



## Cote First Nation

### Specific Claims Update – October 2020

Please note that the Status of Specific Claims detailed below have been the focus of collaborative discussions with the Department of Justice and the Director General of Specific Claims in an effort to resolve five (5) simultaneously. It is expected that a formal table to negotiate their resolution will be established before 2021. Notwithstanding, described in more detail below are the various statuses of the claims within the Specific Claims Process.

#### Cote First Nation 1903 CNR Railway Claim

Specific Claims Tribunal (SCT):	August 19, 2014 Declaration of Claim filed with the SCT. The Crown filed its response to the Claim on October 21, 2014. On May 15, 2015 an Amended Declaration and Crown response was filed.
Land Taken:	44.56 acres
Basis of Claim:	This Claim deals with the Crown's unlawful expropriation of 44.56 acres of Cote reserve land in 1903 for the purposes of a railway right-of-way. The Claim asserts that the Crown breached its statutory ( <i>Indian Act</i> and <i>Railway Act</i> ) and fiduciary obligations owed to the Cote First Nation for the wrongful taking of Cote reserve land for railway purposes.
Relief Sought:	Compensation for the fair market value of the Claim lands plus damages for loss of use with reversionary rights when the lands are no longer required for railway purposes.
Current Status:	<p><u>Historical Report:</u></p> <ul style="list-style-type: none"> <li>Prominent railway historian, Dr. Frank Leonard Ph.D, Department of History, University of Victoria, concluded his historical report concerning the activities of the Canadian Northern Railway Company and its agents in the location, acquisition, and development of right-of-way and Kamsack Station Ground as well as the Townsite. His report is complete and was sent to the Crown on November 20, 2018.</li> <li>Peggy Martin-McGuire, historian, was hired to prepare a supplemental report on the larger picture of prairie reserve land speculation by key Department of Indian Affairs officials during this time period. Her report was sent to the Crown November 20, 2018. These reports will also be used in the 1904 Townsite and Station Grounds Claim.</li> </ul> <p>The Crown submitted responding reports on January 6, 2020.</p> <p><u>Appraisal Report:</u> Altus Group, land appraisers, prepared a historic market value assessment of the claim lands. This appraisal report was sent to the Crown on Jan. 15, 2018.</p> <p>The Crown submitted a responding report on July 12, 2018.</p> <p><u>Next steps:</u></p> <p><u>Settlement:</u> As presented and discussed with Chief and Council, a settlement proposal in the amount of \$2.95 million was sent to the Crown on December 10, 2018. Canada has been reviewing this claim in conjunction with the 1904 Townsite Surrender Claim and required time to complete its expert report and legal opinions with respect to both claims to determine its position on settlement. Concern about their delay in this matter has been repeatedly communicated to the presiding Judge. However, Canada stated at the April 2020 Case Management Conference that the time Canada has spent reviewing the claim is an indication that negotiation is imminent. At the July 8, 2020, Case Management Conference Canada stated that their legal opinions would be completed by early October 2020 and, from there, it will take 1 to 2 months for the Specific Claims Branch to consider the legal opinions and to determine whether they will negotiate. At that time, (est. sometime in November 2020) the Cote First Nation will be notified whether the claim will be accepted for negotiation.</p>

	<p>Throughout this period, there was continued communications with the Director General of the Specific Claims Branch and the Senior Crown Negotiator regarding proposed comprehensive exploratory discussions with the goal of ultimately negotiating a settlement of all of Cote's long outstanding specific claims, including this Claim, the 1904 Townsite Surrender Claim, the Road Allowances Claim, and to expedite the review of the Misadministration of Trust Claim.</p> <p><i>Tribunal:</i> If the claim is not settled, the claim will continue through the Tribunal process.</p>
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## Cote First Nation 1904 Station Grounds and Kamsack Townsite Surrender Claim

