



Overview of Specific Claims Branch (SCB) Process

- Step 1: Preliminary Research – Research is done by a historical expert to gather all the relevant documents related to the claim.
- Step 2: Preparation of Historical Report – The historical expert then drafts a Report consisting of a narrative of the facts relating to the claim.
- Step 3: Draft and Submit Claim Submission - Once the Historical Report is complete, legal counsel assess the Report and, if a valid claim is found, will prepare a legal submission to be submitted to the SCB.
- Step 4: Canada’s Assessment of “Minimum Standard” - After the claim has been submitted to the SCB, Canada will assess the claim to determine if it meets the “Minimum Standard” which is a series of requirements for a claim submission under the Specific Claims Policy. Canada has six months to assess whether the claim meets the Minimum Standard.
- Step 5: Three Year Research & Assessment - Once it has been found to meet the Minimum Standard, there is a three-year research and assessment period by the SCB to decide if they will or will not negotiate the claim.
- Step 6: Negotiation - If Canada decides to negotiate, the parties will enter negotiations. If Canada decides *not* to negotiate the claim, there are two options, submit the claim to the Specific Claims Tribunal for a determination of validity and compensation (as outlined above) or, two, litigate the claim in the normal court process.

Muskowekwan 1906 Railway Claim

Summary:	<p>In late 1905, the Grand Trunk Pacific Railway Company (GTP) applied to the Department of Indian Affairs to construct its railway line through the Muskowekwan Reserve. By Order in Council dated May 12, 1906, 164.8 acres of the reserve were granted to the GTP for a right of way and station grounds.</p> <p>The Claim was filed with the Specific Claims Branch (SCB) on June 30, 2020. Canada accepted the Claim for negotiation on April 23, 2023. We are presently negotiating the terms of a negotiation protocol agreement with Canada to ensure that the negotiation process is balanced, while also ensuring that MFN can terminate negotiations and move the claim to the Tribunal in the event that negotiations fail.</p>
Basis of the Claim:	The Claim alleges the Crown breached its statutory and fiduciary duties to the First Nation in relation to the taking.
Relief Sought:	We are seeking compensation for the current unimproved value (CUMV) of the land plus damages for loss of use (LOU) from the date of the taking to present.
Expert Reports:	<p>Reports in progress: Historical Report and CUMV, LOU for railway corridor valuation</p> <p>Environmental Assessment: October 2021 - An environmental assessment Phase I has been completed for the right of way by Pinter & Associates. A Phase II was recommended.</p>
Next Steps:	The records should be corrected to reflect that any interest transferred to the GTP in 1906 was limited to a statutory easement and that underlying mineral rights remain with the First Nation. We also expect the Crown to negotiate a settlement with the successor in interest to the GTP (CNR) and the First Nation for an agreement for the future use and occupation of reserve land for railway purposes, subject to proper terms and conditions.

Muskowekwan Agricultural Benefits Claim

Background:	Under the terms of Treaty 4, Canada made a series of promises to signatory bands, including the provision of the following “Agricultural Benefits”: articles such as tools, implements, seed and livestock to be supplied to each band of Treaty 4 for the encouragement or the practice of agriculture.
Basis of the Claim:	The Agricultural Benefits Claim relates to the Crown’s failure to provide the full slate of agricultural benefits owed to Muskowekwan First Nation under the terms of Treaty 4. These agricultural benefits were intended to assist the Band in the transition to an agricultural livelihood, as their traditional way of life was no longer viable. Agricultural benefits under Treaty 4 included: articles, such as tools, seed and livestock for the encouragement of the practice of agriculture, and annual payments for three years for the purchase of provisions to assist in cultivation. The Claim asserts that the Crown’s failure to set aside the full slate of agricultural benefits owed to Muskowekwan First Nation constitutes a breach of the Crown’s treaty, trust, fiduciary, and honourable obligations for which compensation remains owing.
Relief Sought:	Compensation for failing to provide all of the agricultural benefits to the Muskowekwan First Nation pursuant to the terms of Treaty 4.
Current Status:	A Claim Submission was drafted and filed with SCB on September 28, 2021. Canada has 3 years from this date, September 28, 2024, to assess whether it will accept the Claim for negotiation. Maurice Law acts for numerous First Nations with analogous claims, with three presently active before the Specific Claims Tribunal. A resolution of such analogous claims may fast-track resolution of Muskowekwan’s claim, which are presently at an earlier procedural stage.

