

ROBINSON HURON TREATY LITIGATION FUND

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COMMUNITY BULLETIN

December 27, 2018

First Phase of Robinson Huron Treaty Annuity Case Decided in Favour of the First Nations

On December 21, 2018, Justice Hennessey of the Ontario Superior Court released her Judgment in Stage 1 of the Robinson-Huron Annuities Claim, including its judgment on costs. The Chiefs of the Lake Huron Anishinaabe are pleased to say that they won the case. The Court ruled that the Crown has a mandatory and reviewable constitutional obligation to increase the annuity to reflect the economic value the Crown receives from the territory. The Court found that since 1850 the Crown has acted in a way that has seriously undermined their duty of honour, which left the Treaty's promises completely forgotten by the Crown.

The first phase of the legal proceedings got underway last September 25, 2017 in Thunder Bay and culminated in July 2018. There were over 60 days of hearings which included opening statements, examinations and cross examinations of elders and various experts and legal submissions.

A critical component of the Robinson-Huron Treaty is the 'annuity' provision. Our Chiefs agreed to share lands and resources with the newcomers and in return, the Crown was supposed to pay annuities which were to be increased throughout the years. Currently, treaty beneficiaries receive a mere \$4.00 per year and there has been no increase since 1874.

The Treaty states that the annuities would increase if the resource revenue generated from the territory produced such an amount as to enable the increase without the Crown government incurring a loss. The Robinson Huron Treaty territory has generated major revenues from forestry, mining and other resource development activities -- yet annuities have not been increased. The annuity was intended to be our share of the wealth generated by revenues from our territory, yet many of our people continue to live in poverty and sub-standard housing, education funding and health services. This is not what our ancestors bargained for.

The Court did not specify a percentage for the Anishinaabe share, but only that it was not subject to a \$4.00 limit. It expressed a preference for the parties to work this out amongst themselves in negotiations. Failing negotiations, the Court said that these matters can be determined as a matter of law, according to the principles of the honour of the Crown and fiduciary obligations which impose on the Crown the obligation to give meaning and substance to, and to diligently implement, the Treaty's promise to augment the annuities.

Atikameksheng

Anishnawbek

Aundeck Omni

Kaning

Batchewana

Dokis

Garden River

Henvey Inlet

Magnetawan

M'Chigeeng

Mississauga #8

Nipissing

Sagamok

Anishnawbek

Serpent River

Shawanaga

Shegiandah

Shesheganing

Thessalon

Wahnapiatae

Wasauksing

Whitefish River

Wikwemikong

Unceded Indian

Reserve

Zhiibaahaasing

The issuance of the decision concludes phase 1 of the proceedings. Both Ontario and Canada may appeal the decision. The next phase dealing with the Crown assertions of technical defences will commence in 2019. The third phase will deal with determining compensation.

The Chiefs are expressing their readiness and determination to continue to battle it out in the courts, however, the preference is for Ontario and Canada to engage in negotiations to settle the claim.

We will continue to keep you, our citizens updated on all progress and key information of regarding the entire Claim's process.