Specific Claims Tribunal (SCT):	Sept. 4, 2014 Declaration of Claim filed. Nov. 7, 2014 Canada's response filed. April 28, 2016 Amended Declaration of Claim filed. May 4, 2016 Crown's Amended Response filed.
Land Taken:	272 acres
Basis of Claim:	This Claim relates to the Crown's breach of its statutory and fiduciary duties concerning the surrender of 241.94 acres of land from the Cote reserve for the purposes of townsite and 30.06 acres of land for the purposes of railway station grounds, 272 acres in total. The Crown failed to comply with the surrender procedures under the <i>Indian Act</i> and breached its fiduciary duties owed to the Cote people prior to the surrender and failed to collect the full amount of money owing to the First Nation from the sale of the lots by CNR in the town of Kamsack.
Relief Sought:	Compensation for current, unimproved value of the Claim lands, in lieu of restoring the lands to reserve status, plus compensation for loss of use of the lands, subject to a set-off for any land sale proceeds collected by the Department of Indian Affairs and credited to the Cote First Nation.
Current Status:	<p><u>Historical Report:</u></p> <ul style="list-style-type: none"> <li>Prominent railway historian, Dr. Frank Leonard Ph.D, Department of History, University of Victoria, concluded his historical report concerning the activities of the Canadian Northern Railway Company and its agents in the location, acquisition, and development of right-of-way and Kamsack Station Ground as well as the Townsite. His report is complete and was sent to the Crown on November 20, 2018.</li> <li>Peggy Martin-McGuire, historian, was hired to prepare a supplemental report on the larger picture of prairie reserve land speculation by key Department of Indian Affairs officials during this time period. Her report is complete. Her report is complete and was sent to the Crown on November 20, 2018. These reports will also be used in the 1903 CNR Railway Claim.</li> </ul> <p>The Crown submitted responding reports on January 6, 2020.</p> <p><u>Appraisal Report:</u> Altus Group, land appraisers, prepared a historic market value assessment of the station ground lands. This appraisal report was sent to the Crown on Jan. 15, 2018.</p> <p>The Crown submitted a responding report on July 12, 2018.</p> <p><u>Historical Forensic Accounting Report:</u> Forensic historical accountants, Matson Driscoll &amp; Damico Ltd. (MDD), Calgary, AB conducted an in-depth investigation into precisely what happened with the sale proceeds of the Kamsack townsite. MDD completed its report on July 25, 2018 and was filed with the Tribunal on September 11, 2018.</p> <p>The Crown prepared a responding Draft report on June 29, 2020, which Claimant counsel has not yet seen.</p> <p><u>Next steps:</u></p> <p><i>Settlement:</i> As presented and discussed with Chief and Council, a settlement proposal in the amount of \$65 million was sent to the Crown on December 29, 2018. Canada required time to complete its responding expert forensic accounting report and legal opinion to determine its position on settlement. Concern about their delay in this matter has been repeatedly communicated to the presiding Judge. However, Canada stated at the April 2020 Case Management Conference that the time Canada has spent reviewing the claim is an indication that negotiation is imminent. At the July 8, 2020, Case Management Conference Canada stated that their legal opinions would be completed by early October 2020 and, from there, it will take 1 to 2 months for the Specific Claims Branch to consider the legal opinions and to determine whether they will negotiate. At that</p>

	<p>time, (est. sometime in November 2020) the Cote First Nation will be notified whether the claim will be accepted for negotiation.</p> <p>Throughout this period, there was continued communications with the Director General of the Specific Claims Branch and the Senior Crown Negotiator regarding proposed comprehensive exploratory discussions with the goal of ultimately negotiating a settlement of all of Cote's long outstanding specific claims, including this Claim, the 1903 Railway Claim, the Road Allowances Claim, and to expedite the review of the Misadministration of Trust Claim.</p> <p><i>Tribunal:</i> If the claim is not settled, the claim will continue in the Tribunal process.</p>
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## Cote First Nation Misadministration of Trust Claim

Specific Claims Branch (SCB):	This Claim was filed with the Specific Claims Branch on January 10, 2018.
Land Taken:	N/A
Basis of Claim:	The Crown manages two trust accounts for the use and benefit of Cote First Nation: the Capital Account and the Revenue Account. It is alleged that monies were misappropriated from these accounts and that this spending breached provisions of the <i>Indian Act</i> and Canada's fiduciary duty to the Cote Band.
Relief Sought:	Compensation for the total amount of the improper expenditures applying 100% compounded interest from the date of misappropriation to the present date.
Current Status:	<p>On June 12, 2018, Canada advised that the Claim met the "Minimum Standard" which is a series of requirements for a claim submission under the Specific Claims Policy. There has been ongoing communications with the Director General of the Specific Claims Branch and the Senior Crown Negotiator to expedite the review of this Claim and to negotiate a settlement of all of Cote's long outstanding specific claims, including this Claim, the 1903 Railway Claim, the 1904 Townsite Surrender Claim, and the Road Allowances Claim. In this regard, Canada is in the course of considering a settlement proposal dated May 20, 2020.</p> <p><i>Tribunal:</i> If the claim is not settled, the claim will continue in the SCB and the Tribunal process.</p>

