

*Tk'emlúps te Secwépemc
Sk'wet'úse7 (Trout Lake) Specific Claim
Community Information Meeting*

Settlement Agreement

Presented By: Michelle Ellison, Partner, Ratcliff LLP
February 26, 2025



TK'EMLÚPS
TE SECWÉPEMC

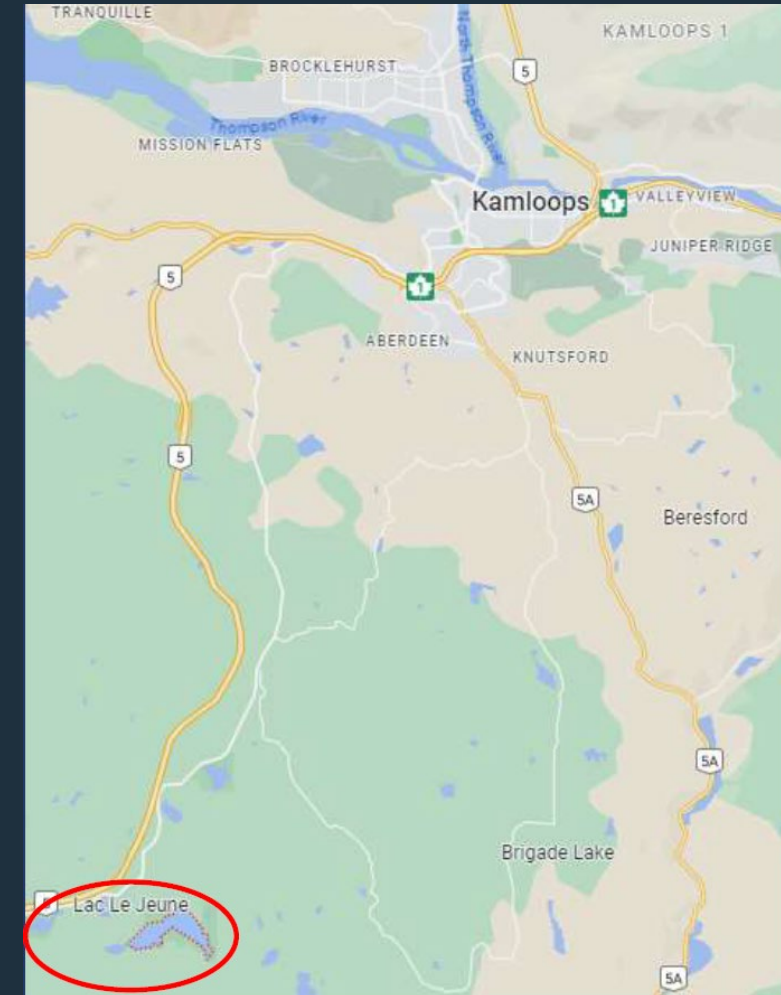
Ratcliff

What are Specific Claims?

- Governed by the Specific Claims Policy and the *Specific Claims Tribunal Act*, SC 2008, c. 22.
- Historical grievances against Canada.
- Must be at least 15 years old but are often much older.
- Legal claim against Canada for failing to follow the *Indian Act*, an historic treaty promise or fiduciary duty related to reserve land or other assets.
 - E.g., Roads, railways, infrastructure, leasing of IR land and reserve creation.
- Do not resolve issues of aboriginal rights and title.
- Typically results in financial compensation only, not direct return of land.
- Three potential stages: validation, negotiation and/or Tribunal.

