

Mississaugas of the Credit First Nation

Ratification- Before and After

I chose to approach my paper from a technical point, since it will most likely be the Research Directors that will be involved in the process.

My hope is that this paper will be of assistance when you reach the stage where the vote in the community has to take place. It can be your checklist, but not limited to what I talk about, each community is different and what works for one, may not work for another.

Background on New Credit's claim - 200 acres in Mississaugas

The First Nation originally submitted the claim to Canada in 1983, alleging that the Crown sold 200 acres on land that was set aside in Treaty #22 on the Credit River in Mississauga, Ontario between the years 1851 and 1891, without first obtaining a surrender. The negotiations were delayed to a series of interruptions (to put it mildly) such as:

- 1) the government wanted changes to its specific claims policy
- 2) in total there were 4 different federal negotiators, and
- 3) discrepancies in appraisals of the land.

When you put it down on paper it doesn't seem like a lot was happening, or the difficulties that were endured while New Credit and Canada negotiated.

This claim was in the process for 12 long frustrating years, and finally on November 6, 1996 an Agreement in Principle was signed by New Credit and Canada.

From that day until January 4, 1997, the work began. January 4 was the chosen for the first vote, it allows time for the second vote if necessary for the deadline for a cabinet submission and the

end of the fiscal year March 31. I hope that no one has to work within the strict time frame that New Credit was given.

The first thing that had to be done was to appoint people to work on this major endeavour. People that you have confidence in, that know the claim and will bend over backwards to get the job done.

Backing up a bit, after the A-I-P was signed, Council delegated two teams 1) the lawyer and the Research Director to meet with the Dept. Of Justice lawyer to prepare a Settlement agreement and the second team Executive Director, legal and financial people to work on the Trust Agreement, that both had to be ready for November 28 for approval by Council.

The trust agreement was fairly new to First Nations, it was a new requirement that Canada added to protect the First Nation in the long term. Working on both of these agreements were an eye opener and a learning experience to see all the hard work that goes into making sure everything was covered, I mean everything "T" dotted and every "t" crossed. This is important because your community is depending on you to make the wisest and best decision for their future.

Settlement agreement:

I will point out some of the highlights in the settlement agreement:

The compensation is dealt with, the amount and how Canada will pay it, less any loan Canada gave the First Nation is taken off the top. It clearly sets direction, if the trust agreement is voted in favour of or if the trust agreement is not voted on how Canada will deposit into the First Nation's Capital account.

Lands

The purchasing of up to 200 acres of land to be acquired by the First Nation to be set aside by Canada as an addition to the New Credit Indian Reserve and the rules on how that is to be done.

The Surrender

This is where the situation gets tricky. The First Nation agrees to absolutely surrenders to Canada all rights and interests etc. all that legal stuff. This surrender is to be voted on by On-reserve Band Members only, but the total membership votes on the settlement agreement. The total membership votes on the trust agreement.

How the Ratification vote works.

INAC appointed a Ratification Officer to oversee the working of the vote, along with workers at the First Nation level. The First Nations approves and assents to the terms and conditions of the Settlement Agreement (compensation) including the absolute surrender of the land and if at the time of the ratification Vote, which is:

- a majority (over 50%) of the Voters vote and a majority (over 50% of the votes cast are in favour of the Settlement Agreement (total membership); and
- a majority (over 50%) of the Electors (on-reserve members) vote and a majority (over 50% of the votes cast by Electors assent to the absolute surrender in accordance with section 38 and 39 of the Indian Act.

The same goes for the Trust agreement;

- a majority (over 50%) of the votes vote and
- a majority (50%) of votes cast are in favour of the Trust Agreement.

If, at the Ratification Vote the First Nation fails to get the required voters and vote for the Settlement Agreement, including the surrender, a second vote is required within six months. The same goes for the Trust Agreement. If the membership votes in favour of the Settlement Agreement, including the absolute surrender, but not in favour of the Trust Agreement, a second vote can take place, on the Trust Agreement only, but if the vote fails again the compensation will be deposited in to the Capital Account of the First Nation.