## Cote First Nation Road Allowances Claim

Specific Claims Branch (SCB) – Now Eligible to be Filed with SCT:	This Claim was filed with the Specific Claims Branch in March 2017. On October 11, 2017, Canada advised that the Claim met the "Minimum Standard" which is a series of requirements for a claim submission under the Specific Claims Policy. Canada has deemed that the Claim was filed with the Minister on September 6, 2017, which started a 3-year research and assessment period whereby the Specific Claims Branch will decide if they will or will not negotiate the Claim. This assessment period is now over as of September 6, 2020.
Land Taken:	Approx. 562 acres
Basis of Claim:	The Crown breached of its statutory and fiduciary duties when it took Cote reserve lands for road allowances purposes in various transactions dated from 1906 to 1976.
Relief Sought:	Compensation for the fair market value plus damages for loss of use of the Claim lands plus reversionary rights when the lands are no longer required for road purposes.
Current Status:	Since the 3-year assessment period expired September 6, 2020, the Cote First Nation is entitled to file this claim with the Tribunal. However, this Claim has been part of the continued communications with the Director General of the Specific Claims Branch and the Senior Crown Negotiator regarding proposed comprehensive exploratory discussions with the goal of ultimately negotiating a settlement of all of Cote's long outstanding specific claims, including this Claim, the 1903 Railway Claim, the 1904 Townsite Surrender

	<p>Claim and to expedite the review of the Misadministration of Trust Claim. We expect a response from Canada by November 2020 regarding their position on negotiating the claims. If, by the end of November, we do not receive a response from Canada respecting this Claim, we advise that a Declaration of Claim be filed with the Tribunal.</p> <p>In the meantime, the following expert reports will be prepared to support the Claim, whether it be in negotiations or at the Tribunal:</p> <p><u>Survey Report</u>: Millenium Geomatics Ltd. will complete a report by the end of October 2020 to confirm title and total acreage amounts pertaining to the claim.</p> <p><u>Appraisal and Loss of Use Report</u>: Once the survey report is complete, an appraisal will be completed to assess the total current market value and LOU of the claim lands so that a proposed compensation amount can be presented to Canada.</p>
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## Cote First Nation Veterans' Land Claim

Specific Claims Branch (SCB):	This Claim is in the drafting stage.
Land Taken:	Lands were not removed from the reserve, but instead allotments around one quarter section (about 160 acres) were allocated to war veterans under various federal legislation. Some of these lands have reverted back to the Band, some may still be occupied under Certificates of Possession, Occupancy, or Location Tickets.
Basis of Claim:	<p>The federal government passed the <i>Soldier Settlement Act</i> (1919) and <i>Veterans' Lands Act</i> giving returned war veterans access to grants and lands for agricultural purposes. A provision was written into the <i>Indian Act</i> to permit the Superintendent General of Indian Affairs to function like the Soldier Settlement Board, reviewing applications and awarding funds to eligible candidates. A similar scheme was enacted after the Second World War. Through this legislation the Band was made to provide land (sometimes confirmed by BCR) to six veterans of the First World War, some of whom had already been in possession of their allocations prior to their discharge from the military. Roughly 22 more veterans of the Second World War and Korea were also provided lands, some authorised by BCR and given the formality of a location ticket, while others were effectively granted a "license of occupation".</p> <p>In 1954, the Band complained to the Indian Affairs Branch about overpopulation and insufficient lands on the reserve, part of which was related to there being too many allocations to individual members. Over the next two decades, the Band sought to reacquire by "purchase" or cancel some of these allocations, which brought some of the less-used allotments back into the collective use. Other allocations might still be in individuals' hands, though this needs further research.</p> <p>These federally-mandated schemes removed productive lands from the Band's use without the Band's consent, causing a compensable harm.</p>
Relief Sought:	Compensation for value of the loss of use of reserve lands allocated, and the Band's disbursement from its Trust account to "purchase" some lands allocated under the scheme.
Current Status:	There has been some delay by Joan Holmes & Associates in producing the final draft of the research report. The final JHA Report is due first week of October 2020. The Report will provide more certainty in terms of the numbers of allotments (as well as the amount of land) allocated to individuals under federal legislation, in addition to the sum disbursed by the Band for the "purchases". A claim submission is currently being drafted and we estimate, provided that JHA meets their deadline, that a draft will be filed with the Specific Claims Branch early in 2021.