Summary of the Trout Lake Specific Claim

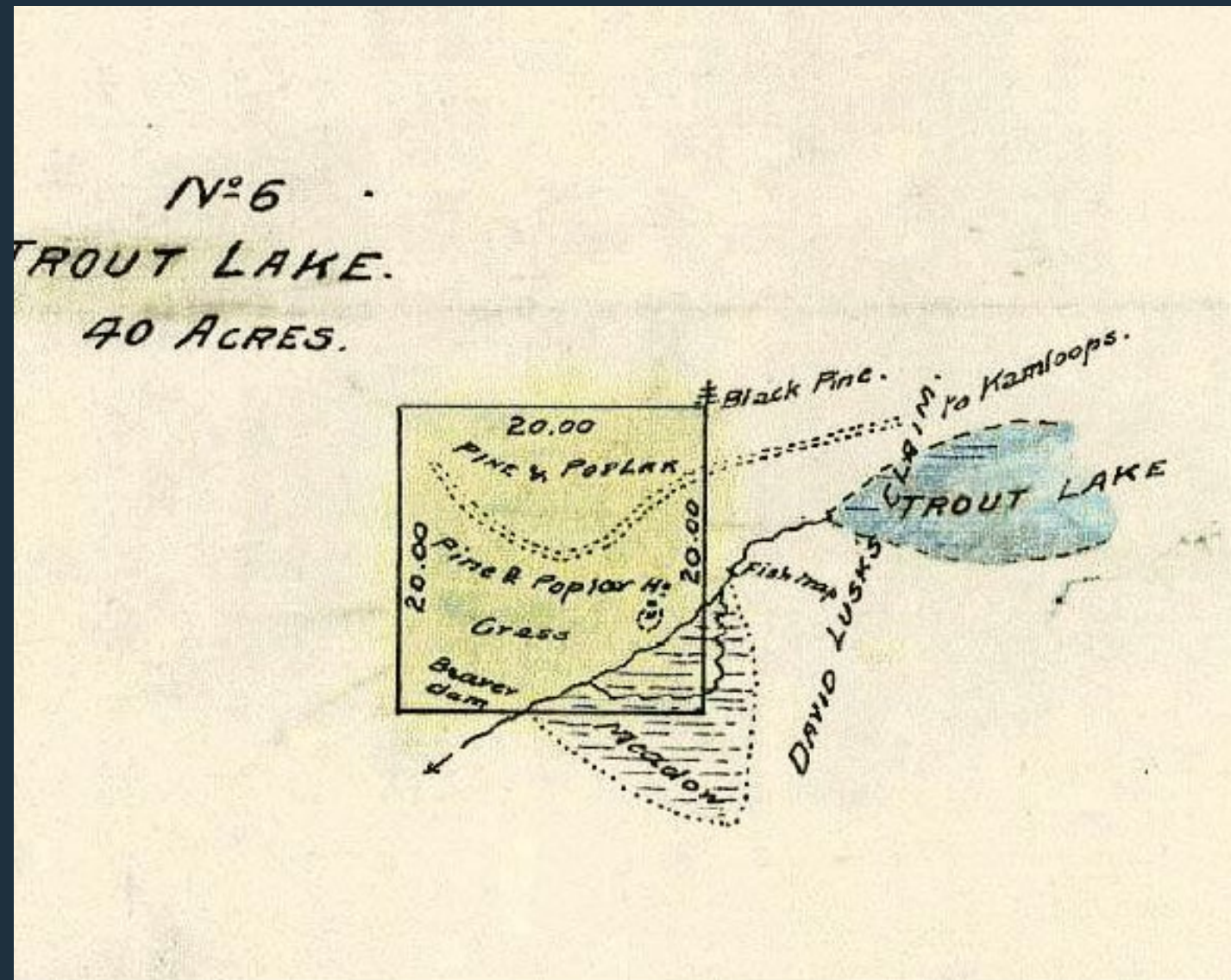
- *Sk'wet'úse7* (Trout Lake or Lac La Jeune) has always had cultural, spiritual, and subsistence importance to TteS
- DIA identified land to be set aside on Meadow Creek at Trout Lake for TteS in 1904 because it was a “favourite place” for spring trout fishing by TteS people and was “necessary ... for a supply of food”
- However, the Dept of Interior (DOI) refused to approve this as the land was within a protected Forest Reserve
- TteS was not informed of this decision
- In 1911 TteS still had a cabin and a corral for keeping horses on the reserve while fishing and there was conflict with settlers over that use
- The land was later transferred to the Province of BC and leased to settlers without consultation with or the consent of TteS.



Summary of the Trout Lake Specific Claim

The Claim alleged that Canada breached the fiduciary duty it owed TteS by:

- not informing TteS about its decision not to set aside a reserve
- not removing the reserve land from the Forest Reserve and setting it aside as a permanent Indian reserve for TteS
- putting the interests of settlers ahead of the interests of TteS



Trout Lake Claim Area



Trout Lake Claim History

2019	TteS filed the claim with the Minister
2022	Canada agreed to negotiate a settlement
2022 - present	Negotiations occurred
August 2024	Canada offered to settle the claim for \$12.2 million
September 2024	TteS passed a BCR accepting financial offer and directing Ratcliff to negotiate a Settlement Agreement
February 2025	TteS passed a BCR approving the Settlement Agreement in principle

Land-Based Losses Suffered by TteS

- The Settlement Agreement reflects that TteS suffered land-related losses as follows:
 - \$415,000 for the **current unimproved market value** of the land
 - \$845,435 for the value of the **lost opportunity to use the land** since 1885
 - \$175,000 for the value of the cabin and fences which TteS had built on the land

Fishing Losses

- TteS also argued that, if Canada had properly set aside a reserve at Trout Lake, that TteS would have caught more trout.
- An anthropologist reviewed oral history information and interviewed TteS elders to help determine how many more TteS people would have fished at the reserve between 1905 and today had there been a reserve there.
- Ratcliff used BC trout fishing regulations to estimate how many more trout TteS would likely have harvested for food if it had a reserve at Trout Lake.
- A fisheries economist provided a report on the estimated cost to replace the lost trout with salmon shipped from Vancouver.
- The Settlement Agreement reflects the fishing losses were approximately \$10.6 million.

**Total
Settlement:
\$12,213,435**

CUMV: \$415,000

Loss of Use: \$845,435

Value of Improvements: \$175,000

Fishing Losses: \$10,600,000

Negotiation Costs: \$178,000

The Settlement Agreement: Key Terms

- Canada pays TteS \$12.2 million.
- TteS releases Canada from any further liability with respect to the Claim.
- TteS and its Members cannot sue Canada with respect to the Claim.
- In some situations, TteS must repay Canada if someone brings a successful lawsuit against Canada about the issues in the Claim.
- The settlement money will be deposited into a TteS bank account rather than into a Band Trust Account managed by Canada.
- How the settlement money will be used will be determined as per TteS's own laws and policies.
- Canada has not provided any advice and will take no responsibility with respect to where the money is deposited or how it is used.
- TteS releases Canada from any further liability with respect to how the settlement money is used.

Conclusion

In my opinion this is a very good settlement for the Claim:

- The losses suffered by TteS due to Canada's breaches have been determined to the best of our abilities.
- A fair amount of interest and negotiation costs have been included.
- I have reviewed the Settlement Agreement with the TteS Council and Kukpi7 and recommended they approve it.

Next Steps:

- Council will pass final BCRs and sign the final Settlement Agreement at an Extraordinary Council Meeting on February 27.
- Membership to be consulted on how to manage the settlement money.

Questions?

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Thank You

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