Muskowekwan Mismanagement of Trust Claim – Band Specific

Summary:	The Claim relates to breaches of trust and fiduciary duty in relation to the mismanagement of the First Nation’s trust funds by the Crown beginning in 1918.
Basis of Claim:	The Crown breached its statutory, fiduciary, and trust duties owed to the First Nation in relation to the administration of its trust moneys. Liability is the most significant issue in the Claim.
Relief Sought:	Equitable compensation for the amount of improper expenditures with compounding interest to present day value.
Current Status:	Maurice Law has retained expert historical forensic accountants to provide a further in-depth investigation of the trust accounts. The Claim was accepted for negotiation and a settlement proposal was tabled on April 27, 2021. Canada is in the course of formally responding. Negotiations will continue thereafter.

Muskowekwan Treaty Annuities Indexing Claim

Background:	The Crown granted an annual payment of \$5 to Treaty band members. This \$5 ought to have increased over time.
Basis of Claim:	<ul style="list-style-type: none"> ▪ The legal basis for the “duty to index” (i.e., increase the treaty annuity amount commensurate with the purchasing power of the annuity at the time of the treaty in question) is grounded in law: “treaty rights are not frozen in time”; “treaty rights are capable of evolution within limits”.

	<ul style="list-style-type: none"> ▪ Crown has a general obligation to uphold the “Honour of the Crown”, the Crown is obligated to implement treaties in a “modern context”. In other words, the “honour of the Crown” requires Canada to provide a “modernized” treaty annuity.
Current Status:	The Specific Claim Submission was submitted to the Specific Claims Branch on April 28, 2023.
Next Steps:	Canada now has 6 months to review the claim submission to see if it meets the Minimum Standard as to form and content. After, Canada will have 3 years to assess whether it will accept the Claim for negotiation.

Muskowekwan NRTA Claim

Background:	<p>Indigenous peoples from time immemorial harvested from the land through hunting, fishing, and trapping, whether it was for traditional ceremonies, commercial purposes, or sustenance. The commercial aspect of these traditional practices became a significant source of wealth for many communities.</p> <p>Under Treaty 4, the federal Crown guaranteed the rights of the signatory bands to hunt, fish, and trap on the Treaty lands. Although the federal Crown adopted effective control over these Treaty lands, the federal Crown made a promise to the signatory bands that they would be able to continue harvesting as they traditionally had done.</p>
Basis of Claim:	<ul style="list-style-type: none"> • Under the terms of Treaty 4, Canada made a series of promises to the signatory bands, including the right to hunt, fish, and trap on the land the Treaty covered. • These Treaty lands became federal Crown lands and, in 1930, the Crown transferred these same Treaty lands to the provinces through the <i>Natural Resources Transfer Agreements (NRTA)</i>. • Paragraph 12 of the NRTA guaranteed that “Treaty Indians” would keep their treaty right to hunt, fish, and trap for <i>food</i> on unoccupied Crown lands. According to the Supreme Court in the 1990 case of <i>R v Horseman</i>, because the 1930 NRTA mentioned <u>only</u> the right to hunt, fish and trap for food, it effectively extinguished the Treaty First Nations right to hunt, fish, and trap commercially. • This ended the commercial aspect of this Treaty right. • Canada at no point compensated or consulted Treaty First Nations for extinguishing the commercial right to hunt, fish and trap.
Current Status:	The Specific Claim Submission was submitted to the Specific Claims Branch on April 28, 2023.
Next Steps:	Canada now has 6 months to review the claim submission to see if it meets the Minimum Standard as to form and content. After, Canada will have 3 years to assess whether it will accept the Claim for negotiation.

