communication and Band Consultation;
- >TLE Settlement Agreement Negotiations;
- >Ahtahkakoop Trust Agreement Development;
- >TLE Ratification Vote costs;

These costs are not charged to the band or to the settlement agreement, but appear to be a negotiation loan funding and that is written off. Jayme Benson from FSIN Claims will be responsible to prepare the submission with consultation from the band. The Work Plan can be prepared ahead of time, however it cannot be submitted until after the expiry of the Final Registry Date. The Work Plan approval is a 4 to 8 week process dependant on government bureaucracies.

Settlement Agreement Submission:

Ahtahkakoop legal counsel, David Knoll will be responsible for the drafting of the settlement agreement with consultation of the Band. There have been 33 settlement agreements that have been completed in Saskatchewan, which in turn means that there is a generic agreement that is reached and there appears to be two points that are specific to Ahtahkakoop:

- >The Final Registered membership that will determine settlement amount;
- >Payment Schedule (will probably mirror the last TLE Agreement that was signed)

The Settlement Agreement cannot commence or submitted until the Population Cut-Off Date is selected and the Final Registry date has lapsed. The Settlement has three stages of approval:

- > Once the Settlement Agreement is completed, it is sent for Treasury Board Approval which may take 6-9 months.
- >Once Treasury Board Approval is completed, it is then sent to the membership for Ratification and approval.
- >Upon the completion of Treasury Board Approval and Ratification Approval, it is then sent to the Minister of Aboriginal Affairs for signing.

Trust Agreement Process:

The Trust Agreement is an essential part of the T.L.E. process and requires Ratification by the members. Canada does not approve this process however the agreement must be completed prior to any settlement proceeds. The Agreement is specific to Ahtahkakoop and the members and the leadership will ultimately determine the type of trust agreement.

A Trust is a separate legal entity with certain legal obligations and liabilities separate and apart from the Band Council. The Trust outlines, in legal terms, how the TLE monies will be managed and administered and for what purposes the monies will be used. The Trustee or Trustees assume the legal responsibility to ensure that the monies in trust are administered and used for the purposes identified in the Trust. If the Trust is not managed in compliance with the Trust terms the Trustee or Trustees could be held personally liable. Options used by other TLE bands have been Corporate Trustee such as a Financial Institution or Bank.

Ratification Vote

Upon the return of the Settlement Agreement from Treasury Board and the completion of the Trust Agreement, the Ratification Vote can proceed. A TLE Ratification Vote Officer will be identified and in order to perform this function the individual must have a minimum standing as a certified election officer. The Ratification Process may take 6-8 weeks to conclude and requires 50% plus 1 of Ahtahkakoop's voting age to pass the vote.

TLE Signing Ceremony

Upon the completion of a successful Ratification Vote, the Minister of Aboriginal Affairs will sign the TLE Settlement Agreement. This is usually executed with the Band in a formal signing ceremony. When a document is sent to a Minister they are usually required to execute within 60 days of receipt. To this stage from the Population Cut-Off Date, we estimate 18-24 months.

Once the Agreement is signed, a new process is established whereby the Trust assumes the responsibility of the Agreement and the Ahtahkakoop will develop a Land Holding Company for the purposes of purchasing and holding lands.

Conclusion

Ahtahkakoop Band will be undertaking an historic resolution to an outstanding treaty obligation. This TLE process only resolves the issue of shortfall acres from date of first survey in 1887. And the discussion and purpose of gathering is to resolve that one item and it will not address other specific claims that the band is currently working on with the crown.