I know this sounds complex, and it is, but I believe that it is set up for failure. For example, the Ratification Vote; you have to vote total membership for the settlement and on reserve for surrender. That means the First Nation has to know who is on reserve (people move so often it is hard to keep track). The short period of time New Credit was given to get all the required work done and the biggest obstacle was the requirements for the second vote.

It has been our experience that if people voted at the first, they most likely will not vote again, because they already voted. It only is human nature to think that way. New Credit had their work cut out for them and they had to make sure the vote was successful on the first one.

Because of the short time frame (Nov-Jan) it was agreed that mail in ballots could be utilized, an advance poll was held and then the Ratification Vote. Keep in mind that New Credit had to contend with Christmas Holidays, which made the time even shorter and members would be busy or even away during that time.

Trust agreement

The purpose of the Trust Agreement was to ensure that the money received in the settlement was deposited in the Trust Account. That it is properly managed and invested prudently to benefit the present and future generations of the Members of the New Credit First Nation. The Trust Agreement clearly set out rules for the administration and operation of the Trust Fund created by the Trust Agreement contains set rules for the appointment and conduct of the Trustees.

The Trust is administered by seven trustees (which Members of Council or employees of the First Nations or band Companies are not eligible to serve as Trustees). The first Trustees were appointed by Council, after the first year, their positions are staggered so elections can take place and the remaining people will be knowledgeable about the running of the Trust. Five of the Trustees are to be elected from the Band List of which 4 has to be on resident on reserve. The First Nation Council appoints 2 Trustees, one from the legal profession and one from the financial profession, they do not have to be Band members.

The Trust set out the Permitted Investments, duties of the trustees, how they handle appointments, elections, resignation, or removal of trustees, authority of the trustees, duties of the trustees, how often they meet, distribution of revenue and capital, trust income and expenses, term of the trust, revoking the trust, changing the terms of the trust and banking

According to the Trust, the distribution of the revenue (interest money only) other than permitted investments or expenditures in regard to the general administration of the trust would not be touched until two years had elapsed from the date that the Trust came into effect.

Proposals for distribution from the Trust less than \$250,000 could be approved or denied by the Trustees, over that amount it would go to a General Band Meeting called for that purpose.

Some areas that Trustees had to deal with in the trust was the issue of the fiscal year vs calendar year. This was a problem with Revenue Canada and income tax. The trust agreement runs the fiscal year, but trouble arose so, it had to change to the calendar year to accommodate or come with Revenue Canada, depends on who tells you.

Things that New Credit done for the Ratification Vote:

- Information sessions: making sure the community was aware of the claim and what Council had agreed to in the Agreement in Principle. Once the Settlement Agreement

and the Trust Agreement was approved, public meetings were held to explain them to the community. Make sure the Band members (Voters) are informed to make the best decision. Go over the settlement agreement with the lawyers present and the trust agreement with the financial people there to answer questions.

- Mail out information packages with the settlement and trust agreement, so when the community meetings take place they have their questions ready.
- Know the addresses of your band Members, talk to people, tell them you need addresses. Put notices out in your newsletter asking for addresses.
- Have signs at the road reminding people of what's happening. When the vote is, advance polls, mail in votes, dates and times.
- Call the people two days before the vote to remind them to come out and vote, bring family members.
- If people needs rides, make arrangements to get them picked up.
- When the poll was one hour from closing, we knew the number of voters we needed to come in and vote. Calls were made to people in the area that had not come in to vote yet.

When the polls closed and the votes were counted NEW CREDIT WAS YES TO THE SETTLEMENT AGREEMENT, YES TO THE SURRENDER AND YES TO THE TRUST AGREEMENT.

We were successful on the first Vote (a first in Canada we were told). Words cannot even come close to describe how we felt after the vote. It looked like the odds were against us, but with lots

of determination to succeed and a lot of prayer we did it.

In closing I would just like to say that the ratification vote is a lot of hard work. It is a team effort 100% for all involved. I will answer questions and if you wish more detail in areas ask and I will try to help you.

Thank you

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Mississaugas of the Credit First Nation