



BINGWI NEYAASHI ANISHINAABEK

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BINGWI NEYAASHI ANISHINAABEK ("BNA") MEMBER UPDATE ON THE ROBINSON SUPERIOR TREATY ("RST") ANNUITIES CASE

February 27, 2025

We would like to provide an update to the community following the November 2nd Community Meeting which covered information on our Annuities Case. We would like to take this opportunity to share that no decisions have been made regarding distribution or disbursement of funds.

In the upcoming months, we will begin a series of community meetings with the purpose of:

- Updating members about the ongoing Title and Annuity negotiations
- Seeking input from community members to assist in decision making
- Discussing all options for ways the funds can be allocated
- Providing education on investment strategies for those that are interested

All community members will have input throughout the decision-making process. It is important not to forget the impact that community members have on these types of decisions. Community consultation is crucial to move this process forward and prevent the spread of misinformation. In addition to community meetings, we will also provide updates through Facebook, mail-outs, the website, and other means as more information becomes available.

Supreme Court of Canada Decision on Stages 1 and 2

On July 26, 2024, after many years of litigation, the Supreme Court of Canada ruled in favour of the Superior Plaintiffs, stating the Crown breached its duty to adjust annuities as promised in the treaty. The Court granted the Crown six months to reach a settlement, or if no settlement is reached, to exercise its discretion in an honourable way to determine an amount owed as compensation for past treaty breaches.

Exercise of Crown Discretion

The negotiations failed to result in a settlement by January 26, 2025 and so the Crown (Ontario and Canada) determined that they would collectively pay the RST First Nations \$3.6 billion to compensate for the breaches of their obligations to increase annuities under the treaty over the past 175 years (referred to as the "Exercise of Crown Discretion"). The Crowns must now, within a "reasonable time", pay out the \$3.6 billion subject to the "Contingent Beneficiary First Nations" section below.

The \$3.6 billion Exercise of Crown Discretion, along with any additional court awarded or negotiated settlement amounts (see "Review for Constitutional Compliance"

below) related to past annuities will be divided amongst the RST First Nations based on their relative registered population as of 2018. BNA's population represents 2.08% of the total RST First Nation population that year and so BNA's share of the \$3.6 billion is \$74.88 million.

Contingent Beneficiary First Nations

BNA is one of six (6) First Nations in the Robinson Superior Treaty Area - along with Biigtigong Nishnaabeg, Biinjitiwaabik Zaaging Anishinaabek, Long Lake No. 58, Pays Plat First Nation, and Netmizaaggamig Nishnaabeg – that did not sign the treaty in 1850 and have not adhered to the treaty since 1850. Over twenty (20) years ago these First Nations, referred to in the Annuities Litigation as the “Contingent Beneficiary First Nations” brought legal actions against Canada and Ontario seeking a declaration of unextinguished Aboriginal Title, among other remedies. Because these Aboriginal Title claims are based on each of the Contingent Beneficiary First Nations not being a party to the treaty, these First Nations, including BNA, will be required to resolve their title claims before they can receive their share of treaty annuities compensation.

Review for Constitutional Compliance

The RST First Nation Chiefs have unanimously agreed that, in their view, the process undertaken and the compensation amount that comprised the Exercise of Crown Discretion was unacceptable and have decided to return to the trial judge to seek a “Review for Constitutional Compliance”. If the courts end up siding with the RST First Nations, the Crown could owe additional compensation. That said, this additional compensation would only be paid after all court appeal pathways have been exhausted, which may take 3-5 years or more, unless there is an earlier negotiated settlement.

Legal steps in the Review for Constitutional Compliance have already begun and oral arguments are scheduled for June 2025 at the Thunder Bay Courthouse.

Robinson Superior Treaty Annuity Information Portal

A new website – <https://rstannuitylitigation.ca> – has been set up by the Chiefs of the First Nations in the Robinson Superior Treaty area (“RST First Nations”) to provide community members with reliable information and updates on the Robinson Superior Treaty Annuities Litigation. We encourage members to visit that site for information and updates.