Overview of Specific Claims Tribunal (SCT) Process

- Step 1: Declaration of Claim: Starts the Claim in the SCT process.
- Step 2: Case Management Conferences (“CMCs”): Meetings held, presided over by a Judge, to organize evidence and other important issues in advance of the Final Hearing, including:
 - document exchange and organization between the First Nation and the Crown;
 - identification of issues and facts in relation to the claim;
 - expert reports to support the claim;
 - preparation and organization for an Oral History Hearing (collection and presentation of oral history evidence) and an Expert Hearing (presentation and examination of both the First Nation’s and Crown’s experts and their reports); and
 - finalize document collection to include any new documents produced by the experts, and any other issues that may arise.
- Step 3: Written Submissions - First Nation and the Crown prepare their written submissions based on a legal analysis of all of the above material.
- Step 4: Final Hearing – Presentation and examination of the First Nation and Crown’s written and oral arguments.

Muskowekwan 1910 and 1920 Surrender Claim

Background:	On March 7, 1910, Indian Agent William Murison obtained a surrender for sale of approximately 160 acres for a townsite. On October 14, 1920, Commissioner W.M. Graham obtained a second surrender for sale of the eastern three rows of sections of the reserve, totaling 7,485 acres .
Basis of Claim:	The Crown failed to uphold its pre- and post-surrender statutory and fiduciary obligations to the First Nation in relation to both surrenders.
Relief Sought:	We are seeking: <ul style="list-style-type: none"> • compensation for the current, unimproved market value (CUMV) of the 160 acres of land surrendered in 1910 for the townsite, as well as 7,485 acres of land surrendered in 1920 adjacent to the townsite; and • compensation for the loss of use (LOU) of the surrendered lands from the date of the respective takings, to the date of judgment.
Current Status:	On March 12, 2020, Muskowekwan filed a Declaration of Claim with the Specific Claims Tribunal to have the matter determined by a judge. Canada filed a response on July 8, 2020, denying liability in relation to the main components of the claim.

Muskowekwan Mismanagement of Trust Claim – Touchwood Hills Agency

Summary:	The Claimant consists of the current and former members of the Touchwood Agency Tribal Council. In 1906 Canada implemented legislation to protect band assets held in the Consolidated Revenue Fund. The <i>Indian Act</i> in force at the time gave local Indian Agents sweeping powers to audit and review the financial administration of Indian Agencies. B. Hardinge (“Hardinge”) was hired on June 6, 1920 by the Department of Indian Affairs (Department) to act as the Indian Agent of the Touchwood Agency, despite not being formalized until December 14, 1922. During his tenure, Hardinge mismanaged the Agency, misappropriated funds, and in contravention of Departmental directives, created a substantial debt with local merchants through the use of the Order System, and other questionable practices. When the indebtedness was discovered, the Department took the position that the Touchwood Bands were responsible for Hardinge’s actions, which he undertook on behalf of the Touchwood Agency. Over the months and years that followed, the Department took steps
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	to hold the Touchwood Bands liable. In response to the debt accumulation throughout 1920-1923, the Department made significant efforts to have the debts paid off in 1922 and 1924, through the use of Touchwood Band trust moneys.
Basis of Claim:	The Crown breached its trust, treaty and fiduciary duties in relation to the improper expenditure of expenses for the member nations of the Touchwood Hills Agency.
Relief Sought:	Equitable compensation for the amount of improper expenditures with compounding interest to present day value.
Current Status:	The Declaration of Claim was filed on November 1, 2019. The Crown filed its Response to the Declaration of claim on January 27, 2020. In its Response, the Crown admitted liability and the parties will now be discussing the scope of liability and then compensation. A settlement proposal was tabled on September 20, 2020. Canada has responded and the parties are now preparing next steps.